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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-Q**

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(Mark One)

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

For the quarterly period ended September 30, 2021

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)

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

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

33126  
(zip code)

(305) 436-4000

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Ordinary shares, par value \$0.001 per share	NCLH	The New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an 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   
Non-accelerated filer   
Emerging growth company

Accelerated filer   
Smaller reporting company

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 Exchange Act). Yes  No

There were 370,033,061 ordinary shares outstanding as of October 31, 2021.

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**TABLE OF CONTENTS**

	<u>Page</u>
<b><u>PART I. FINANCIAL INFORMATION</u></b>	
<a href="#">Item 1. Financial Statements</a>	3
<a href="#">Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</a>	29
<a href="#">Item 3. Quantitative and Qualitative Disclosures About Market Risk</a>	45
<a href="#">Item 4. Controls and Procedures</a>	46
<b><u>PART II. OTHER INFORMATION</u></b>	
<a href="#">Item 1. Legal Proceedings</a>	47
<a href="#">Item 1A. Risk Factors</a>	47
<a href="#">Item 6. Exhibits</a>	50
<b><u>SIGNATURES</u></b>	53

**PART I. FINANCIAL INFORMATION**

**Item 1. Financial Statements**

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
<b>Revenue</b>				
Passenger ticket	\$ 86,127	\$ 4,667	\$ 87,877	\$ 859,293
Onboard and other	66,954	1,851	72,672	411,036
Total revenue	<u>153,081</u>	<u>6,518</u>	<u>160,549</u>	<u>1,270,329</u>
<b>Cruise operating expense</b>				
Commissions, transportation and other	32,338	4,038	47,935	371,007
Onboard and other	19,306	4,728	21,841	82,889
Payroll and related	154,440	65,571	323,225	441,462
Fuel	79,238	48,224	175,931	222,240
Food	16,672	3,426	27,314	59,639
Other	137,762	64,170	294,092	308,832
Total cruise operating expense	<u>439,756</u>	<u>190,157</u>	<u>890,338</u>	<u>1,486,069</u>
<b>Other operating expense</b>				
Marketing, general and administrative	229,142	156,656	617,820	558,781
Depreciation and amortization	173,289	177,488	517,867	554,937
Impairment loss	—	—	—	1,607,797
Total other operating expense	<u>402,431</u>	<u>334,144</u>	<u>1,135,687</u>	<u>2,721,515</u>
Operating loss	<u>(689,106)</u>	<u>(517,783)</u>	<u>(1,865,476)</u>	<u>(2,937,255)</u>
<b>Non-operating income (expense)</b>				
Interest expense, net	(161,205)	(139,664)	(1,122,905)	(323,108)
Other income (expense), net	4,720	(23,680)	57,464	(32,275)
Total non-operating income (expense)	<u>(156,485)</u>	<u>(163,344)</u>	<u>(1,065,441)</u>	<u>(355,383)</u>
<b>Net loss before income taxes</b>	<u>(845,591)</u>	<u>(681,127)</u>	<u>(2,930,917)</u>	<u>(3,292,638)</u>
<b>Income tax benefit (expense)</b>	<u>(294)</u>	<u>3,761</u>	<u>(2,949)</u>	<u>19,057</u>
<b>Net loss</b>	<u>\$ (845,885)</u>	<u>\$ (677,366)</u>	<u>\$ (2,933,866)</u>	<u>\$ (3,273,581)</u>
<b>Weighted-average shares outstanding</b>				
Basic	<u>370,016,479</u>	<u>271,435,350</u>	<u>356,591,143</u>	<u>241,578,995</u>
Diluted	<u>370,016,479</u>	<u>271,435,350</u>	<u>356,591,143</u>	<u>241,578,995</u>
<b>Loss per share</b>				
Basic	<u>\$ (2.29)</u>	<u>\$ (2.50)</u>	<u>\$ (8.23)</u>	<u>\$ (13.55)</u>
Diluted	<u>\$ (2.29)</u>	<u>\$ (2.50)</u>	<u>\$ (8.23)</u>	<u>\$ (13.55)</u>

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

**Norwegian Cruise Line Holdings Ltd.**  
**Consolidated Statements of Comprehensive Loss**  
**(Unaudited)**  
**(in thousands)**

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2021</b>	<b>2020</b>	<b>2021</b>	<b>2020</b>
Net loss	\$ (845,885)	\$ (677,366)	\$ (2,933,866)	\$ (3,273,581)
Other comprehensive income (loss):				
Shipboard Retirement Plan	98	101	295	305
Cash flow hedges:				
Net unrealized gain (loss)	(45,134)	87,710	(73,497)	(163,672)
Amount realized and reclassified into earnings	12,948	36,072	48,328	86,853
Total other comprehensive income (loss)	(32,088)	123,883	(24,874)	(76,514)
Total comprehensive loss	<u>\$ (877,973)</u>	<u>\$ (553,483)</u>	<u>\$ (2,958,740)</u>	<u>\$ (3,350,095)</u>

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

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

	September 30, 2021	December 31, 2020
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 1,934,816	\$ 3,300,482
Accounts receivable, net	990,384	20,578
Inventories	108,177	82,381
Prepaid expenses and other assets	247,824	154,103
Total current assets	3,281,201	3,557,544
Property and equipment, net	13,480,120	13,411,226
Goodwill	98,134	98,134
Trade names	500,525	500,525
Other long-term assets	1,370,047	831,888
Total assets	\$ 18,730,027	\$ 18,399,317
<b>Liabilities and shareholders' equity</b>		
Current liabilities:		
Current portion of long-term debt	\$ 543,739	\$ 124,885
Accounts payable	94,951	83,136
Accrued expenses and other liabilities	860,864	596,056
Advance ticket sales	1,440,294	1,109,826
Total current liabilities	2,939,848	1,913,903
Long-term debt	11,864,794	11,681,234
Other long-term liabilities	1,042,146	450,075
Total liabilities	15,846,788	14,045,212
Commitments and contingencies (Note 10)		
Shareholders' equity:		
Ordinary shares, \$0.001 par value; 980,000,000 shares authorized, 370,032,455 shares issued and outstanding at September 30, 2021 and 490,000,000 shares authorized, 315,636,032 shares issued and outstanding at December 31, 2020	370	316
Additional paid-in capital	6,371,545	4,889,355
Accumulated other comprehensive income (loss)	(264,991)	(240,117)
Retained earnings (deficit)	(3,223,685)	(295,449)
Total shareholders' equity	2,883,239	4,354,105
Total liabilities and shareholders' equity	\$ 18,730,027	\$ 18,399,317

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

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

	<b>Nine Months Ended</b>	
	<b>September 30,</b>	
	<b>2021</b>	<b>2020</b>
<b>Cash flows from operating activities</b>		
Net loss	\$ (2,933,866)	\$ (3,273,581)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	560,972	565,208
Impairment loss	—	1,607,797
Deferred income taxes, net	79	(17,852)
(Gain) loss on derivatives	(23,560)	12,195
Loss on extinguishment of debt	601,539	10,480
Provision for bad debts and inventory obsolescence	14,118	16,293
Gain on involuntary conversion of assets	(7,706)	(1,340)
Share-based compensation expense	88,974	81,009
Net foreign currency adjustments	(7,238)	3,746
Changes in operating assets and liabilities:		
Accounts receivable, net	(979,890)	(12,103)
Inventories	(26,676)	12,757
Prepaid expenses and other assets	(65,876)	79,915
Accounts payable	15,014	11,536
Accrued expenses and other liabilities	142,170	(180,126)
Advance ticket sales	469,595	(834,560)
Net cash used in operating activities	<u>(2,152,351)</u>	<u>(1,918,626)</u>
<b>Cash flows from investing activities</b>		
Additions to property and equipment, net	(539,530)	(873,142)
Cash paid on settlement of derivatives	(14,465)	(31,520)
Other	11,024	3,047
Net cash used in investing activities	<u>(542,971)</u>	<u>(901,615)</u>
<b>Cash flows from financing activities</b>		
Repayments of long-term debt	(889,206)	(888,800)
Proceeds from long-term debt	1,345,041	5,225,090
Common share issuance proceeds, net	1,558,396	719,094
Proceeds from employee related plans	3,141	5,557
Net share settlement of restricted share units	(16,672)	(15,334)
Early redemption premium	(611,164)	(1,376)
Deferred financing fees	(59,880)	(117,388)
Net cash provided by financing activities	<u>1,329,656</u>	<u>4,926,843</u>
Effect of exchange rates on cash and cash equivalents	—	(3,267)
Net increase (decrease) in cash and cash equivalents	(1,365,666)	2,103,335
Cash and cash equivalents at beginning of period	3,300,482	252,876
Cash and cash equivalents at end of period	<u>\$ 1,934,816</u>	<u>\$ 2,356,211</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**  
**(Unaudited)**  
**(in thousands)**

Three Months Ended September 30, 2021						
	Ordinary Shares	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Deficit)	Treasury Shares	Total Shareholders' Equity
<b>Balance, June 30, 2021</b>	\$ 370	\$ 6,329,585	\$ (232,903)	\$ (2,377,800)	\$ —	\$ 3,719,252
Share-based compensation	—	39,922	—	—	—	39,922
Issuance of shares under employee related plans	—	2,052	—	—	—	2,052
Net share settlement of restricted share units	—	(14)	—	—	—	(14)
Other comprehensive loss, net	—	—	(32,088)	—	—	(32,088)
Net loss	—	—	—	(845,885)	—	(845,885)
<b>Balance, September 30, 2021</b>	<u>\$ 370</u>	<u>\$ 6,371,545</u>	<u>\$ (264,991)</u>	<u>\$ (3,223,685)</u>	<u>\$ —</u>	<u>\$ 2,883,239</u>
Nine Months Ended September 30, 2021						
	Ordinary Shares	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Deficit)	Treasury Shares	Total Shareholders' Equity
<b>Balance, December 31, 2020</b>	\$ 316	\$ 4,889,355	\$ (240,117)	\$ (295,449)	\$ —	\$ 4,354,105
Share-based compensation	—	88,974	—	—	—	88,974
Issuance of shares under employee related plans	—	3,141	—	—	—	3,141
Common share issuance proceeds, net	54	1,558,342	—	—	—	1,558,396
Net share settlement of restricted share units	—	(16,672)	—	—	—	(16,672)
Cumulative change in accounting policy	—	(131,240)	—	5,630	—	(125,610)
Other	—	(20,355)	—	—	—	(20,355)
Other comprehensive loss, net	—	—	(24,874)	—	—	(24,874)
Net loss	—	—	—	(2,933,866)	—	(2,933,866)
<b>Balance, September 30, 2021</b>	<u>\$ 370</u>	<u>\$ 6,371,545</u>	<u>\$ (264,991)</u>	<u>\$ (3,223,685)</u>	<u>\$ —</u>	<u>\$ 2,883,239</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 - Continued**  
**(Unaudited)**  
**(in thousands)**

Three Months Ended September 30, 2020						
	Ordinary Shares	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Deficit)	Treasury Shares	Total Shareholders' Equity
<b>Balance, June 30, 2020</b>	\$ 281	\$ 4,851,781	\$ (495,887)	\$ 1,234,776	\$ (1,253,926)	\$ 4,337,025
Share-based compensation	—	25,862	—	—	—	25,862
Issuance of shares under employee related plans	—	1,457	—	—	—	1,457
Common share issuance proceeds, net	19	276,902	—	—	—	276,921
Net share settlement of restricted share units	—	(16)	—	—	—	(16)
Other comprehensive income, net	—	—	123,883	—	—	123,883
Net loss	—	—	—	(677,366)	—	(677,366)
<b>Balance, September 30, 2020</b>	<u>\$ 300</u>	<u>\$ 5,155,986</u>	<u>\$ (372,004)</u>	<u>\$ 557,410</u>	<u>\$ (1,253,926)</u>	<u>\$ 4,087,766</u>
Nine Months Ended September 30, 2020						
	Ordinary Shares	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Deficit)	Treasury Shares	Total Shareholders' Equity
<b>Balance, December 31, 2019</b>	\$ 237	\$ 4,235,690	\$ (295,490)	\$ 3,829,068	\$ (1,253,926)	\$ 6,515,579
Share-based compensation	—	81,009	—	—	—	81,009
Issuance of shares under employee related plans	2	5,555	—	—	—	5,557
Common share issuance proceeds, net	61	717,826	—	—	—	717,887
Net share settlement of restricted share units	—	(15,334)	—	—	—	(15,334)
Beneficial conversion feature	—	131,240	—	—	—	131,240
Cumulative change in accounting policy	—	—	—	1,923	—	1,923
Other comprehensive loss, net	—	—	(76,514)	—	—	(76,514)
Net loss	—	—	—	(3,273,581)	—	(3,273,581)
<b>Balance, September 30, 2020</b>	<u>\$ 300</u>	<u>\$ 5,155,986</u>	<u>\$ (372,004)</u>	<u>\$ 557,410</u>	<u>\$ (1,253,926)</u>	<u>\$ 4,087,766</u>

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



**Norwegian Cruise Line Holdings Ltd.**  
**Notes to Consolidated Financial Statements**  
**(Unaudited)**

Unless otherwise indicated or the context otherwise requires, references in this report to (i) the “Company,” “we,” “our” and “us” refer to NCLH (as defined below) and its subsidiaries (including 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, and (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).

References to the “U.S.” are to the United States of America, and “dollar(s)” or “\$” are to U.S. dollars, the “U.K.” are to the United Kingdom and “euro(s)” or “€” are to the official currency of the Eurozone. We refer you to “Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations— Terminology” for the capitalized terms used and not otherwise defined throughout these notes to 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 September 30, 2021, we had 28 ships with approximately 59,150 Berths and had orders for nine additional ships to be delivered through 2027. Due to the novel coronavirus (“COVID-19”), we temporarily suspended all global cruise voyages from March 2020 until July 2021, when we resumed cruise voyages on a limited basis. We refer you to Note 2 – “Summary of Significant Accounting Policies” for further information.

We have one Explorer Class Ship on order for delivery in 2023. We have two Allura Class Ships on order for delivery in 2023 and 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 83,000, which includes additional Berths we plan to add to our Project Leonardo ships, subject to certain conditions. The impacts of COVID-19 on the shipyards where our ships are under construction (or will be constructed) have resulted in some delays in expected ship deliveries, and the impacts of COVID-19 could result in additional delays in ship deliveries in the future, which may be prolonged.

**2. Summary of Significant Accounting Policies**

**Liquidity and Management’s Plan**

Due to the impact of COVID-19, travel restrictions and limited access to ports around the world, in March 2020, the Company implemented a voluntary suspension of all cruise voyages across its three brands. As of the date hereof, 11 of our ships were operating with guests on board as part of our phased return to service. Significant events affecting travel, including COVID-19, typically have an impact on demand for cruise vacations, with the full extent of the impact generally determined by the length of time the event influences travel decisions. We believe the ongoing effects of COVID-19 on our operations and global bookings have had, and will continue to have, a significant impact on our financial results and liquidity, and such negative impact may continue well beyond the containment of the pandemic.

In January 2021, we amended our Senior Secured Credit Facility to further defer certain amortization payments due prior to June 30, 2022 and to waive certain financial and other covenants through December 31, 2022. In February 2021, we amended certain of our export-credit backed facilities to further defer amortization payments through March 31, 2022, and we amended all of our export-credit backed facilities to suspend certain financial covenants through December 31, 2022. In connection with such amendments of our Senior Secured Credit Facility and our export-credit backed facilities, our minimum liquidity requirement was increased to \$200 million and such requirement applies through December 31, 2022. In March 2021, the Company received additional financing through various debt financings and an equity offering.

[Table of Contents](#)

collectively totaling approximately \$2.7 billion in gross proceeds. From the proceeds, approximately \$1.5 billion was used to extinguish debt. In November 2021, the Company executed a \$1 billion commitment through August 15, 2022 that provides additional liquidity to the Company. Refer to Note 7 – “Long-Term Debt” for further details of the above transactions.

In the third quarter of 2021, we began a phased relaunch of certain cruise voyages with our ships initially operating at reduced occupancy levels. The Company continues to execute on the phased relaunch plans for its 28-ship fleet. The Company expects to have approximately 75% of capacity operating by December 31, 2021 with the full fleet expected to be back in operation by April 1, 2022. The timing for bringing our ships back to service, the level of occupancy on our ships and the percentage of our fleet in service will depend on a number of factors including, but not limited to, the duration and extent of the COVID-19 pandemic, further resurgences and new more contagious and/or vaccine-resistant variants of COVID-19, the availability, distribution, rate of public acceptance and efficacy of vaccines and therapeutics for COVID-19, our ability to comply with governmental regulations, port availability, travel restrictions, bans and advisories, and our ability to re-staff our ships and implement new health and safety protocols.

The estimation of our future cash flow projections includes numerous assumptions that are subject to various risks and uncertainties. Our principal assumptions for future cash flow projections include:

- Expected gradual phased return to service at reduced occupancy levels, increasing over time until we reach historical occupancy levels;
- Forecasted cash collections primarily upon completion of future voyages and the payment of cash refunds for any further cancellations, in accordance with the terms of our credit card processing agreements (see Note 10 - “Commitments and Contingencies”); and
- Expected incremental expenses for resumption of cruise voyages, including the maintenance of and compliance with additional health and safety protocols.

We cannot make assurances that our assumptions used to estimate our liquidity requirements will not change due to the unique and unpredictable nature of the pandemic, including its magnitude and duration. Accordingly, the full effect of the COVID-19 pandemic on our financial performance and financial condition cannot be quantified at this time. We have made reasonable estimates and judgments of the impact of COVID-19 within our financial statements and there may be material changes to those estimates in future periods. We will report a net loss for the three months and year ending December 31, 2021 and expect to report a net loss until we are able to resume regular voyages. We have taken actions to improve our liquidity, including completing various capital market transactions and making capital expenditure and operating expense reductions, and we expect to continue to pursue other opportunities to improve our liquidity and to refinance our debt to reduce interest expense and extend maturities.

Based on these actions and assumptions regarding the impact of COVID-19, and considering our available liquidity, including cash and cash equivalents of \$1.9 billion as of September 30, 2021, we have concluded that we have sufficient liquidity to satisfy our obligations for at least the next twelve months.

**Basis of Presentation**

The accompanying consolidated financial statements are unaudited and, in our opinion, contain all normal recurring adjustments necessary for a fair statement of the results for the periods presented.

Our operations are seasonal and results for interim periods are not necessarily indicative of the results for the entire fiscal year. Historically, demand for cruises has been strongest during the Northern Hemisphere’s summer months; however, our cruise voyages were completely suspended from March 2020 until July 2021 due to the COVID-19 pandemic and our resumption of cruise voyages will be phased in gradually as described under “—Liquidity and Management’s Plan” above. The interim consolidated financial statements should be read in conjunction with the audited consolidated financial statements for the year ended December 31, 2020, which are included in our most recent Annual Report on Form 10-K filed with the SEC on February 26, 2021.

**Loss Per Share**

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Net loss	\$ (845,885)	\$ (677,366)	\$ (2,933,866)	\$ (3,273,581)
Basic weighted-average shares outstanding	370,016,479	271,435,350	356,591,143	241,578,995
Dilutive effect of share awards	—	—	—	—
Diluted weighted-average shares outstanding	370,016,479	271,435,350	356,591,143	241,578,995
Basic loss per share	\$ (2.29)	\$ (2.50)	\$ (8.23)	\$ (13.55)
Diluted loss per share	\$ (2.29)	\$ (2.50)	\$ (8.23)	\$ (13.55)

For the three months ended September 30, 2021 and 2020, a total of 98.9 million and 124.0 million, respectively, and for the nine months ended September 30, 2021 and 2020, a total of 106.3 million and 63.4 million, respectively, shares have been excluded from diluted weighted-average shares outstanding because the effect of including them would have been anti-dilutive.

**Foreign Currency**

The majority of our transactions are settled in U.S. dollars. We remeasure assets and liabilities denominated in foreign currencies at exchange rates in effect at the balance sheet date. Gains or losses resulting from transactions denominated in other currencies are recognized in our consolidated statements of operations within other income (expense), net. We recognized a gain of \$9.9 million and a loss of \$12.3 million for the three months ended September 30, 2021 and 2020, respectively, and a gain of \$14.9 million and a loss of \$2.6 million for the nine months ended September 30, 2021 and 2020, respectively, related to transactions denominated in other currencies.

**Depreciation and Amortization Expense**

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 they are included in interest expense, net.

**Accounts Receivable, Net**

Accounts receivable, net includes \$964.7 million due from credit card processors as of September 30, 2021, which is expected to be collected within the next 12 months. Prior to the resumption of cruise operations, these amounts were classified in other long-term assets as a result of the uncertainty surrounding the timing of their collection.

**Recently Issued Accounting Guidance**

In March 2020, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting* (“ASU 2020-04”), which provided guidance to alleviate the burden in accounting for reference rate reform by allowing certain expedients and exceptions in applying GAAP to contracts, hedging relationships and other transactions impacted by reference rate reform. The provisions apply only to those transactions that reference LIBOR or another reference rate expected to be discontinued due to reference rate reform. Adoption of the provisions of ASU 2020-04 are optional and are effective from March 12, 2020 through December 31, 2022. As of September 30, 2021, we have not adopted any expedients and exceptions under ASU 2020-04. We will continue to evaluate the impact of ASU 2020-04 on our consolidated financial statements.

### 3. Revenue Recognition

#### *Disaggregation of Revenue*

Revenue and cash flows are affected by economic factors in various geographical regions. Revenues by destination were as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
North America	\$ 77,418	\$ 1,967	\$ 80,562	\$ 956,389
Europe	75,474	2,195	78,316	25,231
Asia-Pacific	74	362	1,061	151,283
South America	115	471	610	76,777
Other	—	1,523	—	60,649
Total revenue	<u>\$ 153,081</u>	<u>\$ 6,518</u>	<u>\$ 160,549</u>	<u>\$ 1,270,329</u>

North America includes the U.S., the Caribbean, Canada and Mexico. Europe includes the Baltic region, Canary Islands and Mediterranean. Asia-Pacific includes Australia, New Zealand and Asia. Other includes all other international territories.

#### *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 has historically approximated 75-85% of total revenue. No other individual country's revenues exceed 10% in any given period.

#### *Contract Balances*

Receivables from customers are included within accounts receivable, net. As of September 30, 2021 and December 31, 2020, our receivables from customers were \$7.8 million and \$1.0 million, respectively.

Beginning in March 2020, our brands launched new cancellation policies to permit our guests to cancel cruises which are not part of the Company's temporary suspension of voyages up to 15 days prior to departure. These programs were in place for cruises booked through specific time periods specified by brand, and for cruises scheduled to embark through October 31, 2021. Certain cruises booked for certain periods will be permitted a 60-day cancellation window for refunds. Future cruise credits that have been issued are valid for any sailing through December 31, 2022, and we may extend this offer. The future cruise credits are not contracts, and therefore, guests who elected this option are excluded from our contract liability balance; however, the credit for the original amount paid is included in advance ticket sales or other long-term liabilities as applicable.

Our contract liabilities are included within advance ticket sales. As of September 30, 2021 and December 31, 2020, our contract liabilities were \$234.0 million and \$23.1 million, respectively. Of the amounts included within contract liabilities, approximately 25% were refundable in accordance with our cancellation policies. Of the deposits included within advance ticket sales, the vast majority are refundable in accordance with our cancellation policies and it is uncertain to what extent guests may request refunds. Refunds payable to guests are included in accounts payable. For the nine months ended September 30, 2021, no revenue recognized was included in the contract liability balance at the

beginning of the period. The revenue recognized in the nine months ended September 30, 2020 that was included in contract liabilities as of the beginning of the period was \$0.9 billion.

For cruise vacations that had been cancelled by us due to COVID-19, during the three months ended September 30, 2021 and 2020, approximately \$0.9 million and \$15.5 million, respectively, and during the nine months ended September 30, 2021 and 2020, approximately \$26.9 million and \$160.4 million, respectively, in costs to obtain these contracts, consisting of protected commissions, including those paid to employees, and credit card fees, were recognized in earnings.

#### 4. Leases

In April 2020, the FASB issued interpretive guidance relating to the accounting for lease concessions provided as a result of COVID-19. In this guidance, entities can elect not to apply lease modification accounting with respect to such lease concessions and instead, treat the concession as if it was a part of the existing contract. The Company has elected to not evaluate leases under the lease modification accounting framework for concessions that result from effects of the COVID-19 pandemic. In relation to our rights to use port facilities, we have elected the approach consistent with resolving a contingency, which allows us to remeasure the lease liability and recognize the amount of change in the lease liability as an adjustment to the carrying amount of the associated right-of-use asset. As the full amount of the concession will not be determinable until the force majeure period under the related arrangements have ended, periodic remeasurements will be required. During the contingency period, we are recognizing lease expense for these port facilities as incurred.

Lease balances were as follows (in thousands):

	Balance Sheet location	September 30, 2021	December 31, 2020
<b>Operating leases</b>			
Right-of-use assets	Other long-term assets	\$ 789,303	\$ 209,037
Current operating lease liabilities	Accrued expenses and other liabilities	37,109	17,700
Non-current operating lease liabilities	Other long-term liabilities	662,043	185,414
<b>Finance leases</b>			
Right-of-use assets	Property and equipment, net	10,078	11,948
Current finance lease liabilities	Current portion of long-term debt	4,561	5,143
Non-current finance lease liabilities	Long-term debt	2,135	4,648

During the three and nine months ended September 30, 2021, right-of-use assets obtained in exchange for lease obligations were \$501.4 million for operating leases to use certain port facilities. The leases had terms ranging from approximately 20 years to 32 years and incremental borrowing rates ranging from 4.3% to 5.8%.

As of September 30, 2021, maturities of lease liabilities were as follows (in thousands):

	<b>Operating leases</b>
Remainder of 2021	\$ 12,423
2022	42,937
2023	61,225
2024	64,996
2025	66,514
Thereafter	1,083,480
<b>Total</b>	<b>1,331,575</b>
Less: Present value discount	(632,423)
<b>Present value of lease liabilities</b>	<b>\$ 699,152</b>

**5. Accumulated Other Comprehensive Income (Loss)**

Accumulated other comprehensive income (loss) for the nine months ended September 30, 2021 was as follows (in thousands):

	<b>Nine Months Ended September 30, 2021</b>		
	<b>Accumulated Other Comprehensive Income (Loss)</b>	<b>Change Related to Cash Flow Hedges</b>	<b>Change Related to Shipboard Retirement Plan</b>
Accumulated other comprehensive income (loss) at beginning of period	\$ (240,117)	\$ (234,334)	\$ (5,783)
Current period other comprehensive loss before reclassifications	(73,497)	(73,497)	—
Amounts reclassified into earnings	48,623	48,328 (1)	295 (2)
Accumulated other comprehensive income (loss) at end of period	<u>\$ (264,991)</u>	<u>\$ (259,503)(3)</u>	<u>\$ (5,488)</u>

Accumulated other comprehensive income (loss) for the nine months ended September 30, 2020 was as follows (in thousands):

	<b>Nine Months Ended September 30, 2020</b>		
	<b>Accumulated Other Comprehensive Income (Loss)</b>	<b>Change Related to Cash Flow Hedges</b>	<b>Change Related to Shipboard Retirement Plan</b>
Accumulated other comprehensive income (loss) at beginning of period	\$ (295,490)	\$ (289,362)	\$ (6,128)
Current period other comprehensive loss before reclassifications	(163,672)	(163,672)	—
Amounts reclassified into earnings	87,158	86,853 (1)	305 (2)
Accumulated other comprehensive income (loss) at end of period	<u>\$ (372,004)</u>	<u>\$ (366,181)</u>	<u>\$ (5,823)</u>

- (1) We refer you to Note 8 – “Fair Value Measurements and Derivatives” 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 \$2.6 million of loss expected to be reclassified into earnings in the next 12 months.

**6. Property and Equipment, net**

Property and equipment, net increased \$68.9 million for the nine months ended September 30, 2021 primarily due to ships under construction and ship improvement projects.

**7. Long-Term Debt****Credit Facilities**

In January 2021, NCLC entered into an amendment agreement (the “First Amendment”), which amends the Amended and Restated Credit Agreement, dated as of May 8, 2020 (the “Fifth ARCA” and, as amended by the First Amendment, the “Senior Secured Credit Facility”). The First Amendment provides that, among other things, (a) amortization payments due between the First Amendment effective date and prior to June 30, 2022 (the “First Amendment Deferral Period”) on the Legacy Term Loan A and Term Loan A-1 held by lenders that have consented to such deferral (the “First Amendment Deferring Lenders”) are deferred and such deferred principal amount constitutes a separate tranche of loans (the “Deferred Term Loan A-1”) and (b) the tranche of loans held by certain lenders (the “Fifth ARCA Deferring

Lenders”) on which amortization payments due within the first year after effectiveness of the Fifth ARCA were deferred (the “Deferred Term Loan A”) of First Amendment Deferring Lenders were converted into Deferred Term Loan A-1 loans. The class of loans constituting the Term Loan A Facility (other than the Deferred Term Loan A) held by the Fifth ARCA Deferring Lenders (the “Term Loan A-1”) and the class of loans constituting the portion of the Term Loan A Facility that is held by lenders other than the Fifth ARCA Deferring Lenders (the “Legacy Term Loan A”) that were held by the First Amendment Deferring Lenders (other than amounts converted into the Deferred Term Loan A-1) constitute a separate tranche of loans (the “Term Loan A-2”), with the same terms as the Legacy Term Loan A and Term Loan A-1 under the Fifth ARCA, except that amortization payments on the Term Loan A-2 shall be deferred during the First Amendment Deferral Period and thereafter such Term Loan A-2 will amortize in an aggregate principal amount equal to approximately 5.88% per annum and the interest rate for Term Loan A-2 shall be modified as described below. The Deferred Term Loan A-1 will accrue interest (x) in the case of Eurocurrency loans, at a per annum rate based on LIBOR plus a margin of 2.50% or (y) in the case of base rate loans, at a per annum rate based on the base rate plus a margin of 1.50%. After the end of the First Amendment Deferral Period, the Deferred Term Loan A-1 will amortize in an aggregate principal amount equal to 25% per annum of the Deferred Term Loan A-1 outstanding immediately after the consummation of the First Amendment, in quarterly installments, and in the case of such payment due on the maturity date, an amount equal to the then unpaid principal amount of the Deferred Term Loan A-1 outstanding. The Legacy Term Loan A, Term Loan A-1 and Deferred Term Loan A that were held by lenders other than the First Amendment Deferring Lenders constitute separate classes of loans and were unchanged. The First Amendment resulted in deferred amortization payments aggregating approximately \$70 million prior to June 30, 2022.

The First Amendment provides that, (a) from the First Amendment effective date to and including December 31, 2022 (the “Covenant Relief Period”) the testing of the loan to value, debt to capitalization and EBITDA to debt service covenants under the Senior Secured Credit Facility will be suspended and the free liquidity test will be replaced by a covenant to maintain at least \$200 million in free liquidity, certified on a monthly basis. During the Covenant Relief Period the interest rate for Term Loan A-2 and revolving loans held by Lenders that consented to the First Amendment will be LIBOR plus 2.00% (or base rate plus 1.00%) with decreases subject to a leverage-based pricing grid. The First Amendment also makes certain other changes to the Senior Secured Credit Facility, including tightening certain of the baskets applicable to our ability to make certain asset dispositions, investments and restricted payments.

Additionally, in February 2021, NCLC amended all of its export-credit backed facilities to defer amortization payments aggregating approximately \$680 million through March 31, 2022 and/or make certain changes in respect of covenants and undertakings contained therein.

The facilities that finance Norwegian Breakaway, Norwegian Getaway, Norwegian Escape, Norwegian Joy, Norwegian Bliss, Norwegian Encore, Seven Seas Explorer, Seven Seas Splendor, Riviera and Marina were amended to provide that, among other things, (a) amortization payments due from April 1, 2021 to March 31, 2022 (the “Second Deferral Period”) on the loans will be deferred and (b) the principal amounts so deferred will constitute separate tranches of loans under the facilities. The separate tranches of loans will accrue interest at a floating rate per annum based on six-month LIBOR plus a margin as follows:

	<b>Margin</b>
€529.8 million Breakaway one loan (Norwegian Breakaway)	1.10 %
€529.8 million Breakaway two loan (Norwegian Getaway)	1.40 %
€590.5 million Breakaway three loan (Norwegian Escape)	1.50 %
€729.9 million Breakaway four loan (Norwegian Joy)	1.50 %
€710.8 million Seahawk 1 term loan (Norwegian Bliss)	1.20 %
€748.7 million Seahawk 2 term loan (Norwegian Encore)	1.20 %
Explorer newbuild loan	3.00 %
Splendor newbuild loan	1.95 %
Marina newbuild loan	0.75 %
Riviera newbuild loan	0.75 %

After the end of the Second Deferral Period, the deferred loans will amortize in an aggregate principal amount equal to 20% per annum of the deferred loans, in semiannual installments.

In addition, all of NCLC's export-credit backed facilities were amended to provide that, from the effective date of the amendments to and including December 31, 2022, certain of the financial covenants under such facilities will be suspended and the free liquidity test will be replaced by a covenant to maintain at least \$200 million in free liquidity. The amendments also made certain other changes to the facilities, including imposing further restrictions on NCLC's ability to incur debt, create security, issue equity and make dividends and other distributions.

In April 2021, an agreement was executed to defer certain newbuild related debt amortization to July 2022. The aggregate amount of debt amortization that was deferred was €31.2 million, or \$36.1 million based on the euro/U.S. dollar exchange rate as of September 30, 2021. The interest rate on the newbuild related debt was increased to 4.5% per annum.

The amendments of the agreements described above resulted in aggregate modification expenses of \$52.1 million for the nine months ended September 30, 2021, which is recognized in interest expense, net.

In May 2021, NCLC entered into a €28.8 million loan facility for newbuild related payments. The facility bears interest at a rate of 4.5% per annum. As of September 30, 2021, €19.2 million, or \$22.2 million based on the euro/U.S. dollar exchange rate as of September 30, 2021, was drawn under this facility, which matures on July 1, 2022.

In July 2021, we amended nine credit facilities for our newbuild agreements and increased the combined commitments under such credit facilities by approximately \$770 million to cover owner's supply (generally consists of provisions for the ship), modifications and financing premiums. Subsequently, in September 2021, excess commitments totaling approximately \$230 million were cancelled under two of the credit facilities as a result of hedging euro below the rate used to determine the maximum commitments in U.S. dollars.

#### **Unsecured Notes**

In December 2020, NCLC conducted a private offering of \$850.0 million aggregate principal amount of 5.875% senior unsecured notes due March 15, 2026 (the "2026 Senior Unsecured Notes"). In March 2021, NCLC completed an add-on offering of \$575.0 million aggregate principal amount of additional 2026 Senior Unsecured Notes. The 2026 Senior Unsecured Notes pay interest at 5.875% per annum, semiannually on March 15 and September 15 of each year, to holders of record at the close of business on the immediately preceding March 1 and September 1, respectively. NCLC may redeem the 2026 Senior Unsecured Notes, in whole or part, at any time prior to December 15, 2025, at a price equal to 100% of the principal amount of the notes redeemed plus accrued and unpaid interest to, but excluding, the redemption date and a "make-whole premium." NCLC may redeem the 2026 Senior Unsecured Notes, in whole or in part, on or after December 15, 2025, at a price equal to 100% of the principal amount of the notes plus accrued and unpaid interest to, but excluding, the redemption date. At any time and from time to time prior to December 15, 2022, NCLC may choose to redeem up to 40% of the aggregate principal amount of the 2026 Senior Unsecured Notes with the net proceeds of certain equity offerings, subject to certain restrictions, at a redemption price equal to 105.875% of the principal amount of the 2026 Senior Unsecured Notes redeemed plus accrued and unpaid interest to, but excluding, the redemption date, so long as at least 60% of the aggregate principal amount of the 2026 Senior Unsecured Notes issued remains outstanding following such redemption. The proceeds from the March 2021 issuance were used to repay the \$230.0 million Pride of America Credit Facility and the remaining \$222.6 million of the Jewel Credit Facility. The repayment of these debt agreements resulted in losses on extinguishment of debt of \$1.1 million for the nine months ended September 30, 2021, which is recognized in interest expense, net.

In March 2021, NCL Finance, Ltd., an indirect, wholly-owned subsidiary of NCLH and NCLC, additionally conducted a private offering of \$525.0 million aggregate principal amount of 6.125% senior unsecured notes due March 15, 2028 (the "2028 Senior Unsecured Notes"). The 2028 Senior Unsecured Notes pay interest at 6.125% per annum, semiannually on March 15 and September 15 of each year, to holders of record at the close of business on the immediately preceding March 1 and September 1, respectively. NCL Finance may redeem the 2028 Senior Unsecured Notes, in whole or part, at any time prior to December 15, 2027, at a price equal to 100% of the principal amount of the notes redeemed plus accrued and unpaid interest to, but excluding, the redemption date and a "make-whole premium." NCL Finance may redeem the 2028 Senior Unsecured Notes, in whole or in part, on or after December 15, 2027, at a price equal to 100% of the principal amount of the notes plus accrued and unpaid interest to, but excluding, the redemption date. At any time and from time to time prior to March 15, 2024, NCL Finance may choose to redeem up to 40% of the aggregate principal amount of the 2028 Senior Unsecured Notes with the net proceeds of certain equity



offerings, subject to certain restrictions, at a redemption price equal to 106.125% of the principal amount of the 2028 Senior Unsecured Notes redeemed plus accrued and unpaid interest to, but excluding, the redemption date, so long as at least 60% of the aggregate principal amount of the 2028 Senior Unsecured Notes issued remains outstanding following such redemption.

The indentures governing the 2026 Senior Unsecured Notes and 2028 Senior Unsecured Notes include requirements that, among other things and subject to a number of qualifications and exceptions, restrict the ability of NCLC and its restricted subsidiaries, as applicable, to (i) incur or guarantee additional indebtedness; (ii) pay dividends or distributions on, or redeem or repurchase, equity interests and make other restricted payments; (iii) make investments; (iv) consummate certain asset sales; (v) engage in certain transactions with affiliates; (vi) grant or assume certain liens; and (vii) consolidate, merge or transfer all or substantially all of their assets.

In November 2021, the Company executed a \$1 billion commitment through August 15, 2022 that provides additional liquidity to the Company. If drawn, this commitment will convert into an unsecured note paying interest at 8.0% per annum, semiannually, and maturing in April 2024. As of the date hereof, the Company has not drawn under this commitment.

#### **Exchangeable Notes**

In August 2020, the FASB issued ASU No. 2020-06, *Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity’s Own Equity (Subtopic 815-40) Accounting for Convertible Instruments and Contracts in an Entity’s Own Equity* (“ASU 2020-06”), which reduces the number of accounting models for convertible debt instruments and enhances transparency in disclosures. One model which is being eliminated is the bifurcation of embedded conversion features that are not accounted for separately as derivatives. Each of the 2024 Exchangeable Notes, 2025 Exchangeable Notes, and Private Exchangeable Notes (as defined below) contain or contained conversion options that may be settled with NCLH’s ordinary shares. As the options will be both indexed to and settled in our ordinary shares, they are not accounted for separately as derivatives. The Private Exchangeable Notes contained a beneficial conversion feature, which was recognized within additional paid-in capital with an offsetting discount to the carrying amount of the debt. The discount was amortized to interest expense through December 31, 2020. On January 1, 2021, we early adopted ASU 2020-06 using a modified retrospective approach. As a result, the \$131.2 million beneficial conversion feature previously recognized was reclassified from additional paid-in capital to long-term debt, and the discount amortization of \$5.6 million was adjusted through retained earnings (deficit).

NCLC has outstanding \$862.5 million aggregate principal amount of 6.00% exchangeable senior notes due May 15, 2024 (the “2024 Exchangeable Notes”). The 2024 Exchangeable Notes are guaranteed by NCLH on a senior basis. Holders may exchange their 2024 Exchangeable Notes at their option into redeemable preference shares of NCLC. Upon exchange, the preference shares will be immediately and automatically exchanged, for each \$1,000 principal amount of exchanged 2024 Exchangeable Notes, into a number of NCLH’s ordinary shares based on the exchange rate. The exchange rate will initially be 72.7273 ordinary shares per \$1,000 principal amount of 2024 Exchangeable Notes (equivalent to an initial exchange price of approximately \$13.75 per ordinary share). The maximum exchange rate is 89.4454 and reflects potential adjustments to the initial exchange rate, which would only be made in the event of certain make-whole fundamental changes or tax redemption events. The exchange rate referred to above is also subject to adjustment for any stock split, stock dividend or similar transaction. The 2024 Exchangeable Notes pay interest at 6.00% per annum, semiannually on May 15 and November 15 of each year, to holders of record at the close of business on the immediately preceding May 1 and November 1, respectively.

NCLC also has outstanding \$450.0 million aggregate principal amount of 5.375% exchangeable senior notes due August 1, 2025 (the “2025 Exchangeable Notes”). The 2025 Exchangeable Notes are guaranteed by NCLH on a senior basis. Holders may exchange their 2025 Exchangeable Notes at their option into redeemable preference shares of NCLC. Upon exchange, the preference shares will be immediately and automatically exchanged, for each \$1,000 principal amount of exchanged 2025 Exchangeable Notes, into a number of NCLH’s ordinary shares based on the exchange rate. The exchange rate will initially be 53.3333 ordinary shares per \$1,000 principal amount of 2025 Exchangeable Notes (equivalent to an initial exchange price of approximately \$18.75 per ordinary share). The maximum exchange rate is 66.6666 and reflects potential adjustments to the initial exchange rate, which would only be made in the event of certain make-whole fundamental changes or tax redemption events. The exchange rate referred to above is also subject to

[Table of Contents](#)

adjustment for any stock split, stock dividend or similar transaction. The 2025 Exchangeable Notes pay interest at 5.375% per annum, semiannually on February 1 and August 1 of each year, to holders of record at the close of business on the immediately preceding January 15 and July 15, respectively.

As of December 31, 2020, NCLC also had outstanding \$414.3 million aggregate principal amount of exchangeable senior notes due June 1, 2026 (the “Private Exchangeable Notes”), which amount included interest that had accreted to the principal amount, which were held by an affiliate of L Catterton (the “Private Investor”). The Private Exchangeable Notes accrued interest at a rate of 7.0% per annum for the first year post-issuance (which accreted to the principal amount). Holders were able to exchange their Private Exchangeable Notes at their option into redeemable preference shares of NCLC. Upon exchange, the preference shares would be immediately and automatically exchanged, for each \$1,000 principal amount of exchanged Private Exchangeable Notes, into a number of NCLH’s ordinary shares based on the exchange rate. The exchange rate was initially approximately 82.6446 ordinary shares per \$1,000 principal amount of Private Exchangeable Notes (equivalent to an initial exchange price of \$12.10 per ordinary share). The maximum exchange rate was 90.9090 and reflected potential adjustments to the initial exchange rate, which would only be made in the event of certain make-whole fundamental changes or tax redemption events.

In March 2021, NCLH completed an equity offering that resulted in 52,577,947 ordinary shares being issued for gross proceeds of \$1.6 billion. Approximately \$1.0 billion of the cash proceeds from the offering were used to repurchase the Private Exchangeable Notes and extinguish the debt. The resulting loss on extinguishment, which is recognized in interest expense, net, was \$600.4 million for the nine months ended September 30, 2021.

The following is a summary of NCLC’s convertible debt instruments as of September 30, 2021 (in thousands):

	<b>Principal Amount</b>	<b>Unamortized Deferred Financing Fees</b>	<b>Net Carrying Amount</b>	<b>Fair Value</b>	
				<b>Amount</b>	<b>Leveling</b>
2024 Exchangeable Notes	\$ 862,500	\$ (22,102)	\$ 840,398	\$ 1,838,514	Level 2
2025 Exchangeable Notes	450,000	(9,112)	440,888	777,285	Level 2

The remaining period over which the unamortized deferred financing fees will be recognized as non-cash interest expense is 2.6 years and 3.8 years for the 2024 Exchangeable Notes and 2025 Exchangeable Notes, respectively.

The following is a summary of NCLC’s convertible debt instruments as of December 31, 2020 (in thousands):

	<b>Principal Amount</b>	<b>Unamortized Debt Discount, including Deferred Financing Fees</b>	<b>Net Carrying Amount</b>	<b>Fair Value</b>	
				<b>Amount</b>	<b>Leveling</b>
2024 Exchangeable Notes	\$ 862,500	\$ (27,559)	\$ 834,941	\$ 1,812,975	Level 2
2025 Exchangeable Notes	450,000	(10,609)	439,391	772,412	Level 2
Private Exchangeable Notes	414,311	(136,163)	278,148	1,098,082	Level 2

In addition, as of December 31, 2020, we had recognized a \$19.3 million premium for payment-in-kind interest as additional paid-in capital for the Private Exchangeable Notes. As a result of the extinguishment of the Private Exchangeable Notes, we derecognized the amounts recorded as additional paid-in capital.

[Table of Contents](#)

The following provides a summary of the interest expense of NCLC's convertible debt instruments (in thousands):

	<b>Three Months Ended September 30, 2021</b>	<b>Nine Months Ended September 30, 2021</b>
Coupon interest	18,984	62,109
Amortization of deferred financing fees	2,593	7,802
<b>Total</b>	<b>\$ 21,577</b>	<b>\$ 69,911</b>

Prior to the adoption of ASU 2020-06, interest expense, including amortization of debt discounts and coupon interest, recognized related to the convertible debt instruments was \$29.5 million and \$42.0 million for the three and nine months ended September 30, 2020, respectively.

The effective interest rate is 7.07% and 5.97% for the 2024 Exchangeable Notes and 2025 Exchangeable Notes, respectively.

As of September 30, 2021, the if-converted value above par was \$812.9 million on available shares of 62.7 million and \$191.0 million on available shares of 24.0 million for the 2024 Exchangeable Notes and the 2025 Exchangeable Notes, respectively.

#### **Debt Repayments**

The following are scheduled principal repayments on our long-term debt including finance lease obligations as of September 30, 2021 for each of the following periods (in thousands):

<b>Year</b>	<b>Amount</b>
Remainder of 2021	\$ 9,794
2022	866,626
2023	933,399
2024	5,069,391
2025	1,063,107
Thereafter	4,659,587
<b>Total</b>	<b>\$ 12,601,904</b>

#### **Debt Covenants**

We have received certain financial and other debt covenant waivers through December 31, 2022 and added new free liquidity requirements. At September 30, 2021, taking into account such waivers, we were in compliance with all of our debt covenants. If we do not continue to remain in compliance with our covenants, including following the expiration of any current waivers, we would have to seek additional amendments to our covenants. However, no assurances can be made that such amendments would be approved by our lenders. Generally, if an event of default under any debt agreement occurs, then pursuant to cross default and/or cross acceleration clauses, substantially all of our outstanding debt and derivative contract payables could become due, and all debt and derivative contracts could be terminated, which would have a material adverse impact on our operations and liquidity.

#### **8. 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 September 30, 2021, we had fuel swaps which are used to mitigate the financial impact of volatility of fuel prices pertaining to approximately 366 thousand metric tons of our projected fuel purchases, maturing through December 31, 2023.

On January 1, 2021, our fuel swaps designated as hedges for marine gas oil maturing through December 31, 2021 were redesignated as cash flow hedges. As of September 30, 2021, we had, in aggregate with previously redesignated fuel swaps, approximately 153 thousand metric tons which were not designated as cash flow hedges maturing through December 31, 2022.

As of September 30, 2021, 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 €2.3 billion, or \$2.7 billion based on the euro/U.S. dollar exchange rate as of September 30, 2021.

As of September 30, 2021, we had an interest rate swap, which is 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 was \$0.2 billion as of September 30, 2021.

[Table of Contents](#)

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

Balance Sheet Location	Assets		Liabilities	
	September 30, 2021	December 31, 2020	September 30, 2021	December 31, 2020
<b>Derivative Contracts Designated as Hedging Instruments</b>				
Fuel contracts				
Prepaid expenses and other assets	\$ 20,852	\$ —	\$ —	\$ —
Other long-term assets	22,324	—	—	—
Accrued expenses and other liabilities	—	—	—	35,973
Other long-term liabilities	—	—	—	28,947
Foreign currency contracts				
Prepaid expenses and other assets	819	5,779	—	—
Other long-term assets	10,898	43,250	—	—
Accrued expenses and other liabilities	—	—	90,954	14,778
Other long-term liabilities	2,410	6,821	56,775	44,938
Interest rate contracts				
Accrued expenses and other liabilities	—	—	1,281	6,776
Other long-term liabilities	—	—	—	452
<b>Total derivatives designated as hedging instruments</b>	<b>\$ 57,303</b>	<b>\$ 55,850</b>	<b>\$ 149,010</b>	<b>\$ 131,864</b>
<b>Derivative Contracts Not Designated as Hedging Instruments</b>				
Fuel contracts				
Prepaid expenses and other assets	\$ 12,283	\$ —	\$ —	\$ —
Other long-term assets	1,873	—	—	—
Accrued expenses and other liabilities	—	546	—	6,732
Other long-term liabilities	—	—	—	3,534
<b>Total derivatives not designated as hedging instruments</b>	<b>\$ 14,156</b>	<b>\$ 546</b>	<b>\$ —</b>	<b>\$ 10,266</b>
<b>Total derivatives</b>	<b>\$ 71,459</b>	<b>\$ 56,396</b>	<b>\$ 149,010</b>	<b>\$ 142,130</b>

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 following table discloses the gross and net amounts recognized within assets and liabilities (in thousands):

	Gross Amounts	Gross Amounts Offset	Total Net Amounts	Gross Amounts Not Offset	Net Amounts
<b>September 30, 2021</b>					
Assets	\$ 69,049	\$ —	\$ 69,049	\$ (69,049)	\$ —
Liabilities	149,010	(2,410)	146,600	(137,482)	9,118
<b>December 31, 2020</b>					
Assets	\$ 49,029	\$ —	\$ 49,029	\$ (49,029)	\$ —
Liabilities	142,130	(7,367)	134,763	(57,351)	77,412

The effects of cash flow hedge accounting on accumulated other comprehensive income (loss) were as follows (in thousands):

Derivatives	Amount of Gain (Loss) Recognized in Other Comprehensive Loss		Location of Gain (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income (Expense)	Amount of Gain (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income (Expense)	
	Three Months Ended	Three Months Ended		Three Months Ended	Three Months Ended
	September 30, 2021	September 30, 2020		September 30, 2021	September 30, 2020
Fuel contracts	\$ 19,202	\$ (10,958)	Fuel	\$ (10,278)	\$ (15,091)
Fuel contracts	—	—	Other income (expense), net	(65)	(17,434)
Foreign currency contracts	(64,306)	98,539	Depreciation and amortization	(1,267)	(1,267)
Interest rate contracts	(30)	129	Interest expense, net	(1,338)	(2,280)
Total gain (loss) recognized in other comprehensive loss	\$ (45,134)	\$ 87,710		\$ (12,948)	\$ (36,072)

Derivatives	Amount of Gain (Loss) Recognized in Other Comprehensive Loss		Location of Gain (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income (Expense)	Amount of Gain (Loss) Reclassified from Accumulated Other Comprehensive Income (Loss) into Income (Expense)	
	Nine Months Ended	Nine Months Ended		Nine Months Ended	Nine Months Ended
	September 30, 2021	September 30, 2020		September 30, 2021	September 30, 2020
Fuel contracts	\$ 68,708	\$ (181,666)	Fuel	\$ (27,101)	\$ (35,186)
Fuel contracts	—	—	Other income (expense), net	(11,793)	(43,718)
Foreign currency contracts	(142,466)	28,346	Depreciation and amortization	(3,800)	(3,662)
Interest rate contracts	261	(10,352)	Interest expense, net	(5,634)	(4,287)
Total gain (loss) recognized in other comprehensive loss	\$ (73,497)	\$ (163,672)		\$ (48,328)	\$ (86,853)

[Table of Contents](#)

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

	Three Months Ended September 30, 2021				Three Months Ended September 30, 2020			
	Fuel	Depreciation and Amortization	Interest Expense, net	Other Income (Expense), net	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	\$ 79,238	\$ 173,289	\$ 161,205	\$ 4,720	\$ 48,224	\$ 177,488	\$ 139,664	\$ (23,680)
Amount of gain (loss) reclassified from accumulated other comprehensive income (loss) into income (expense)								
Fuel contracts	(10,278)	—	—	—	(15,091)	—	—	—
Foreign currency contracts	—	(1,267)	—	—	—	(1,267)	—	—
Interest rate contracts	—	—	(1,338)	—	—	—	(2,280)	—
Amount of gain (loss) reclassified from accumulated other comprehensive income (loss) into income (expense) as a result that a forecasted transaction is no longer probable of occurring								
Fuel contracts	—	—	—	(65)	—	—	—	(17,434)
Amount of gain recognized in income as a result of failing effectiveness tests								
Fuel contracts	—	—	—	—	—	—	—	5,507

[Table of Contents](#)

	Nine Months Ended September 30, 2021				Nine Months Ended September 30, 2020			
	Fuel	Depreciation and Amortization	Interest Expense, net	Other Income (Expense), net	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	\$ 175,931	\$ 517,867	\$ 1,122,905	\$ 57,464	\$ 222,240	\$ 554,937	\$ 323,108	\$ (32,275)
Amount of gain (loss) reclassified from accumulated other comprehensive income (loss) into income (expense)								
Fuel contracts	(27,101)	—	—	—	(35,186)	—	—	—
Foreign currency contracts	—	(3,800)	—	—	—	(3,662)	—	—
Interest rate contracts	—	—	(5,634)	—	—	—	(4,287)	—
Amount of gain (loss) reclassified from accumulated other comprehensive income (loss) into income (expense) as a result that a forecasted transaction is no longer probable of occurring								
Fuel contracts	—	—	—	(11,793)	—	—	—	(43,718)
Amount of gain recognized in income as a result of failing effectiveness tests								
Fuel contracts	—	—	—	—	—	—	—	5,507

The effects of derivatives not designated as hedging instruments on the consolidated statements of operations include the following (in thousands):

	Location of Gain (Loss)	Amount of Gain (Loss) Recognized in Income			
		Three Months Ended		Nine Months Ended	
		September 30, 2021	September 30, 2020	September 30, 2021	September 30, 2020
Derivatives not designated as hedging instruments					
Fuel contracts	Other income (expense), net	\$ 7,398	\$ (17)	\$ 57,505	\$ 3,629

**Long-Term Debt**

As of September 30, 2021 and December 31, 2020, the fair value of our long-term debt, including the current portion, was \$14.2 billion, which was \$1.6 billion higher and \$2.2 billion higher, respectively, than the carrying values, excluding deferred financing costs. 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 as well as the beneficial conversion feature recognized on the Private Exchangeable Notes as of December 31, 2020. The fair value of our long-term revolving and term loan facilities was calculated based on estimated rates for the same or similar instruments with similar terms and remaining maturities. The fair value of our exchangeable notes considers observable risk-free rates; credit spreads of the same or similar instruments; and share prices, tenors, and historical and implied volatilities which are sourced from observable market data. The inputs are considered to be Level 2 in the fair value hierarchy. Market risk associated with our long-term variable rate debt is the potential increase in interest expense from an increase in interest rates or from an increase in share values.

**Other**

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

**9. Employee Benefits and Compensation Plans**

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. 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. In May 2021, the Restated 2013 Plan was further amended and restated to increase the number of NCLH ordinary shares that may be delivered by 4,910,000 shares to 32,375,106 shares.

**Share Option Awards**

The following is a summary of option activity under NCLH’s Restated 2013 Plan for the nine months ended September 30, 2021:

	Number of Share Option Awards			Weighted-Average Exercise Price			Weighted-Average Contractual Term (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, 2021	4,525,207	114,583	208,333	\$ 51.96	\$ 59.43	\$ 59.43	4.42	\$ —
Forfeited and cancelled	(96,862)	—	—	52.49	—	—	—	—
Outstanding as of September 30, 2021	<u>4,428,345</u>	<u>114,583</u>	<u>208,333</u>	51.95	59.43	59.43	3.68	—

**Restricted Share Unit Awards**

In June 2021, NCLH granted 3.1 million time-based restricted share unit awards to our employees, which primarily vest in substantially equal installments each March 1 over three years. Additionally, in June 2021, NCLH granted 0.7 million performance-based restricted share units to certain members of our management team, which vest upon the achievement of certain pre-established performance targets established through 2023 and the satisfaction of an additional time-based vesting requirement that generally requires continued employment through March 1, 2024.

The following is a summary of restricted share unit activity for the nine months ended September 30, 2021:

	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, 2021	6,663,925	\$ 30.54	1,565,184	\$ 39.42	50,000	\$ 59.43
Granted	3,135,993	30.89	736,898	40.89	—	—
Vested	(1,746,838)	47.01	(460,969)	56.73	—	—
Forfeited or expired	(225,752)	28.71	—	—	—	—
Non-vested as of September 30, 2021	<u>7,827,328</u>	27.05	<u>1,841,113</u>	35.68	<u>50,000</u>	59.43

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Payroll and related expense	\$ 6,525	\$ 5,483	\$ 16,225	\$ 15,214
Marketing, general and administrative expense	33,397	20,379	72,749	65,795
Total share-based compensation expense	<u>\$ 39,922</u>	<u>\$ 25,862</u>	<u>\$ 88,974</u>	<u>\$ 81,009</u>

## 10. Commitments and Contingencies

### Ship Construction Contracts

Project Leonardo will introduce an additional six ships, each ranging from approximately 140,000 to 156,300 Gross Tons with approximately 3,215 to 3,550 Berths, with expected delivery dates from 2022 through 2027. For the Regent brand, we have an order for one Explorer Class Ship to be delivered in 2023, which 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 2023 and 2025. Each of the Allura Class Ships will be approximately 67,000 Gross Tons and 1,200 Berths. The impacts of COVID-19 on the shipyards where our ships are under construction (or will be constructed) have resulted in some delays in expected ship deliveries, and the impacts of COVID-19 could result in additional delays in ship deliveries in the future, which may be prolonged.

The combined contract prices of the nine ships on order for delivery as of September 30, 2021 was approximately €7.6 billion, or \$8.8 billion based on the euro/U.S. dollar exchange rate as of September 30, 2021. 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.

### Litigation

#### *Class Actions*

On March 12, 2020, a class action complaint, *Eric Douglas v. Norwegian Cruise Lines, Frank J. Del Rio and Mark A. Kempa*, Case No. 1:20-CV-21107, was filed in the United States District Court for the Southern District of Florida, naming the Company, Frank J. Del Rio, the Company's President and Chief Executive Officer, and Mark A. Kempa, the Company's Executive Vice President and Chief Financial Officer, as defendants. Subsequently, two similar class action complaints were also filed in the United States District Court for the Southern District of Florida naming the same defendants. On July 31, 2020, a consolidated amended class action complaint was filed by lead plaintiff's counsel. The complaint asserted claims, purportedly brought on behalf of a class of shareholders, under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, and alleged that the Company made false and misleading statements to the market and customers about COVID-19. The complaint sought unspecified damages and an award of costs and expenses, including reasonable attorneys' fees, on behalf of a purported class of purchasers of our ordinary shares between February 20, 2020 and March 10, 2020. On April 10, 2021, the case was dismissed and closed, and the plaintiffs no longer have the right to appeal.

### *Investigations*

In March 2020, the Florida Attorney General announced an investigation related to the Company's marketing during the COVID-19 pandemic. Following the announcement of the investigation by the Florida Attorney General, we received notifications from other attorneys general and governmental agencies that they are conducting similar investigations. The Company is cooperating with these ongoing investigations, the outcomes of which cannot be predicted at this time.

### *Helms-Burton Act*

On August 27, 2019, two lawsuits were filed against Norwegian Cruise Line Holdings Ltd. in the United States District Court for the Southern District of Florida under Title III of the Cuban Liberty and Solidarity (Libertad) Act of 1996, also known as the Helms-Burton Act. The complaint filed by Havana Docks Corporation (the "Havana Docks Matter") alleges it holds an interest in the Havana Cruise Port Terminal and the complaint filed by Javier Garcia-Bengochea (the "Garcia-Bengochea Matter") alleges that he holds an interest in the Port of Santiago, Cuba, both of which were expropriated by the Cuban Government. The complaints further allege that the Company "trafficked" in those properties by embarking and disembarking passengers at these facilities. The plaintiffs seek all available statutory remedies, including the value of the expropriated property, plus interest, treble damages, attorneys' fees and costs. On January 7, 2020, the United States District Court for the Southern District of Florida dismissed the claim by Havana Docks Corporation. On April 14, 2020, the district court granted Havana Docks Corporation's motion to reconsider and vacated its order dismissing the claim, allowing Havana Docks Corporation to file an amended complaint on April 16, 2020. On April 24, 2020, we filed a motion seeking permission to appeal the district court's order which was subsequently denied. Discovery in the Havana Docks Matter has now concluded and appropriate motions for summary judgment have been filed. Trial for the Havana Docks Matter is scheduled for March 2022. On September 1, 2020, the Court entered an order staying all case deadlines and administratively closed the Garcia-Bengochea Matter pending the outcome of the appeal in a related case brought by the same plaintiff. We believe we have meritorious defenses to the claims and intend to vigorously defend these matters. As of September 30, 2021, we are unable to reasonably estimate any potential contingent loss from these matters due to a lack of legal precedent.

### *Other*

In the normal course of our business, various other 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.

### **Other Contingencies**

The Company also has agreements with its credit card processors that govern approximately \$1.5 billion in advance ticket sales at September 30, 2021 that have been received by the Company relating to future voyages. These agreements allow the credit card processors to require under certain circumstances, including the existence of a material adverse change, excessive chargebacks and other triggering events, that the Company maintain a reserve which would be satisfied by posting collateral. Although the agreements vary, these requirements may generally be satisfied either through a percentage of customer payments withheld or providing cash funds directly to the card processor. Any cash reserve or collateral requested could be increased or decreased. As of September 30, 2021, we had cash reserves of approximately \$1.2 billion with credit card processors recognized in accounts receivable, net or other long-term assets. Subsequent to September 30, 2021, \$388.3 million in cash reserves have been released to the Company. We may be

required to pledge additional collateral and/or post additional cash reserves or take other actions that may further reduce our liquidity.

#### **11. Other Income (Expense), Net**

For the three and nine months ended September 30, 2021, other income (expense), net consisted of income of \$4.7 million and \$57.5 million, respectively, primarily related to gains on fuel swaps not designated as hedges and foreign currency exchange. For the three and nine months ended September 30, 2020, other income (expense), net consisted of an expense of \$23.7 million and \$32.3 million, respectively, primarily due to losses from foreign currency exchange and losses on fuel hedges released into earnings as a result of the forecasted transactions no longer being probable.

#### **12. Supplemental Cash Flow Information**

For the nine months ended September 30, 2021 and 2020, we had non-cash investing activities consisting of changes in accruals related to property and equipment of \$64.6 million and \$29.1 million, respectively.

#### **13. Related Party Disclosures**

NCLC, as issuer, NCLH, as guarantor, and U.S. Bank National Association, as trustee, were all parties to an indenture, dated May 28, 2020 (the "Indenture") related to the Private Exchangeable Notes, which were held by the Private Investor. The terms of the Private Exchangeable Notes are more fully described under Note 7 — "Long-Term Debt". Based on the initial exchange rate for the Private Exchangeable Notes, the Private Investor beneficially owned approximately 10% of NCLH's outstanding ordinary shares as of December 31, 2020. The initial exchange rate for the Private Exchangeable Notes could have been adjusted in the event of certain make-whole fundamental changes or tax redemption events (each, as described in the Indenture), but the maximum number of NCLH ordinary shares issuable upon an exchange in the event of such an adjustment would not have exceeded 46,577,947. The Private Exchangeable Notes also contained certain anti-dilution provisions that could have subjected the exchange rate to additional adjustment if certain events had occurred.

NCLH, NCLC and the Private Investor also entered into an investor rights agreement, dated May 28, 2020 (the "Investor Rights Agreement"), which provided that, among other things, the Private Investor was entitled to nominate one person for appointment to the board of directors of NCLH until the first date on which the Private Investor no longer beneficially owned in the aggregate at least 50% of the number of NCLH's ordinary shares issuable upon exchange of the Private Exchangeable Notes beneficially owned by the Private Investor in the aggregate as of May 28, 2020 (subject to certain adjustments).

The Investor Rights Agreement also provided for customary registration rights for the Private Investor and its affiliates, including demand and piggyback registration rights, contained customary transfer restrictions and provided that the Private Investor and its affiliates were subject to a voting agreement with respect to certain matters during a specified period of time.

In a privately negotiated transaction among NCLH, NCLC and the Private Investor, NCLC agreed to repurchase all of the outstanding Private Exchangeable Notes for an aggregate repurchase price of approximately \$1.0 billion (the "Repurchase"). On March 9, 2021, in connection with the settlement of the Repurchase, the trustee cancelled the aggregate principal amount outstanding under the Private Exchangeable Notes and confirmed that NCLC had satisfied and discharged its obligations under the Indenture. In connection with the Repurchase, we and the Private Investor agreed to terminate the Investor Rights Agreement effective upon the consummation of the Repurchase. Notwithstanding the termination, we and the Private Investor agreed that certain provisions related to indemnification and expense reimbursement would survive in accordance with their terms.

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

### Cautionary Statement Concerning Forward-Looking Statements

Some of the statements, estimates or projections contained in this report are "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 report, including, without limitation, those regarding our business strategy, financial position, results of operations, plans, prospects, actions taken or strategies being considered with respect to our liquidity position, valuation and appraisals of our assets and objectives of management for future operations (including those regarding expected fleet additions, our suspension of certain cruise voyages, our ability to weather the impacts of the COVID-19 pandemic, our expectations regarding the resumption of cruise voyages and the timing for such resumption of cruise voyages, the implementation of and effectiveness of our health and safety protocols, operational position, demand for voyages, plans or goals for our sustainability program and decarbonization efforts, our expectations for future cash flows and profitability, financing opportunities and extensions, and future cost mitigation and cash conservation efforts and efforts to reduce operating expenses and capital expenditures) 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:

- the spread of epidemics, pandemics and viral outbreaks and specifically, the COVID-19 pandemic, including its effect on the ability or desire of people to travel (including on cruises), which are expected to continue to adversely impact our results, operations, outlook, plans, goals, growth, reputation, cash flows, liquidity, demand for voyages and share price;
- our ability to comply with the United States Centers for Disease Control and Prevention's ("CDC") Conditional Order and any additional or future regulatory restrictions on our operations and to otherwise develop enhanced health and safety protocols to adapt to the pandemic's unique challenges;
- legislation prohibiting companies from verifying vaccination status;
- coordination and cooperation with the CDC, the federal government and global public health authorities to take precautions to protect the health, safety and security of guests, crew and the communities visited and the implementation of any such precautions;
- our ability to work with lenders and others or otherwise pursue options to defer, renegotiate, refinance or restructure our existing debt profile, near-term debt amortization, newbuild related payments and other obligations and to work with credit card processors to satisfy current or potential future demands for collateral on cash advanced from customers relating to future cruises;
- our need for additional financing or financing to optimize our balance sheet, which may not be available on favorable terms, or at all, and may be dilutive to existing shareholders;
- our indebtedness and restrictions in the agreements governing our indebtedness that require us to maintain minimum levels of liquidity and otherwise limit our flexibility in operating our business, including the significant portion of assets that are collateral under these agreements;
- the accuracy of any appraisals of our assets as a result of the impact of the COVID-19 pandemic or otherwise;

[Table of Contents](#)

- our success in controlling operating expenses and capital expenditures;
- our guests' election to take cash refunds in lieu of future cruise credits or the continuation of any trends relating to such election;
- trends in, or changes to, future bookings and our ability to take future reservations and receive deposits related thereto;
- the unavailability of ports of call;
- future increases in the price of, or major changes or reduction in, commercial airline services;
- 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;
- any further impairment of our trademarks, trade names or goodwill;
- breaches in data security or other disturbances to our information technology and other networks or our actual or perceived failure to comply with requirements regarding data privacy and protection;
- changes in fuel prices and the type of fuel we are permitted to use and/or other cruise operating costs;
- mechanical malfunctions and repairs, delays in our shipbuilding program, maintenance and refurbishments and the consolidation of qualified shipyard facilities;
- the risks and increased costs associated with operating internationally;
- fluctuations in foreign currency exchange rates;
- overcapacity in key markets or globally;
- our expansion into and investments in new markets;
- our inability to obtain adequate insurance coverage;
- pending or threatened litigation, investigations and enforcement actions;
- 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 or employee relations issues;
- our reliance on third parties to provide hotel management services for certain ships and certain other services;

[Table of Contents](#)

- our inability to keep pace with developments in technology;
- changes involving the tax and environmental regulatory regimes in which we operate; and
- other factors set forth under “Risk Factors” herein and in our Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on February 26, 2021 (“Annual Report on Form 10-K”).

Additionally, many of these risks and uncertainties are currently amplified by and will continue to be amplified by, or in the future may be amplified by, the COVID-19 pandemic. It is not possible to predict or identify all such risks. There may be additional risks that we consider immaterial or which are unknown.

In addition, some of our executive officers and directors have not sold their shares in us since the beginning of the COVID-19 pandemic as a gesture of support for our Company as they navigated us through unprecedented challenges. Now that we have resumed operations, we anticipate that our executive officers and directors may sell shares under Rule 10b5-1 plans beginning in the first quarter of 2022 as part of their ordinary course financial planning.

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.

#### **Terminology**

This report includes certain non-GAAP financial measures, such as Net Cruise Cost, Adjusted Net Cruise Cost Excluding Fuel, Adjusted EBITDA, Adjusted Net Loss 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 calculation our non-GAAP financial measures and a reconciliation to the most directly comparable GAAP financial measure, we refer you to “Results of Operations” below.

Unless otherwise indicated in this 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 Loss 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 Loss*. Net loss adjusted for supplemental adjustments.
- *Allura Class Ships*. Oceania Cruises’ two ships on order.
- *Berths*. Double occupancy capacity per cabin (single occupancy per studio cabin) even though many cabins can accommodate three or more passengers.
- *Capacity Days*. Berths available for sale multiplied by the number of cruise days for the period for ships in service.

- *CDC*. The U.S. Centers for Disease Control and Prevention.
- *Conditional Order*. The CDC's Framework for Conditional Sailing Order issued on October 30, 2020 that introduced a phased approach for the resumption of passenger cruises. These phases include: a) the establishment of laboratory testing of crew onboard cruise ships in U.S. waters; b) simulated voyages designed to test a cruise ship operator's ability to mitigate COVID-19 on cruise ships; c) a certification process; and d) a return to passenger voyages in a manner that mitigates the risk of COVID-19 introduction, transmission or spread among passenger and crew onboard ships and ashore to communities. The Conditional Order replaced the CDC's previously issued No Sail Order that expired on October 31, 2020 and remained in effect until November 1, 2021. The CDC adopted a Temporary Extension and Modification of the Framework for Conditional Sailing Order (the "Temporary Extension") that became effective on November 1, 2021 and will remain in effect until the earlier of a) the expiration of the Secretary of Health and Human Services' declaration that COVID-19 constitutes a public health emergency, b) the CDC Director's rescission or modification of the Temporary Extension based on specific public health or other considerations, or c) January 15, 2022 at which point it will revert to a voluntary program. Effective as of July 23, 2021, for cruise ships arriving in, within, or departing from a port in Florida, the Conditional Order only persists as a non-binding recommendation.
- *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.
- *EBITDA*. Earnings before interest, taxes, and depreciation and amortization.
- *EPS*. Loss per share.
- *Explorer Class Ships*. Regent's Seven Seas Explorer, Seven Seas Splendor, and Seven Seas Grandeur.
- *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.
- *Jewel Credit Facility*. The Credit Agreement, dated as of May 15, 2019 (as amended by Amendment No. 1 to the Credit Agreement, dated as of May 1, 2020, and as further amended by Amendment No. 2 to the Credit Agreement dated as of January 29, 2021), among NCLC, as borrower, the lenders party thereto, Bank of America, N.A., as administrative agent and collateral agent, Bank of America, N.A., Truist Bank (formerly known as Branch Banking and Trust Company), Fifth Third Bank and Mizuho Bank, Ltd., as joint bookrunners and arrangers, and Bank of America, N.A., Truist Bank (formerly known as Branch Banking and Trust Company), Fifth Third Bank and Mizuho Bank, Ltd., as co-documentation agents, providing for a \$260.0 million senior secured credit facility.
- *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.



- *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.
- *Pride of America Credit Facility.* The Credit Agreement, dated as of January 10, 2019 (as amended by Amendment No. 1 to the Credit Agreement, dated as of April 28, 2020, and as further amended by Amendment No. 2 to the Credit Agreement, dated as of January 29, 2021), among NCLC, as borrower, the lenders party thereto, Nordea Bank Abp, New York Branch, as administrative agent and collateral agent, and Nordea Bank Abp, New York Branch, Mizuho Bank, Ltd., MUFG Bank, Ltd., and Skandinaviska Enskilda Banken AB (Publ), as joint bookrunners, arrangers and co-documentation agents, providing for a \$230.0 million senior secured credit facility.
- *Project Leonardo.* The next generation of ships for our Norwegian brand.
- *Revolving Loan Facility.* \$875.0 million senior secured revolving credit facility.
- *SEC.* U.S. Securities and Exchange Commission.
- *Senior Secured Credit Facility.* The Credit Agreement, originally dated as of May 24, 2013, as amended and restated on October 31, 2014, June 6, 2016, October 10, 2017, January 2, 2019 and May 8, 2020, and as further amended on January 29, 2021 and March 25, 2021, by and among NCLC and Voyager Vessel Company, LLC, as co-borrowers, JPMorgan Chase Bank, N.A., as administrative agent and as collateral agent, and various lenders and agents, providing for a senior secured credit facility consisting of (i) the Revolving Loan Facility and (ii) the Term Loan A Facility.
- *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.
- *Term Loan A Facility.* The senior secured term loan A facility having an outstanding principal amount of approximately \$1.5 billion as of September 30, 2021.

#### **Non-GAAP Financial Measures**

We use certain non-GAAP financial measures, such as Net Cruise Cost, Adjusted Net Cruise Cost Excluding Fuel, Adjusted EBITDA, Adjusted Net Loss and Adjusted EPS, to enable us to analyze our performance. See “Terminology” for the definitions of these and other non-GAAP financial measures. We utilize Net Cruise Cost and Adjusted Net Cruise Cost Excluding Fuel to manage our business on a day-to-day basis. In measuring our ability to control costs in a manner that positively impacts net income (loss), we believe changes in Net Cruise Cost and Adjusted Net Cruise Cost Excluding Fuel to be the most relevant indicators of our performance. As a result of our voluntary suspension of sailings from March 2020 until July 2021, we did not have any Capacity Days during the suspension period. Accordingly, we have not presented herein per Capacity Day data for the three or nine months ended September 30, 2021 or September 30, 2020.

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 (loss), 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 Loss and Adjusted EPS are non-GAAP financial measures that exclude certain amounts and are used to supplement GAAP net loss and EPS. We use Adjusted Net Loss 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 Loss and Adjusted EPS may not be indicative of future adjustments or results. For example, for the nine months ended September 30, 2020, we incurred \$1.6 billion related to impairment losses. We included this as an adjustment in the reconciliation of Adjusted Net Loss since the expenses are not representative of our day-to-day operations; however, this adjustment did not occur and is not included in the comparative period presented within this Form 10-Q.

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.

#### **Financial Presentation**

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; however, our cruise voyages were completely suspended from March 2020 until July 2021 due to the COVID-19 pandemic and our resumption of cruise voyages will be phased in gradually as described under "—Update Regarding COVID-19 Pandemic" below. 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. The cost of crew repatriation, including charters, housing, testing and other costs related to COVID-19 are also included.
- 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**

For a discussion of our critical accounting policies and estimates, see “Critical Accounting Policies” included in our Annual Report on Form 10-K under the caption “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” We have made no significant changes to our critical accounting policies and estimates from those described in our Annual Report on Form 10-K.

### **Update Regarding COVID-19 Pandemic**

#### *Suspension of Cruise Voyages*

Due to the impact of COVID-19, travel restrictions and limited access to ports around the world, in March 2020, the Company implemented a voluntary suspension of all cruise voyages across our three brands. As of the date hereof, 11 of our ships were operating with guests on board as part of our phased return to service. The Company continues to execute on the phased relaunch plans for its 28-ship fleet. The Company expects to have approximately 75% of capacity operating by December 31, 2021 with the full fleet expected to be back in operation by April 1, 2022. Certain sailings have been or may be cancelled in conjunction with the new voyage resumption plans for each vessel. As a result of the unprecedented circumstances caused by the pandemic, we are not able to predict the full impact of the pandemic on our Company. Refer to “Item 1A. Risk Factors” for further details regarding the significant impact the COVID-19 pandemic has had, and is expected to continue to have, on our financial condition and operations.

#### *Preparation for the Safe Resumption of Operations*

We have developed SailSAFE™, a comprehensive and multi-faceted health and safety strategy to enhance our already rigorous protocols and address the unique public health challenges posed by COVID-19. In July 2020, we announced a collaboration with Royal Caribbean Group to form a group of experts called the “Healthy Sail Panel” to guide the industry in the development of new and enhanced cruise health and safety standards. The panel is co-chaired by Dr. Scott Gottlieb, former commissioner of the U.S. Food and Drug Administration, and Governor Mike Leavitt, former Secretary of the U.S. Department of Health and Human Services, and consists of globally recognized experts from various disciplines, including public health, infectious disease, biosecurity, hospitality and maritime operations. On September 21, 2020, the expert panel published a report, which included detailed best practices across five key areas of focus to protect the public health and safety of guests, crew and the communities where our cruise ships visit. The panel also submitted its recommendations to the CDC, in response to a CDC request for public comment to inform future public health guidance and preventative measures relating to travel on cruise ships. The panel’s recommendations have informed new detailed health and safety protocols for our return-to-service plan.

The Company also further extended its depth and breadth of experts with the formation of its SailSAFE Global Health and Wellness Council, comprised of four experts at the forefront of their fields and led by Chairman Dr. Scott Gottlieb. The Council’s work complements the Healthy Sail Panel initiative and focuses on the implementation, compliance with and continuous improvement of health and safety protocols across the Company’s operations. The Company continues

to work with its expert advisors, the Healthy Sail Panel, and global public health authorities and government agencies to refine its comprehensive and multi-layered health and safety strategy to enhance its already rigorous health and safety standards in response to COVID-19.

Pursuant to the Conditional Order, the CDC has issued and may continue to issue additional requirements through technical instructions or orders as needed and the phases of the Conditional Order may be subject to change based on public health considerations, including the trajectory of the pandemic and the ability of cruise ship operators to successfully employ measures that mitigate the risk of COVID-19. We have received conditional sailing certificates for certain ships and are in the process of seeking certifications for additional ships in our fleet that will be operating out of the U.S. Additionally, in the U.S., certain states have enacted legislation prohibiting companies from verifying the vaccination status of guests. We challenged such a prohibition in Florida in court and received a preliminary injunction allowing us to operate as planned. As a result of these and other regulatory requirements and other logistical challenges, the timeline for our ability to return our entire fleet to cruises both in and outside of the U.S. is fluid. Nevertheless, we continue to work with other federal agencies, public health authorities and national and local governments in areas where we operate to take all necessary measures to protect our guests, crew and the communities visited as we begin to resume operations.

We began a phased relaunch of cruise voyages in July 2021. Initially each ship is expected to operate at reduced occupancy, which will gradually increase over time. Based on the current conditions, we are planning for all ships to sail at full capacity by June 30, 2022. We plan to continue gradually launching ships from each brand through April 1, 2022. Refer to “Item 1A. Risk Factors” for further details regarding the uncertainties of returning to sailing at full fleet capacity.

#### ***Modified Policies***

Our brands have launched new cancellation policies for certain sailings booked during certain time periods to permit our guests to cancel cruises which were not part of our temporary suspension of voyages up to 15 days prior to embarkation and receive a refund in the form of a credit to be applied toward a future cruise. These programs were in place for cruises booked through specific time periods specified by brand, and for cruises scheduled to embark through October 31, 2021. Certain cruises booked for certain periods, will be permitted a 60-day cancellation window for refunds. The future cruise credits issued under these programs are valid for any sailing through December 31, 2022, and we may extend the length of time these future cruise credits may be redeemed. The use of such credits may prevent us from garnering certain future cash collections as staterooms booked by guests with such credits will not be available for sale, resulting in less cash collected from bookings to new guests. We may incur incremental commission expense for the use of these future cruise credits. In addition, to provide more flexibility to our guests, we have also extended our modified final payment schedule for all voyages on Regent Seven Seas Cruises through September 30, 2021, on Oceania Cruises through October 31, 2021 and for specified future voyages, and for the majority of voyages on Norwegian Cruise Line through April 30, 2022, which now requires payment 60 days prior to embarkation versus the standard 120 days. Our brands currently expect to provide cash refunds for cash bookings for future sailings we may cancel.

#### ***Update on Bookings***

Net booking volumes in the third quarter of 2021 were negatively impacted by the Delta variant of COVID-19. The resulting slowdown in net booking volumes was heavily weighted to sailings in the fourth quarter of 2021 and early 2022 and improved sequentially through 2022. The impact has since abated and net bookings have materially improved over the past several weeks with particular strength for bookings related to sailings in the second half of 2022 and into 2023. Despite the temporary Delta impact, the Company’s overall cumulative booked position for full year 2022 is in line with 2019’s record levels at higher pricing even when including the dilutive impact of future cruise credits. The overall cumulative booked position for the second half of 2022, when the full fleet is expected to be back in operation and at normalized occupancy levels, is meaningfully higher than 2019 and at higher prices. Our full fleet may not resume operations on our expected schedule and as a result, current booking data may not be informative. In addition, because of our updated cancellation policies, bookings may not be representative of actual cruise revenues.

There are remaining uncertainties about when our full fleet will be back in service at historical occupancy levels and, accordingly, we cannot estimate the impact on our business, financial condition or near- or longer-term financial or operational results with certainty; however, we will report a net loss for the three months and year ending December 31, 2021 and expect to report a net loss until we are able to resume regular voyages. Refer to “Item 1A. Risk Factors” for further details regarding the significant impact the COVID-19 pandemic has had, and is expected to continue to have, on our financial condition and operations.

#### ***Financing Transactions and Cost Containment Measures***

In 2021, we have continued to take actions to bolster our financial condition while our global cruise voyages are disrupted. In March 2021, we received additional financing through various debt financings and an equity offering, collectively totaling \$2.7 billion in gross proceeds. From the proceeds, approximately \$1.5 billion was used to extinguish debt. In November 2021, the Company executed a \$1 billion commitment through August 15, 2022 that provides additional liquidity to the Company. Refer to Note 7 – “Long-Term Debt” for further details about the above transactions.

We undertook several proactive cost reduction and cash conservation measures to mitigate the financial and operational impacts of the COVID-19 pandemic, including the reduction of capital expenditures and deferral of debt amortization as well as a reduction in operating expenses, including ship operating expenses and selling, general and administrative expenses. Cost savings initiatives to reduce selling, general and administrative expenses, which had already been implemented at the beginning of 2021, included the significant reduction or deferral of marketing expenditures, the implementation of hiring freezes, a 20% salary or hours reduction for certain shoreside team members, a pause in our 401(k) matching contributions, corporate travel freezes for shoreside employees, and employee furloughs. These cost savings initiatives have now been discontinued as we continue our resumption of cruise voyages.

See “—Liquidity and Capital Resources” below for more information.

#### **Quarterly Overview**

##### **Three months ended September 30, 2021 (“2021”) compared to three months ended September 30, 2020 (“2020”)**

- Total revenue increased to \$153.1 million compared to \$6.5 million.
- Net loss and diluted EPS were \$(845.9) million and \$(2.29), respectively, compared to \$(677.4) million and \$(2.50), respectively.
- Operating loss was \$(689.1) million compared to \$(517.8) million.
- Adjusted Net Loss and Adjusted EPS were \$(801.4) million and \$(2.17), respectively, in 2021, which included \$44.5 million of adjustments primarily related to non-cash compensation. Adjusted Net Loss and Adjusted EPS were \$(638.7) million and \$(2.35), respectively, in 2020, which included \$38.6 million of adjustments primarily consisting of non-cash compensation and losses on extinguishment and modifications of debt.
- Adjusted EBITDA decreased 51.4% to \$(475.0) million compared to \$(313.8) million.

We refer you to our “Results of Operations” below for a calculation of Adjusted Net Loss, Adjusted EPS and Adjusted EBITDA.

**Results of Operations**

The following table sets forth selected statistical information:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Passengers carried	57,931	—	57,931	499,729
Passenger Cruise Days	402,656	—	402,656	4,278,602
Capacity Days	701,350	—	701,350	4,123,858
Occupancy Percentage	57.4 %		57.4 %	103.8 %

Gross Cruise Cost, Net Cruise Cost, Net Cruise Cost Excluding Fuel and Adjusted Net Cruise Cost Excluding Fuel were calculated as follows (in thousands):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2021 Constant Currency		2020	2021 Constant Currency		2020
	2021	2020		2021	2020	
Total cruise operating expense	\$ 439,756	\$ 437,453	\$ 190,157	\$ 890,338	\$ 883,944	\$ 1,486,069
Marketing, general and administrative expense	229,142	228,905	156,656	617,820	614,231	558,781
Gross Cruise Cost	668,898	666,358	346,813	1,508,158	1,498,175	2,044,850
Less:						
Commissions, transportation and other expense	32,338	32,304	4,038	47,935	47,659	371,007
Onboard and other expense	19,306	19,306	4,728	21,841	21,841	82,889
Net Cruise Cost	617,254	614,748	338,047	1,438,382	1,428,675	1,590,954
Less: Fuel expense	79,238	79,238	48,224	175,931	175,931	222,240
Net Cruise Cost Excluding Fuel	538,016	535,510	289,823	1,262,451	1,252,744	1,368,714
<b>Less Non-GAAP Adjustments:</b>						
Non-cash deferred compensation (1)	904	904	667	2,714	2,714	1,999
Non-cash share-based compensation (2)	39,922	39,922	25,862	88,974	88,974	81,009
Adjusted Net Cruise Cost Excluding Fuel	\$ 497,190	\$ 494,684	\$ 263,294	\$ 1,170,763	\$ 1,161,056	\$ 1,285,706

- (1) Non-cash deferred compensation expenses related to the crew pension plan and other crew expenses, which are included in payroll and related expense.
- (2) Non-cash share-based compensation expenses related to equity awards, which are included in marketing, general and administrative expense and payroll and related expense.

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

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Net loss	\$ (845,885)	\$ (677,366)	\$ (2,933,866)	\$ (3,273,581)
<b>Non-GAAP Adjustments:</b>				
Non-cash deferred compensation (1)	1,002	992	3,009	2,975
Non-cash share-based compensation (2)	39,922	25,862	88,974	81,009
Extinguishment and modification of debt (3)	3,562	6,636	657,226	27,795
Amortization of intangible assets (4)	—	2,774	—	8,321
Impairment loss (5)	—	—	—	1,633,337
Non-cash interest on beneficial conversion feature (6)	—	2,356	—	3,700
Adjusted Net Loss	<u>\$ (801,399)</u>	<u>\$ (638,746)</u>	<u>\$ (2,184,657)</u>	<u>\$ (1,516,444)</u>
Diluted weighted-average shares outstanding - Net loss and Adjusted Net Loss	<u>370,016,479</u>	<u>271,435,350</u>	<u>356,591,143</u>	<u>241,578,995</u>
Diluted loss per share	<u>\$ (2.29)</u>	<u>\$ (2.50)</u>	<u>\$ (8.23)</u>	<u>\$ (13.55)</u>
Adjusted EPS	<u>\$ (2.17)</u>	<u>\$ (2.35)</u>	<u>\$ (6.13)</u>	<u>\$ (6.28)</u>

- (1) Non-cash deferred compensation expenses related to the crew pension plan and other crew expenses, which are included in payroll and related expense and other income (expense), net.
- (2) Non-cash share-based compensation expenses related to equity awards, which are included in marketing, general and administrative expense and payroll and related expense.
- (3) Losses on extinguishment of debt and modification of debt are included in interest expense, net.
- (4) Amortization of intangible assets related to the Acquisition of Prestige, which are included in depreciation and amortization expense.
- (5) Impairment loss consists of goodwill, trade name and property and equipment impairments. The impairments of goodwill and trade names are included in impairment loss and the impairment of property and equipment is included in depreciation and amortization expense.
- (6) Non-cash interest expense related to a beneficial conversion feature recognized on our exchangeable notes, which is recognized in interest expense, net.

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

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2021</b>	<b>2020</b>	<b>2021</b>	<b>2020</b>
Net loss	\$ (845,885)	\$ (677,366)	\$ (2,933,866)	\$ (3,273,581)
Interest expense, net	161,205	139,664	1,122,905	323,108
Income tax (benefit) expense	294	(3,761)	2,949	(19,057)
Depreciation and amortization expense	173,289	177,488	517,867	554,937
EBITDA	(511,097)	(363,975)	(1,290,145)	(2,414,593)
Other (income) expense, net (1)	(4,720)	23,680	(57,464)	32,275
<b>Other Non-GAAP Adjustments:</b>				
Non-cash deferred compensation (2)	904	667	2,714	1,999
Non-cash share-based compensation (3)	39,922	25,862	88,974	81,009
Impairment loss (4)	—	—	—	1,607,797
Adjusted EBITDA	<u>\$ (474,991)</u>	<u>\$ (313,766)</u>	<u>\$ (1,255,921)</u>	<u>\$ (691,513)</u>

- (1) Primarily consists of gains and losses, net for fuel swaps not designated as hedges or hedges released into earnings as a result of the forecasted transactions no longer being probable and foreign currency exchanges.
- (2) Non-cash deferred compensation expenses related to the crew pension plan and other crew expenses, which are included in payroll and related expense.
- (3) Non-cash share-based compensation expenses related to equity awards, which are included in marketing, general and administrative expense and payroll and related expense.
- (4) Impairment loss consists of goodwill and trade name impairments.

**Three months ended September 30, 2021 (“2021”) compared to three months ended September 30, 2020 (“2020”)**

**Revenue**

Total revenue increased to \$153.1 million in 2021 compared to \$6.5 million in 2020. Revenue in 2021 and 2020 has been adversely impacted due to the cancellation of sailings as a result of the COVID-19 pandemic. Revenue increased in 2021 as certain ships have returned to service.

**Expense**

Total cruise operating expense increased 131.3% in 2021 compared to 2020. In 2021, our cruise operating expenses increased primarily related to crew costs, including salaries, food and other travel costs as we began our return to service; fuel; ship maintenance, including Dry-dock expenses; and costs related to COVID-19, including crew and passenger testing. In 2020, our cruise operating expenses were primarily related to crew costs, including salaries, food and other repatriation costs; fuel; and other ongoing costs such as insurance and ship maintenance. Gross Cruise Cost increased 92.9% in 2021 compared to 2020 primarily related to the increase in costs described above and an increase in marketing, general and administrative expenses as we return to sailing. Total other operating expense increased 20.4% in 2021 compared to 2020 primarily due to the increase in marketing, general and administrative costs as a result of the discontinuation of cost savings initiatives described under “Update Regarding COVID-19 Pandemic—Financing Transactions and Cost Containment Measures” as we return to service.

Interest expense, net was \$161.2 million in 2021 compared to \$139.7 million in 2020. The increase in interest expense reflects additional debt outstanding at higher interest rates, partially offset by lower LIBOR.

Other income (expense), net was income of \$4.7 million in 2021 compared to expense of \$23.7 million in 2020. In 2021, the income primarily related to gains on fuel swaps not designated as hedges and foreign currency exchange. In 2020, the expense was primarily related to losses on foreign currency exchange and fuel hedges released into earnings as a result of the forecasted transactions no longer being probable.



**Nine months ended September 30, 2021 (“2021”) compared to nine months ended September 30, 2020 (“2020”)**

***Revenue***

Total revenue decreased 87.4% to \$160.5 million in 2021 compared to \$1.3 billion in 2020. In 2021, the adverse impact on revenue was due to the cancellation of sailings as a result of the COVID-19 pandemic and lower occupancy as we return to service. In 2020, voyages were cancelled beginning March 13, 2020.

***Expense***

Total cruise operating expense decreased 40.1% in 2021 compared to 2020. In 2021, our cruise operating expenses were primarily related to crew costs, including salaries, food and other travel costs; fuel; and other ongoing costs such as insurance and ship maintenance, including Dry-dock expenses. In 2020, our cruise operating expenses subsequent to the suspension of cruise voyages on March 13, 2020 primarily included the cost of protected commissions and crew costs, including salaries, food and other repatriation costs. Gross Cruise Cost decreased 26.2% in 2021 compared to 2020 primarily related to the change in costs described above offset by an increase in marketing, general and administrative expenses primarily related to the discontinuation of cost savings initiatives described under “Update Regarding COVID-19 Pandemic—Financing Transactions and Cost Containment Measures” as we return to service. Total other operating expense decreased 58.3% in 2021 compared to 2020 primarily due to the impairment of goodwill and trade names triggered by the COVID-19 pandemic in 2020. Depreciation and amortization expense decreased primarily due to a \$25.5 million impairment loss recognized in 2020.

Interest expense, net was \$1.1 billion in 2021 compared to \$323.1 million in 2020. The increase in interest expense reflects losses on extinguishment of debt and debt modification costs of \$657.2 million primarily related to the repurchase of the Private Exchangeable Notes as well as additional debt outstanding at higher interest rates, partially offset by lower LIBOR.

Other income (expense), net was income of \$57.5 million in 2021 compared to expense of \$32.3 million in 2020. In 2021, the income primarily related to gains on fuel swaps not designated as hedges and foreign currency exchange. In 2020, the expense was primarily related to losses on fuel hedges recognized in earnings as a result of the forecasted transactions no longer being probable and foreign currency exchange.

**Liquidity and Capital Resources**

***General***

As of September 30, 2021, our liquidity was \$1.9 billion consisting of cash and cash equivalents.

In January 2021, we amended our Senior Secured Credit Facility to further defer certain amortization payments due prior to June 30, 2022 and to waive certain financial and other covenants through December 31, 2022. In connection with such amendment, our minimum liquidity requirement was increased to \$200 million and such requirement applies through December 31, 2022.

In addition, in February 2021, we amended certain of our export-credit backed facilities to defer amortization payments aggregating approximately \$680 million through March 31, 2022. We also amended all of our export-credit backed facilities to provide that, from the effective date of the amendments to and including December 31, 2022, certain of the financial covenants under such facilities will be suspended and the free liquidity test will be replaced by a covenant to maintain at least \$200 million in free liquidity. The amendments also made certain other changes to the facilities, including imposing further restrictions on NCLC’s ability to incur debt, create security, issue equity and make dividends and other distributions.

In March 2021, the Company received additional financing through various debt financings and an equity offering, collectively totaling \$2.7 billion in gross proceeds. The Pride of America Credit Facility and Jewel Credit Facility were extinguished from proceeds of the debt financings. We also extinguished the Private Exchangeable Notes in March

[Table of Contents](#)

2021 by using approximately \$1.0 billion of cash proceeds from an equity offering completed in March 2021 to repurchase the notes. See Note 7 – “Long-Term Debt” for further information.

In July 2021, we amended nine credit facilities for our newbuild agreements and increased the combined commitments under such credit facilities by approximately \$770 million to cover owner’s supply (generally consists of provisions for the ship), modifications and financing premiums.

In November 2021, the Company executed a \$1 billion commitment through August 15, 2022 that provides additional liquidity to the Company. Refer to Note 7 – “Long-Term Debt” for further information.

The Company's monthly average cash burn for the third quarter of 2021 was approximately \$275 million, below prior guidance of approximately \$285 million. Looking ahead, the Company expects fourth quarter of 2021 monthly average cash burn to increase to approximately \$350 million driven by the continued phased relaunch of additional vessels. This cash burn rate does not include expected cash inflows from new and existing bookings or contribution from ships that have re-entered service.

Cash burn rates include ongoing ship operating expenses, administrative operating expenses, interest expense, taxes, debt deferral fees and expected non-newbuild capital expenditures and exclude cash refunds of customer deposits as well as cash inflows from new and existing bookings, newbuild related capital expenditures and other working capital changes. Future cash burn rate estimates also exclude unforeseen expenses. The third quarter of 2021 cash burn rate and fourth quarter estimate also reflect the deferral of debt amortization and newbuild related payments.

We continue to expect a gradual phased relaunch of our ships, with our ships initially operating at reduced occupancy levels as described in “Update Regarding COVID-19 Pandemic— Preparation for the Safe Resumption of Operations.” Refer to “Item 1A. Risk Factors” for further details regarding the significant impact the COVID-19 pandemic has had, and is expected to continue to have, on our financial condition and operations. The estimation of our future cash flow projections includes numerous assumptions that are subject to various risks and uncertainties. Refer to Note 2 – “Summary of Significant Accounting Policies” for further information on liquidity and management’s plan.

There can be no assurance that the accuracy of the assumptions used to estimate our liquidity requirements will be correct, and our ability to be predictive is uncertain due to the unknown magnitude and duration of the COVID-19 global pandemic. Based on the liquidity estimates and our current resources, we have concluded we have sufficient liquidity to satisfy our obligations for at least the next twelve months. Nonetheless, we anticipate that we will need additional equity and/or debt financing to fund our operations in the future if we are unable to resume our cruise voyages on the schedule expected, and particularly if a substantial portion of our fleet continues to have suspended cruise voyages or operate at significantly reduced occupancy levels for a prolonged period. We also expect to opportunistically pursue refinancings and other balance sheet optimization transactions from time to time, which could include equity, equity-linked or debt financings.

We have received certain financial and other debt covenant waivers through December 31, 2022 and added new free liquidity requirements. At September 30, 2021, taking into account such waivers, we were in compliance with all of our debt covenants. If we do not continue to remain in compliance with our covenants, we would have to seek to amend the covenants. However, no assurances can be made that such amendments would be approved by our lenders. Generally, if an event of default under any debt agreement occurs, then pursuant to cross default and/or cross acceleration clauses, substantially all of our outstanding debt and derivative contract payables could become due, and all debt and derivative contracts could be terminated, which would have a material adverse impact to our operations and liquidity.

Since March 2020, Moody’s has downgraded our long-term issuer rating to B2, our senior secured rating to B1 and our senior unsecured rating to Caa1. Since April 2020, S&P Global has downgraded our issuer credit rating to B, lowered our issue-level rating on our \$875 million Revolving Loan Facility and \$1.5 billion Term Loan A Facility to BB-, our issue-level rating on our \$675 million 2024 Senior Secured Notes and \$750 million 2026 Senior Secured Notes to B+ and our senior unsecured rating to B-. If our credit ratings were to be further downgraded, or general market conditions were to ascribe higher risk to our rating levels, our industry, or us, our access to capital and the cost of any debt or equity financing will be further negatively impacted. We also have significant capacity to incur additional indebtedness under

our debt agreements. On May 20, 2021, NCLH's shareholders authorized a 490,000,000 increase in the number of ordinary shares available for issuance. However, there is no guarantee that debt or equity financings will be available in the future to fund our obligations, or that they will be available on terms consistent with our expectations.

As of September 30, 2021, we had advance ticket sales of \$1.7 billion, including the long-term portion, which included approximately \$0.75 billion of future cruise credits. We also have agreements with our credit card processors that, as of September 30, 2021, governed approximately \$1.5 billion in advance ticket sales that had been received by the Company relating to future voyages. These agreements allow the credit card processors to require under certain circumstances, including the existence of a material adverse change, excessive chargebacks and other triggering events, that the Company maintain a reserve which would be satisfied by posting collateral. Although the agreements vary, these requirements may generally be satisfied either through a percentage of customer payments withheld or providing cash funds directly to the card processor. Any cash reserve or collateral requested could be increased or decreased.

As of September 30, 2021, we had cash reserves of approximately \$1.2 billion with credit card processors recognized in accounts receivable, net or other long-term assets. Subsequent to September 30, 2021, \$388.3 million in cash reserves have been released to the Company. We may be required to pledge additional collateral and/or post additional cash reserves or take other actions that may further reduce our liquidity.

### ***Sources and Uses of Cash***

***In this section, references to "2021" refer to the nine months ended September 30, 2021 and references to "2020" refer to the nine months ended September 30, 2020.***

Net cash used in operating activities was \$2.2 billion in 2021 as compared to net cash used in operating activities of \$1.9 billion in 2020. The net cash used in operating activities included timing differences in cash receipts and payments relating to operating assets and liabilities. Advance ticket sales increased by \$469.6 million in 2021 compared to a decrease of \$834.6 million in 2020 while our accounts receivable, net, which contains our reserves with credit card processors, decreased cash by \$979.9 million compared to a decrease of \$12.1 million in 2020.

Net cash used in investing activities was \$543.0 million in 2021 and \$901.6 million in 2020, primarily related to newbuild payments and ship improvement projects in 2021 and payments for Seven Seas Splendor and ship improvement projects in 2020.

Net cash provided by financing activities was \$1.3 billion in 2021 primarily due to the proceeds of \$2.7 billion from our various note and equity offerings partially offset by debt repayments and a related redemption premium associated with extinguishment of the Private Exchangeable Notes. Net cash provided by financing activities was \$4.9 billion in 2020 primarily due to the proceeds of \$5.2 billion from our revolving credit facilities, various notes, and newbuild loans partially offset by debt repayments. Additionally, we received net proceeds of \$719.1 million from equity offerings.

### ***Future Capital Commitments***

Future capital commitments consist of contracted commitments, including ship construction contracts. Anticipated expenditures related to ship construction contracts were \$0.1 billion for the remainder of 2021 and \$1.6 billion and \$2.5 billion for the years ending December 31, 2022 and 2023, respectively. The Company has export credit financing in place for the anticipated expenditures related to ship construction contracts of \$0.1 billion for the remainder of 2021 and \$1.0 billion and \$2.0 billion for the years ending December 31, 2022 and 2023, respectively. Anticipated non-newbuild capital expenditures for the remainder of 2021 are approximately \$0.2 billion and approximately \$0.5 billion for the year ended December 31, 2022, which includes health and safety investments. Future expected capital expenditures will significantly increase our depreciation and amortization expense.

Project Leonardo will introduce an additional six ships, each ranging from approximately 140,000 to 156,300 Gross Tons with approximately 3,215 to 3,550 Berths, with expected delivery dates from 2022 through 2027. For the Regent brand, we have an order for one Explorer Class Ship to be delivered in 2023, which 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 2023 and 2025. Each of the Allura Class Ships will be approximately 67,000 Gross Tons and 1,200 Berths. The impacts of

COVID-19 on the shipyards where our ships are under construction (or will be constructed) have resulted in some delays in expected ship deliveries, and the impacts of COVID-19 could result in additional delays in ship deliveries in the future, which may be prolonged.

The combined contract prices of the nine ships on order for delivery was approximately €7.6 billion, or \$8.8 billion based on the euro/U.S. dollar exchange rate as of September 30, 2021. 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 three months ended September 30, 2021 and 2020 was \$12.5 million and \$6.8 million, respectively, and for the nine months ended September 30, 2021 and 2020 was \$30.6 million and \$18.1 million, respectively, primarily associated with the construction of our newbuild ships.

#### Off-Balance Sheet Arrangements

None.

#### Contractual Obligations

As of September 30, 2021, our contractual obligations with initial or remaining terms in excess of one year, including interest payments on long-term debt obligations, included the following (in thousands):

	<b>Total</b>	<b>Less than 1 year</b>	<b>1-3 years</b>	<b>3-5 years</b>	<b>More than 5 years</b>
Long-term debt (1)	\$ 12,601,904	\$ 543,701	\$ 5,484,750	\$ 4,422,019	\$ 2,151,434
Operating leases (2)	1,331,575	49,288	120,343	131,846	1,030,098
Ship construction contracts (3)	8,501,410	1,500,556	2,533,925	3,581,820	885,109
Port facilities (4)	522,564	27,957	64,707	52,752	377,148
Interest (5)	2,308,796	560,465	1,034,129	524,251	189,951
Other (6)	1,217,097	112,658	439,542	416,017	248,880
<b>Total</b>	<b>\$ 26,483,346</b>	<b>\$ 2,794,625</b>	<b>\$ 9,677,396</b>	<b>\$ 9,128,705</b>	<b>\$ 4,882,620</b>

- (1) Long-term debt excludes discounts, premiums, and deferred financing fees, which are a direct addition or deduction from the carrying value of the related debt liability in the consolidated balance sheets.
- (2) Operating leases are primarily for port facilities and offices.
- (3) Ship construction contracts are for our newbuild ships based on the euro/U.S. dollar exchange rate as of September 30, 2021. Export credit financing is in place from syndicates of banks. Approximately \$1.0 billion of the ship construction contracts due in less than one year are financed under export credit or other newbuild related financing.
- (4) Port facilities represent our usage of certain port facilities. Our port facilities agreements include force majeure provisions that may alleviate an unspecified amount of obligations under minimum guarantees during the COVID-19 pandemic. In March 2020, the Company provided the required notice that such provisions were being enacted. Customary practice is to prorate these obligations for the annual period impacted. A portion of our port fees may be waived as a result of these provisions, including those ports that are presented within operating leases in the table above.
- (5) Interest includes fixed and variable rates with LIBOR held constant as of September 30, 2021.
- (6) Other includes future commitments for service, maintenance and other business enhancement capital expenditures contracts.

## **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 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 have received certain financial and other debt covenant waivers through December 31, 2022 and added new free liquidity requirements. At September 30, 2021, taking into account such waivers, we were in compliance with all of our debt covenants.

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.

In light of the measures described under "Update Regarding COVID-19 Pandemic—Financing Transactions and Cost Containment Measures", we believe our cash on hand, the recently completed \$1 billion commitment, the return of a portion of the cash collateral from our credit card processors, expected future operating cash inflows 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. Certain debt covenant waivers were received in 2021 to enable the Company to maintain this compliance. Refer to "—Liquidity and Capital Resources" for further information regarding the debt covenant waivers. There is no assurance that cash flows from operations and additional financings will be available in the future to fund our future obligations. Furthermore, we anticipate that we will need additional equity and/or debt financing to fund our operations in the future if we are unable to resume our cruise voyages on the schedule expected, and particularly if a substantial portion of our fleet continues to have suspended cruise voyages or operate at significantly reduced occupancy levels for a prolonged period. We also expect to opportunistically pursue refinancings and other balance sheet optimization transactions from time to time, which could include equity, equity-linked or debt financings.

## **Item 3. 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 September 30, 2021, we had interest rate swap and collar agreements to hedge our exposure to interest rate movements and to manage our interest expense. As of September 30, 2021, 73% of our debt was fixed and 27% was variable, which includes the effects of the interest rate swaps. The notional amount of outstanding debt associated with the interest rate derivative agreements as of September 30, 2021 was \$0.2 billion. As of December 31, 2020, 74% of our debt was fixed and 26% was variable, which includes the effects of the interest rate swaps and collars. The notional amount of our outstanding debt associated with the interest rate swaps and collars was \$0.7 billion as of December 31, 2020. The change in our fixed rate percentage from December 31, 2020 to September 30, 2021 was primarily due to the maturity of various interest rate derivatives. Based on our September 30, 2021 outstanding variable rate debt balance, a one percentage point increase in annual LIBOR interest rates would increase our annual interest expense by approximately \$34.2 million excluding the effects of capitalization of interest.

### **Foreign Currency Exchange Rate Risk**

As of September 30, 2021, 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 €4.9 billion, or \$5.7 billion based on the euro/U.S. dollar exchange rate as of September 30, 2021. As of December 31, 2020, the payments not hedged aggregated €5.0 billion, or \$6.1 billion, based on the euro/U.S. dollar exchange rate as of December 31, 2020. The change from December 31, 2020 to September 30, 2021 was due to the addition of foreign currency hedges. We estimate that a 10% change in the euro as of September 30, 2021 would result in a \$0.6 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 18.0% and 25.4% for the three months ended September 30, 2021 and 2020, respectively, and 19.8% and 15.0% for the nine months ended September 30, 2021 and 2020, respectively. We use fuel derivative agreements to mitigate the financial impact of fluctuations in fuel prices and as of September 30, 2021, excluding fuel swaps for transactions that are no longer probable of occurrence, we had hedged approximately 47%, 35% and 14% of our remaining 2021, 2022 and 2023 projected metric tons of fuel purchases, respectively. As of December 31, 2020, we had hedged approximately 59%, 37% and 15% of our 2021, 2022 and 2023 projected metric tons of fuel purchases, respectively. The percentage of fuel purchases hedged changed between December 31, 2020 and September 30, 2021 primarily due to changes in forecasted purchases and the termination of certain fuel swaps.

We estimate that a 10% increase in our weighted-average fuel price would increase our anticipated 2021 fuel expense by \$10.9 million. This increase would be offset by an increase in the fair value of all our fuel swap agreements of \$4.8 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 4. 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 Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended, as of September 30, 2021. There are inherent limitations in 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

September 30, 2021 to provide reasonable assurance that the information required to be disclosed by us in the reports we file or submit under the Securities Exchange Act of 1934, as amended, 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.

#### **Changes in Internal Control Over Financial Reporting**

There have been no changes in our internal control over financial reporting during the quarter ended September 30, 2021 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.

## **PART II. OTHER INFORMATION**

### **Item 1. Legal Proceedings**

See the section titled “Litigation” in “Item 1—Financial Statements—Notes to Consolidated Financial Statements—Note 10 Commitments and Contingencies” in Part I of this quarterly report for information about legal proceedings.

### **Item 1A. Risk Factors**

We refer you to our Annual Report on Form 10-K for a discussion of the risk factors that affect our business and financial results. We wish to caution you that the risk factors discussed in “Item 1A. Risk Factors” in our Annual Report on Form 10-K, elsewhere in this report or other SEC filings, could cause future results to differ materially from those stated in any forward-looking statements. You should not interpret the disclosure of a risk to imply that the risk has not already materialized. COVID-19 has also had the effect of heightening many of the other risks described in the “Risk Factors” included in our Annual Report on Form 10-K, such as those relating to our need to generate sufficient cash flows to service our indebtedness, and our ability to comply with the covenants contained in the agreements that govern our indebtedness.

Other than updates to the risk factors set forth below, there have been no material changes in our risk factors from those disclosed in our Annual Report on Form 10-K.

***COVID-19 has had, and is expected to continue to have, a significant impact on our financial condition and operations. The current, and uncertain future, impact of the COVID-19 pandemic, including its effect on the ability or desire of people to travel (including on cruises), is expected to continue to impact our results, operations, outlook, plans, goals, growth, reputation, cash flows, liquidity, demand for voyages and share price.***

The spread of COVID-19 and the developments surrounding the global pandemic are having significant negative impacts on all aspects of our business. In March 2020, we implemented a voluntary suspension of all cruise voyages across our three brands. We began resuming cruises voyages in July 2021 on a limited basis and as of the date hereof, eleven of our ships were operating with guests on board as part of our phased return to service. We expect the remaining ships in our fleet will continue incrementally resuming voyage operations through April 1, 2022, but due to the uncertainties surrounding the COVID-19 pandemic, it may take us longer than expected to return our entire fleet to cruise voyage operations and/or the suspension could potentially be reinstated, and the total length of time the majority of our fleet is out of cruise voyage operations or operating at significantly reduced occupancy levels may be prolonged. In addition, we have been, and will continue to be, further negatively impacted by related developments, including

heightened governmental regulations and travel advisories, including recommendations and orders by the U.S. Department of State, the CDC and the Department of Homeland Security, and travel bans and restrictions, each of which has impacted, and is expected to continue to significantly impact, global guest sourcing and our access to various ports of call around the globe. On October 30, 2020, the CDC issued a Conditional Order that introduces a phased approach for the resumption of passenger cruises in the U.S. depending on a cruise line's ability to implement certain protocols and procedures, which has been extended through January 15, 2022. We have received conditional sailing certificates for certain ships and are in the process of seeking certifications for additional ships in our fleet that will be operating out of the U.S., but our ability to comply with the Conditional Order in the future is unknown. As a result of these and other regulatory requirements and other logistical challenges, the timeline for our ability to return our entire fleet to cruises both in and outside of the U.S. is fluid. Additionally, in the U.S., certain states have enacted legislation prohibiting companies from verifying the vaccination status of guests, which in some instances we have challenged in court. Compliance with the Conditional Order and other regulations involves significant costs and could create significant uncertainties about our ability to continue to operate our cruise voyages in the U.S. We will continue to incur COVID-19 related costs as we implement and maintain health-related protocols on our ships, such as controlled capacity and testing, which have had and may continue to have a significant effect on our operations. In addition, the industry is subject to enhanced health and safety requirements which have been, and may continue to be, costly and take a significant amount of time to implement across our fleet. We have had instances of COVID-19 on our ships and there is no guarantee that the health and safety protocols we implement will be successful in preventing the spread of COVID-19 onboard our ships and among our passengers and crew in the future.

To date, the COVID-19 pandemic has resulted in significant costs and lost revenue as a result of the suspension of cruise voyages, implementation of additional health and safety measures, reduced demand for cruise vacations, guest compensation, itinerary modifications, redeployments and cancellations, travel restrictions and advisories, the unavailability of ports and/or destinations, costs to return our passengers to their home destinations and expenses to transport our crew to and from our ships and to assist some of our crew that were unable to return home in an optimal time frame with food and housing.

Our ability to transport crew to and from our ships is dependent on a number of factors, including the ability to transport crew members to and from their home countries due to the limited number of commercial flights and charter options available, and governmental restrictions and regulations with respect to disembarking crew members and travel generally. Additionally, our policy that crew members must be fully vaccinated has created logistical challenges due to limitations on vaccine supplies, logistical complexities relating to vaccinating crew members who reside in different countries around the world and vaccine hesitancy. Such restrictions on crew travel and challenges in making sure our crew members have been vaccinated has impacted and could continue to impact our ability to staff our ships as operations continue to resume.

Between March 12, 2020 and April 30, 2020, three class action lawsuits were filed against us under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 10b-5 promulgated thereunder, alleging that we made false and misleading statements to the market and customers about COVID-19, which were combined and later dismissed in April 2021. In addition, in March 2020 the Florida Attorney General announced an investigation related to our marketing during the COVID-19 pandemic. Following the announcement of the investigation by the Florida Attorney General, we received notifications from other attorneys general and governmental agencies that they are conducting similar investigations. We may be the subject of additional lawsuits and investigations stemming from COVID-19. We cannot predict the number or outcome of any such proceedings and the impact that they will have on our financial results, but any such impact may be material.

We have nine newbuilds on order, scheduled to be delivered through 2027. The impacts of COVID-19 on the shipyards where our ships are under construction or will be constructed, have resulted in some delays in expected ship deliveries, and the impacts of COVID-19 could result in additional delays in ship deliveries in the future, which may be prolonged.

Due to the unknown duration and extent of the COVID-19 pandemic, travel restrictions, bans and advisories, uncertainties around our ability to comply with the Conditional Order and/or any additional or future regulatory restrictions on our operations, the potential unavailability of ports and/or destinations, unknown cancellations and timing of redeployments and a general impact on consumer sentiment regarding cruise travel, there are continuing uncertainties



about when our full fleet will be back in service at historical occupancy levels. Moreover, demand for cruises may remain weak for a significant length of time and we cannot predict if and when each brand will return to pre-pandemic demand or pricing levels. Due to the discretionary nature of leisure travel spending and the competitive nature of the cruise industry, our revenues are heavily influenced by the condition of the U.S. economy and economies in other regions of the world. Unfavorable conditions in these broader economies have resulted, and may result in the future, in decreased demand for cruise vacations, changes in booking practices and related reactions by our competitors, all of which in turn have had, and may continue to have in the future, a strong negative effect on our business. In particular, our bookings may be negatively impacted by enhanced health and safety protocols, including vaccination requirements, concerns that cruises are susceptible to the spread of infectious diseases as well as adverse changes in the perceived or actual economic climate, including higher unemployment rates, declines in income levels and loss of personal wealth resulting from the impact of COVID-19. The ongoing COVID-19 pandemic and associated decline in economic activity and increase in unemployment levels are expected to have a severe and prolonged effect on the global economy generally and, in turn, is expected to depress demand for cruise vacations into the foreseeable future. In addition, we cannot predict the impact COVID-19 will have on our partners, such as travel agencies, suppliers and other vendors. We may be adversely impacted by any adverse impact our partners suffer. The global supply chain has also been negatively impacted by COVID-19, which has had an effect on our operations and our ability to source supplies. We cannot predict the impact on our financial performance and our cash flows required for cash refunds of fares for cancelled sailings as a result of the effects of the COVID-19 pandemic and the public's concern regarding the health and safety of travel, including by cruise ship, and related decreases in demand for travel and cruising. Depending on the timing for bringing our full fleet back in service and number of cancellations, we may be required to provide cash refunds for a substantial portion of the balance of our advanced ticket sales. Accordingly, as a result of these unprecedented circumstances, we cannot predict the full impact of COVID-19 on our business, financial condition and results of operations.

Moreover, our ability to attract and retain guests and crew depends, in part, upon the perception and reputation of our Company and our brands and the public's concerns regarding the health and safety of travel generally, as well as regarding the cruise industry and our ships. Actual or perceived risk of infection could have an adverse effect on the public's perception of the Company, which could harm our reputation and business. Additionally, some of our protocols, such as our requirement that all guests and crew must be vaccinated for our initial voyages, may attract negative publicity.

As a result of the impacts of COVID-19, provisions in our credit card processing and other commercial agreements have and may continue to adversely affect our liquidity. We have agreements with several credit card companies to process the sale of tickets and provide other services. Under these agreements, the credit card companies could, under certain circumstances and upon written notice, require us to maintain a reserve, which reserve would be funded by the credit card companies withholding or offsetting our credit card receivables, or our posting of cash or other collateral. As a result of the impacts of COVID-19, we have seen an increase in demand from consumers for refunds on their tickets, and we anticipate this will continue to be the case for the near future. As of September 30, 2021, we had cash reserves of approximately \$1.2 billion with credit card processors recognized in accounts receivable, net or other long-term assets. Subsequent to September 30, 2021, \$388.3 million in cash reserves have been released to the Company. We may be required to pledge additional collateral and/or post additional cash reserves or take other actions that may further reduce our liquidity. As a consequence, our financial position and liquidity could be further materially impacted.

As a result of all of the foregoing, we will report a net loss for the three months and year ending December 31, 2021 and expect to report a net loss until we are able to resume regular voyages. Our ability to forecast our cash inflows and additional capital needs is hampered, and we could be required to raise additional capital in the future. Our access to and cost of financing will depend on, among other things, global economic conditions, conditions in the global financing markets, the availability of sufficient amounts of financing, the terms and conditions of our existing debt agreements and any agreements governing future indebtedness, our prospects and our credit ratings. Since March 2020, Moody's has downgraded our long-term issuer rating to B2, our senior secured rating to B1 and our senior unsecured rating to Caa1. Since April 2020, S&P Global has downgraded our issuer credit rating to B, lowered our issue-level rating on our \$875 million Revolving Loan Facility and \$1.5 billion Term Loan A Facility to BB-, our issue-level rating on our \$675 million 2024 Senior Secured Notes and \$750 million 2026 Senior Secured Notes to B+ and our senior unsecured rating to B-. If our credit ratings were to be further downgraded, or general market conditions were to ascribe higher risk to our rating levels, our industry, or us, our access to capital and the cost of any debt or equity financing will be further

## [Table of Contents](#)

negatively impacted. Accordingly, there is no guarantee that debt or equity financings will be available in the future to fund our obligations, or that they will be available on terms consistent with our expectations.

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 our subsidiaries to pay dividends or make distributions to us; 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. The terms of any instruments governing future indebtedness may also require us to provide incremental collateral, which may further restrict our business operations.

The extent of the effects of the pandemic on our business and the cruise industry at large is highly uncertain and will ultimately depend on future developments, many of which are outside of our control, including, but not limited to, the duration, spread, severity and any recurrence of the pandemic, the severity and transmission rates of new more contagious and/or vaccine-resistant variants of COVID-19, the availability, distribution, rate of public acceptance and efficacy of vaccines and therapeutics for COVID-19, the duration and scope of related federal, state and local government orders and restrictions, the extent of the impact of COVID-19 on overall demand for cruise vacations and the length of time it takes for demand and pricing to return and normal economic and operating conditions to resume, all of which are highly uncertain and cannot be predicted. COVID-19 has also had the effect of heightening many of the other risks described herein, such as those relating to our need to generate sufficient cash flows to service our indebtedness, and our ability to comply with the covenants contained in the agreements that govern our indebtedness.

Additionally, epidemics, pandemics and viral outbreaks or other wide-ranging health scares in the future would likely also adversely affect our business, financial condition and results of operations.

### **Item 6. Exhibits**

- 10.1 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among Leonardo One, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., KfW IPEX-Bank GmbH, HSBC Bank PLC and Cassa Depositi e Prestiti S.P.A., as joint mandated lead arrangers, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of April 12, 2017 \(incorporated herein by reference to Exhibit 10.1 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.2 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among Leonardo Two, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, Crédit Agricole Corporate and Investment Bank, BNP Paribas Fortis S.A./N.V., HSBC Bank PLC and Cassa Depositi e Prestiti S.P.A., as joint mandated lead arrangers, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of April 12, 2017 \(incorporated herein by reference to Exhibit 10.2 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.3 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 6, 2021, among Leonardo Three, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, HSBC Bank PLC, BNP Paribas Fortis S.A./N.V., KfW IPEX-Bank GmbH and Cassa Depositi e Prestiti S.P.A., as joint mandated lead arrangers, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of April 12, 2017 \(incorporated herein by reference to Exhibit 10.3 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.4 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 6, 2021, among Leonardo Four, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as](#)

[Table of Contents](#)

- [shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, KfW IPEX-Bank GmbH, BNP Paribas Fortis S.A./N.V., HSBC Bank PLC and Cassa Depositi e Prestiti S.P.A., as joint mandated lead arrangers, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of April 12, 2017 \(incorporated herein by reference to Exhibit 10.4 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.5 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among Leonardo Five, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, 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, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of December 19, 2018 \(incorporated herein by reference to Exhibit 10.5 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.6 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among Leonardo Six, Ltd., as borrower, NCL Corporation Ltd., as guarantor, NCL International, Ltd., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, 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, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of December 19, 2018 \(incorporated herein by reference to Exhibit 10.6 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.7 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among Explorer III New Build, LLC, as borrower, NCL Corporation Ltd., as guarantor, Seven Seas Cruises S. de R.L., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, 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, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of December 19, 2018 \(incorporated herein by reference to Exhibit 10.7 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.8 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among O Class Plus One, LLC, as borrower, NCL Corporation Ltd., as guarantor, Oceania Cruises S. de R.L., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, 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, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of December 19, 2018 \(incorporated herein by reference to Exhibit 10.8 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.9 [Amendment and Restatement Agreement, dated as of June 17, 2021, but effective as of July 5, 2021, among O Class Plus Two, LLC, as borrower, NCL Corporation Ltd., as guarantor, Oceania Cruises S. de R.L., as shareholder, Norwegian Cruise Line Holdings Ltd., the lenders party thereto, 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, and the other parties thereto, which amends and restates the Loan Agreement, originally dated as of December 19, 2018 \(incorporated herein by reference to Exhibit 10.9 to Norwegian Cruise Line Holdings Ltd.'s Form 10-Q filed on August 9, 2021 \(File No. 001-35784\)\)#](#)
- 10.10\* [Commitment Letter, dated as of November 1, 2021, among NCL Corporation Ltd. and the purchasers named therein](#)
- 31.1\* [Certification of the President and Chief Executive Officer pursuant to Rule 13a-14\(a\) of the Securities Exchange Act of 1934](#)
- 31.2\* [Certification of the Executive Vice President and Chief Financial Officer pursuant to Rule 13a-14\(a\) of the Securities Exchange Act of 1934](#)

[Table of Contents](#)

- 32.1\*\* [Certifications of the President and Chief Executive Officer and the Executive Vice President and Chief Financial Officer pursuant to Rule 13a-14\(b\) of the Securities Exchange Act of 1934 and Section 1350 of Chapter 63 of Title 18 of the United States Code](#)
- 101\* The following unaudited consolidated financial statements from Norwegian Cruise Line Holdings Ltd.'s Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2021, formatted in Inline XBRL:
- (i) the Consolidated Statements of Operations for the three and nine months ended September 30, 2021 and 2020;
  - (ii) the Consolidated Statements of Comprehensive Loss for the three and nine months ended September 30, 2021 and 2020;
  - (iii) the Consolidated Balance Sheets as of September 30, 2021 and December 31, 2020;
  - (iv) the Consolidated Statements of Cash Flows for the nine months ended September 30, 2021 and 2020;
  - (v) the Consolidated Statements of Changes in Shareholders' Equity for the three and nine months ended September 30, 2021 and 2020; and
  - (vi) the Notes to the Consolidated Financial Statements.
- 104\* The cover page from Norwegian Cruise Line Holdings Ltd.'s Quarterly Report on Form 10-Q for the quarter ended September 30, 2021, formatted in Inline XBRL and included in the interactive data files submitted as Exhibit 101.

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\* Filed herewith.

\*\* Furnished herewith.

# Certain portions of this document that constitute confidential information have been redacted in accordance with Regulation S-K Item 601(b)(10).

**SIGNATURES**

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

NORWEGIAN CRUISE LINE HOLDINGS LTD.  
(Registrant)

By: /s/ FRANK J. DEL RIO  
Name: Frank J. Del Rio  
Title: President and Chief Executive Officer  
(Principal Executive Officer)

By: /s/ MARK A. KEMPA  
Name: Mark A. Kempa  
Title: Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)

Dated: November 9, 2021

GUGGENHEIM SECURITIES, LLC  
330 Madison Ave  
New York, New York, 10017

PRIVATE DEBT INVESTORS FEEDER, LLC  
330 Madison Ave  
New York, New York, 10017

LOAN ORIGINATION, A COMPARTMENT OF ATHORA LUX INVEST S.C.SP.  
APOLLO CREDIT FUNDS ICAV  
APOLLO TR OPPORTUNISTIC LTD  
APOLLO CREDIT STRATEGIES MASTER FUND LTD.  
APOLLO ACCORD IV AGGREGATOR A, L.P.  
APOLLO CREDIT MASTER FUND LTD.  
MERCER MULTI-ASSET CREDIT FUND  
AP KENT CREDIT MASTER FUND, L.P.  
MPI (LONDON) LIMITED  
SCHLUMBERGER UK COMMON INVESTMENT FUND  
APOLLO TACTICAL VALUE SPN INVESTMENTS, L.P.  
APOLLO A-N CREDIT FUND (DELAWARE), L.P.  
APOLLO A-N CREDIT FUND (DELAWARE), L.P. OVERFLOW 2  
APOLLO CENTRE STREET PARTNERSHIP, L.P.  
ATCF UK LIMITED  
APOLLO LINCOLN FIXED INCOME FUND, L.P.  
APOLLO ATLAS MASTER FUND, LLC  
APOLLO UNION STREET PARTNERS, L.P.  
c/o Apollo Capital Management, L.P.  
9 West 57<sup>th</sup> Street,  
New York, New York, 10019

CONFIDENTIAL  
November 1, 2021

NCL Corporation Ltd.  
7665 Corporate Center Drive  
Miami, FL 33126  
Attention: Daniel Farkas  
Executive Vice President, General Counsel and Assistant Secretary

NCL  
\$1,000,000,000 Senior Unsecured Bridge Facility  
Commitment Letter

Ladies and Gentlemen:

[Commitment Letter – Option Contract Version]

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NCL Corporation Ltd., an exempted company incorporated in Bermuda with limited liability and tax resident in the United Kingdom (the “**Company**” or “**you**”), has advised each Purchaser listed on Annex I hereto (each, a “**Purchaser**” and, collectively, the “**Purchasers**,” in each case subject to Section 8 hereof) that the Company, at its option (in its sole and full discretion), will sell, and the Purchasers will purchase, the 8.0% Senior Notes due 2024 (the “**Notes**”) pursuant to a Note Purchase Agreement (the “**Note Purchase Agreement**”), the form of which is attached hereto as Exhibit A. The Notes will be issued under an Indenture (the “**Indenture**”), the form of which is attached hereto as Exhibit B. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Note Purchase Agreement or the Indenture.

1. Commitments.

In connection with the foregoing, each Purchaser is pleased to advise you of its commitment to purchase the aggregate principal amount of the Notes set forth opposite its name on Annex I hereto, in each case, upon the terms and subject to the conditions set forth in this commitment letter (including the exhibits attached hereto, this “**Commitment Letter**” and the facility contemplated by this Commitment Letter, the “**Senior Unsecured Bridge Facility**”) and the Note Purchase Agreement. Within five Business Days after written notice, in the form attached hereto as Exhibit C, by the Company to the Purchasers requesting that the Purchasers execute and deliver the Note Purchase Agreement, the Purchasers and the Company shall execute and deliver the Note Purchase Agreement to all parties hereto.

It is expressly acknowledged and agreed by the Purchasers and the Company that (a) Guggenheim Securities (as defined below) shall have no obligation or commitment to provide the Notes, (b) the commitments set forth in this Section 1 and each other obligation herein in respect of the commitments of the Purchasers, to provide any amount of the Notes are solely the obligations of the Purchasers, (c) the commitments are being provided by the Purchasers, and not Guggenheim Securities and (d) nothing in this Commitment Letter, the Fee Letter (as defined below) or the Note Purchase Agreement shall create any obligation or implied commitment on the part of Guggenheim Securities to provide any financing or to provide any amount of the Notes.

2. Titles and Roles.

It is agreed that (a) Guggenheim Securities, LLC will act as the sole arranger and placement agent for the Senior Unsecured Bridge Facility (the “**Arranger**” and, together with the Purchasers, the “**Financial Institutions**”, “**we**” or “**us**”) and will perform the functions customarily associated with such role as provided in separate engagement letter dated as of June 14, 2021, by and between Guggenheim Securities and the Company (as amended, restated, supplemented or otherwise modified from time to time, the “**Engagement Letter**”), (b) the trustee specified as such in the Indenture will act as trustee under the Indenture and (c) the Purchasers will act as purchasers under the Note Purchase Agreement, in each case upon the terms and subject to the conditions set forth or referred to in this Commitment Letter. We, in such capacities, will perform the duties and exercise the authority customarily performed and exercised by us in such roles. You and we further agree that no other titles will be awarded and no compensation will be paid (other than that expressly contemplated by this Commitment Letter and the Fee Letter referred to below) in connection with the Senior Unsecured Bridge Facility and the Notes unless you and we shall so agree.

3. Information.

You hereby represent that (a) all written factual information (other than the projections (the “**Projections**”)), forward looking information and information of a general economic or industry specific nature (the “**Information**”) that has been or will be made available to us by you or any of your

representatives on your behalf in connection with the transactions contemplated hereby, when taken as a whole, is or will be, when furnished, correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (giving effect to all supplements and updates provided thereto) and (b) the Projections and other forward looking information that have been or will be made available to us by you or any of your representatives on your behalf in connection with the transactions contemplated hereby have been or will be prepared in good faith based upon assumptions that you believe to be reasonable at the time made and at the time such Projections are made available to us; it being understood by the Financial Institutions that such Projections are as to future events and are not to be viewed as facts, such Projections are subject to significant uncertainties and contingencies and that actual results during the period or periods covered by any such Projections may differ significantly from the projected results, and that no assurance can be given that the projected results will be realized.

4. Fees.

As consideration for the Purchasers' commitments hereunder, and our agreements to perform the services described herein, you agree to pay the fees set forth in the fee letter dated the date hereof and delivered herewith with respect to the Senior Unsecured Bridge Facility (the "**Fee Letter**") on the terms and subject to the conditions set forth therein. Once paid, such fees shall not be refundable under any circumstances except as agreed to between you and us. You also agree to pay the Arranger the fees set forth in the engagement letter by and between the Company and the Arranger dated June 14, 2021.

5. Conditions Precedent.

The Purchasers' obligations to execute and deliver the Note Purchase Agreement and fund their respective commitments hereunder and thereunder, and our agreements to perform the services described herein, are subject solely to the condition that no Event of Default (as defined under any of the Company Material Debt Instruments) shall have occurred and be continuing at such time under any of the Company Material Debt Instruments. There shall be no conditions to closing and funding (including under the Note Purchase Agreement) other than those expressly referred to in this Section 5. "**Company Material Debt Instruments**" means, as of any date of determination, the indentures, credit agreements and loan agreements listed in the Index to Exhibits of the Form 10-K of Norwegian Cruise Line Holdings Ltd. for the fiscal year ended December 31, 2020 to the extent they are still in effect as of the Funding Date, and any additional indentures, credit agreements and loan agreements entered into subsequently to the extent such debt instruments would be required to be listed in the Index to Exhibits of the Form 10-K of Norwegian Cruise Line Holdings Ltd. for a subsequent fiscal year and to the extent they are still in effect as of the Funding Date.

6. Indemnification; Expenses.

You agree (a) to indemnify and hold harmless each Financial Institution and its affiliates and their respective officers, directors, employees, agents, controlling persons, members and representatives and the successors and assigns of each of the foregoing (each, an "**Indemnified Person**") from and against any and all losses, claims, damages, liabilities and expenses, joint or several, to which any such Indemnified Person may become subject arising out of or in connection with this Commitment Letter, the Fee Letter, the Senior Unsecured Bridge Facility, the use or intended use of the proceeds of the Senior Unsecured Bridge Facility or any related transaction or any actual or threatened claim, actions, suits, inquiries, litigation, investigation or proceeding (any such claim, actions, suits, inquiries, litigation, investigation or proceeding, a "**Proceeding**") relating to any of the foregoing, regardless of whether any



such Indemnified Person is a party thereto (and regardless of whether such matter is initiated by you, your equity holders, creditors, affiliates or any other third party), and to reimburse each such Indemnified Person promptly upon demand for any reasonable documented out-of-pocket legal expenses incurred in connection with investigating or defending any of the foregoing by one firm of counsel for all Indemnified Persons, taken as a whole (and, if necessary, by a single firm of local counsel in each appropriate jurisdiction for all Indemnified Persons, taken as a whole (and, in the case of an actual or perceived conflict of interest where the Indemnified Person affected by such conflict informs you of such conflict and thereafter retains its own counsel with your prior consent (not to be unreasonably withheld or delayed), of another firm of counsel (and local counsel, if applicable) for such affected Indemnified Person) or other reasonable documented out-of-pocket expenses incurred in connection with investigating or defending any of the foregoing or in connection with the enforcement of any provision of this Commitment Letter or the Fee Letter; *provided* that the foregoing indemnity will not, as to any Indemnified Person, apply to (A) losses, claims, damages, liabilities or related expenses (i) to the extent they are found in a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct, bad faith or gross negligence of such Indemnified Person or any of such Indemnified Person's controlled or controlling affiliates or any of its or their respective officers, directors, employees, agents, controlling persons, members or representatives (collectively, such Indemnified Person's "**Related Persons**") (*provided* that each reference to "representatives" pertains solely to such representatives involved in the negotiation of this Commitment Letter), or (ii) arising out of a material breach by such Indemnified Person (or any of such Indemnified Person's Related Persons) of its obligations under this Commitment Letter (as determined by a court of competent jurisdiction in a final and non-appealable judgment), or (iii) arising out of any claim, actions, suits, inquiries, litigation, investigation or proceeding that does not involve an act or omission of you or any of your affiliates and that is brought by an Indemnified Person against any other Indemnified Person (other than any claim, actions, suits, inquiries, litigation, investigation or proceeding against any Financial Institution in its capacity or in fulfilling its role as an Arranger under the Senior Unsecured Bridge Facility) or (B) any settlement entered into by such Indemnified Person (or any of such Indemnified Person's Related Persons) without your written consent (such consent not to be unreasonably withheld, delayed or conditioned), *provided, however*, that the foregoing indemnity will apply to any such settlement in the event that you were offered the ability to assume the defense of the action that was the subject matter of such settlement and elected not to assume such defense, and (b) to reimburse the Financial Institutions from time to time, upon presentation of a reasonably detailed summary statement, for all reasonable documented out-of-pocket expenses and legal fees of Davis Polk & Wardwell LLP incurred in connection with the Senior Unsecured Bridge Facility and the preparation, negotiation and enforcement of this Commitment Letter, the Fee Letter, the definitive documentation for the Senior Unsecured Bridge Facility and any ancillary documents in connection therewith. It is further agreed that the Financial Institutions shall have no liability to any person other than you, and you shall have no liability to any person other than the Financial Institutions and the Indemnified Persons in connection with this Commitment Letter, the Fee Letter, the Senior Unsecured Bridge Facility or the transactions contemplated hereby. No Indemnified Person shall be liable for any damages arising from the use by others of any information or other materials obtained through internet, electronic, telecommunications or other information transmission systems except to the extent they are found in a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct, bad faith or gross negligence of such Indemnified Person or any of its Related Persons. None of the Indemnified Persons or (except solely as a result of your indemnification obligations set forth above to the extent an Indemnified Person is found so liable) you, or any of your or its respective affiliates or the respective directors, officers, employees, advisors, and agents of the foregoing shall be liable for any indirect, special, punitive or consequential damages in connection with this Commitment Letter, the Fee Letter, the Senior Unsecured Bridge Facility or the transactions contemplated hereby. The provisions of this Section 6 shall be superseded in each case by the applicable provisions contained in the Note Purchase Agreement and the Indenture upon execution thereof and thereafter shall have no further force and effect. You shall not, without the prior written consent of each applicable Indemnified Person (which consent,

except with respect to a settlement including a statement of the type referred to in clause (b) below, shall not be unreasonably withheld or delayed), effect any settlement of any pending or threatened Proceedings in respect of which indemnity could have been sought hereunder by such Indemnified Person unless such settlement (a) includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such Proceedings, (b) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person and (c) includes customary confidentiality and non-disparagement agreements.

7. Sharing Information; Absence of Fiduciary Relationship; Affiliate Activities.

You acknowledge that we may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which you may have conflicting interests regarding the transactions described herein or otherwise. We will not furnish confidential information obtained from you by virtue of the transactions contemplated by this Commitment Letter or our other relationships with you to other companies in violation of the confidentiality provisions hereof. You also acknowledge that we do not have any obligation to use in connection with the transactions contemplated by this Commitment Letter, or to furnish to you, confidential information obtained by us from other companies.

You further acknowledge and agree that (a) each Financial Institution will act as an independent contractor and no fiduciary, advisory or agency relationship between you and us is intended to be or has been created in respect of any of the transactions contemplated by this Commitment Letter, irrespective of whether we have advised or are advising you on other matters, (b) each Financial Institution is acting solely as a principal and not as an agent of yours hereunder and the Financial Institutions, on the one hand, and you, on the other hand, have an arm's-length business relationship that does not directly or indirectly give rise to, nor do you rely on, any fiduciary duty on the part of us, (c) you are capable of evaluating and understanding, and you understand and accept, the terms, risks and conditions of the transactions contemplated by this Commitment Letter, (d) you have been advised that we are engaged in a broad range of transactions that may involve interests that differ from your interests and that we do not have any obligation to disclose such interests and transactions to you by virtue of any fiduciary, advisory or agency relationship and (e) you waive, to the fullest extent permitted by law, any claims you may have against us for breach of fiduciary duty or alleged breach of fiduciary duty and agree that we shall not have any liability (whether direct or indirect) to you in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of you, including your stockholders, employees or creditors.

You further acknowledge that one or more of us is a full service securities firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, we or our affiliates may provide investment banking and other financial services to, and/or acquire, hold or sell, for our own or our affiliates' accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, you and other companies with which you may have commercial or other relationships. With respect to any securities and/or financial instruments so held by us or our affiliates, or any of our or our affiliates' customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

8. Assignments; Amendments; Governing Law, Etc.

This Commitment Letter shall not be assignable by any party hereto, without the prior written consent of each other party hereto (not to be unreasonably withheld) and any attempted assignment without such consent shall be null and void, is intended to be solely for the benefit of the parties hereto (and Indemnified Persons), and is not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto (and Indemnified Persons to the extent expressly provided for herein), except that Guggenheim Securities, LLC shall be an intended third party beneficiary of the provisions herein applicable thereto. Notwithstanding the foregoing, each Purchaser may assign its rights and obligations hereunder to one or more of its affiliates (including any investment fund, separate account, or other entity owned (in whole or in part), controlled, managed, and/or advised by such Purchaser's investment manager or an affiliate of such investment manager); *provided*, that such Purchaser shall not be released from its commitments hereunder so assigned to the extent such assignee fails to fund the portion of the commitment assigned to it on the funding date of the Notes (the "**Funding Date**"). As used herein, references to a Purchaser shall refer to any such assignee pursuant to this Section 8.

Unless you otherwise agree in writing, each Purchaser shall retain exclusive control over all rights and obligations with respect to its commitments in respect of the Senior Unsecured Bridge Facility, including all rights with respect to consents, modifications, supplements, waivers and amendments, until the Funding Date has occurred. Any and all obligations of, and services to be provided by, each of us hereunder (including, without limitation, our commitments as a Purchaser) may be performed and any and all of our rights hereunder may be exercised by or through any of our respective affiliates or branches and, in connection with such performance or exercise, we may, subject to Section 11, exchange with such affiliate or branches information concerning you and your affiliates that may be the subject of the transactions contemplated hereby and, to the extent so employed, such affiliates and branches shall be entitled to the benefits afforded to us hereunder and be subject to the obligations undertaken by us hereunder.

This Commitment Letter may not be amended or any provision hereof waived or modified except by an instrument in writing signed by us and you.

This Commitment Letter may be executed in any number of counterparts, each of which shall be an original and all of which, when taken together, shall constitute one agreement. Delivery of an executed counterpart of a signature page of this Commitment Letter by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof. For the avoidance of doubt, the words "execution," "signed," "signature," "delivery" and words of like import in or relating to this Commitment Letter or any document to be signed in connection with this Commitment Letter shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means. Section headings used herein are for convenience of reference only, are not part of this Commitment Letter and are not to affect the construction of, or to be taken into consideration in interpreting, this Commitment Letter.

You acknowledge that information and documents relating to the Senior Unsecured Bridge Facility may be transmitted through Syndtrak, Intralinks, the internet, e-mail or similar electronic transmission systems, and that no Indemnified Person or any of its Related Persons shall be liable for any damages arising from the unauthorized use by others of information or documents transmitted in such manner except to the extent they are found in a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct, bad faith or gross negligence of such Indemnified

Person or any of its Related Persons. This Commitment Letter and the Fee Letter supersede all prior understandings, whether written or oral, between us with respect to the Senior Unsecured Bridge Facility (other than the confidentiality agreements, dated the respective dates thereof, previously entered into between you and the applicable Financial Institution). **THIS COMMITMENT LETTER, AND ALL CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT, TORT OR OTHERWISE) THAT MAY BE BASED UPON, ARISE OUT OF OR RELATE IN ANY WAY TO THIS COMMITMENT LETTER, OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS COMMITMENT LETTER OR THE TRANSACTIONS CONTEMPLATED HEREBY, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY PRINCIPLE OF CONFLICTS OF LAW THAT COULD REQUIRE THE APPLICATION OF ANY OTHER LAW.**

9. Jurisdiction.

Each of the parties hereto hereby irrevocably and unconditionally (a) 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 the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Commitment Letter, the Fee Letter or the transactions contemplated hereby or thereby, and agrees that all claims in respect of any such action or proceeding shall be brought, heard and determined only in such New York State court or, to the extent permitted by law, in such Federal court, (b) 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 Commitment Letter, the Fee Letter or the transactions contemplated hereby or thereby in any such New York State or Federal court, (c) 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, and (d) 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. You and we agree that service of any process, summons, notice or document by registered mail addressed to you or us at the respective addresses set forth above shall be effective service of process for any suit, action or proceeding brought in any such court.

10. Waiver of Jury Trial.

**EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY OR ON BEHALF OF ANY PARTY RELATED TO OR ARISING OUT OF THIS COMMITMENT LETTER, THE FEE LETTER OR THE PERFORMANCE OF SERVICES HEREUNDER OR THEREUNDER.**

11. Confidentiality.

This Commitment Letter is delivered to you on the understanding that the Fee Letter and its terms or substance shall not be disclosed, directly or indirectly, by you to any other person except (a) to your officers, directors, employees, attorneys, agents, accountants, advisors, controlling persons and equity holders who are directly involved in the consideration of this matter on a confidential basis or (b) pursuant to the order of any court or administrative agency in any pending legal, judicial or administrative proceeding or otherwise as required by applicable law or compulsory legal process or to the extent requested or required by governmental and/or regulatory authorities or self-regulatory organizations (in which case you agree to inform us promptly thereof to the extent permitted by law or the applicable regulator).

For the avoidance of doubt, all nonpublic information received by us and our affiliates in connection with this Commitment Letter and the transactions contemplated hereby shall be governed by the confidentiality agreements, dated the respective dates thereof, previously entered into between you and the applicable Financial Institution.

12. Surviving Provisions and Termination.

The survival, compensation, information, reimbursement, indemnification, absence of fiduciary relationship, confidentiality, jurisdiction, governing law and waiver of jury trial provisions contained herein and in the Fee Letter and the provisions of Section 7 of this Commitment Letter shall remain in full force and effect in accordance with their terms notwithstanding the termination of this Commitment Letter or the Purchasers' commitments hereunder and our agreements to perform the services described herein; *provided*, that each party's obligations under this Commitment Letter and the Fee Letter, other than those provisions relating to confidentiality and compensation, shall automatically terminate and be superseded by the provisions of the Note Purchase Agreement upon the Purchasers' funding under the Note Purchase Agreement in consideration for the issuance of the Notes under the Indenture on the Funding Date. The Company may, in its sole discretion, terminate this Commitment Letter, the Fee Letter and/or the Purchasers' commitments with respect to the Senior Unsecured Bridge Facility (or portion thereof pro rata among the Purchasers) hereunder at any time subject to survival of certain sections specified in the preceding sentence.

13. PATRIOT Act Notification.

We hereby notify you that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "*PATRIOT Act*"), each Purchaser is required to obtain, verify and record information that identifies the Company and the Guarantors, which information includes the name, address, tax identification number and other information regarding the Company and the Guarantors that will allow such Purchaser to identify the Company and the Guarantors in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act and is effective as to each Financial Institution and each Purchaser.

14. Acceptance.

If the foregoing correctly sets forth our agreement with you, please indicate your acceptance of the terms of this Commitment Letter and of the Fee Letter by returning to us executed counterparts hereof and of the Fee Letter not later than 5:00 p.m., New York City time, on November 1, 2021. The Purchasers' commitments hereunder, and our agreements to perform the services described herein, will expire automatically and without further action or notice and without further obligation to you at such time in the event that we have not received such executed counterparts in accordance with the immediately preceding sentence. In the event that the written notice contemplated by Section 1 of this Commitment Letter, in the form attached hereto as Exhibit C, is not delivered on or before August 15, 2022 (the "*Commitment Expiration Date*"), then this Commitment Letter and the Purchasers' commitments hereunder, and our agreements to perform the services described herein, shall automatically terminate without further action or notice and without further obligation to you unless we shall, in our discretion, agree to an extension.

[Remainder of this page intentionally left blank]

We are pleased to have been given the opportunity to assist you in connection with the Senior Unsecured Bridge Facility.

Very truly yours,

**PRIVATE DEBT INVESTORS FEEDER, LLC**

By: Guggenheim Corporate Funding, LLC as Manager

By: /s/ Kevin M Robinson

Name: Kevin M Robinson

Title: Attorney-in-Fact

[NCL – Commitment Letter (Option Contract Version) -Signature Page]

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**ATHORA LUX INVEST S.C.Sp.**, a reserved alternative investment fund in the form of a Luxembourg special limited partnership (*société en commandite speciale*), acting in respect of its compartment, Athora Lux Invest – Loan Origination, acting through its managing general partner Athora Lux Invest Management and represented by its delegate portfolio manager, Apollo Management International LLP,

By: Apollo Management International LLP, its Portfolio Manager

By: AMI (Holdings), LLC, its Member

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO CREDIT FUNDS ICAV**, an Umbrella Irish Collective Asset-Management Vehicle with Segregated Liability between its Sub-Funds, acting in respect of its Sub-Fund, **APOLLO HELIUS MULTI CREDIT FUNDI**

By: ACF Europe Management, LLC, solely in its capacity as portfolio manager and not in its individual corporate capacity

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO TR OPPORTUNISTIC LTD.**

By: Apollo Total Return Management, LLC, its investment manager

And by: Apollo Total Return Enhanced Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO CREDIT STRATEGIES MASTER FUND LTD.**

By: Apollo ST Fund Management LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO ACCORD IV AGGREGATOR A, L.P.**

By: Apollo Accord Advisors IV, L.P., its general partner

By: Apollo Accord Advisors GP IV, LLC, its general partner

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO CREDIT MASTER FUND LTD.**

By: Apollo ST Fund Management LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**MERCER MULTI-ASSET CREDIT FUND**, a sub-fund of Mercer QIF Fund Plc., as Lender

By: Apollo Management International LLP, its investment manager

By: AMI (Holdings), LLC, its member

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

[NCL – Commitment Letter (Option Contract Version) -Signature Page]

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**AP KENT CREDIT MASTER FUND, L.P.**

By: AP Kent Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**MPI (LONDON) LIMITED**, as Lender

By: Apollo TRF MP Management LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**Apollo Management International LLP** as attorney for **Schlumberger Common Investment Fund Limited (acting as trustee for Schlumberger UK Common Investment Fund)**

Acting by AMI (Holdings), LLC, its member

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO TACTICAL VALUE SPN INVESTMENTS, L.P.**

By: Apollo Tactical Value SPN Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

[NCL – Commitment Letter (Option Contract Version) -Signature Page]

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**APOLLO A-N CREDIT FUND (DELAWARE), L.P.**

By: Apollo A-N Credit Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO A-N CREDIT FUND (DELAWARE), L.P. OVERFLOW 2**

By: Apollo A-N Credit Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO CENTRE STREET PARTNERSHIP, L.P.**

By: Apollo Centre Street Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**ATCF UK LIMITED**

By: Apollo Tower Credit Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO LINCOLN FIXED INCOME FUND, L.P.**

By: Apollo Lincoln Fixed Income Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO ATLAS MASTER FUND, LLC**

By: Apollo Atlas Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

**APOLLO UNION STREET PARTNERS, L.P.**

By: Apollo Union Street Management, LLC, its investment manager

By: /s/ Joseph D. Glatt

Name: Joseph D. Glatt

Title: Vice President

[NCL – Commitment Letter (Option Contract Version) -Signature Page]

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Accepted and agreed to as of the date first above written:

NCL CORPORATION LTD.

By: /s/ Daniel Farkas  
Name: Daniel Farkas  
Title: Executive Vice President, General Counsel and Assistant Secretary

[NCL – Commitment Letter (Option Contract Version) -Signature Page]

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Purchasers

Annex I

[Commitment Letter – Option Contract Version]

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Form of Note Purchase Agreement

[Attached.]

Exhibit A

[Commitment Letter – Option Contract Version]

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NCL CORPORATION LTD.

[·]% Senior Notes due 2024

FORM OF NOTE PURCHASE AGREEMENT

[·], 202[1][2]

TO EACH OF THE PURCHASERS  
LISTED IN SCHEDULE I HERETO

Ladies and Gentlemen:

NCL Corporation Ltd., a Bermuda exempted company (the “**Company**”), confirms its agreement with each of the several Purchasers named in Schedule I hereto (each a “**Purchaser**” and together, the “**Purchasers**,” in each case subject to Section 2 hereof), with respect to the issue by the Company and the purchase by each Purchaser, acting severally and not jointly, of the respective principal amounts set forth in said Schedule I of \$[·] aggregate principal amount of the Company’s [·]% Senior Notes due 2024 (the “**Notes**” and, together with the Guarantees (as defined below), the “**Securities**”). The Notes will be issued by the Company pursuant to an indenture, to be dated as of the Closing Date (as defined below) (the “**Indenture**”), among the Company, each of the Company’s subsidiaries set forth in Annex A hereto (the “**Guarantors**”) and U.S. Bank National Association, as trustee (the “**Trustee**”), and will be guaranteed by each of the Guarantors (the “**Guarantees**”). Certain terms used herein are defined in Section 15 hereof.

The offering and sale of the Securities are herein referred to as the “**Transactions**.”

The sale of the Securities to the Purchasers on the Closing Date will be made without registration of the Securities under the Act in reliance upon exemptions from the registration requirements of the Act.

1. *Representations and Warranties by the Company and the Guarantors.* The Company and each of the Guarantors hereby, jointly and severally, represent and warrant to each Purchaser as follows as of the date hereof and as of the Closing Date:

(a) Assuming the accuracy of the representations and warranties of the Purchasers contained in Section 4 and their compliance with the agreements set forth therein, none of the Company, any of its subsidiaries, or any of their respective Affiliates (as defined in Rule 501(b) of Regulation D), or any person acting on its behalf has, directly or indirectly, made offers or sales of any security, or solicited offers to buy or otherwise negotiated in respect of, any “security” (as defined in the Act) that is or could be integrated with the sale of the Securities in a

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manner or under circumstances that would require the registration of the Securities under the Act.

(b) Assuming the accuracy of the representations and warranties of the Purchasers contained in Section 4 and their compliance with the agreements set forth therein, none of the Company, any of its subsidiaries or any of their respective Affiliates, or any person acting on its behalf has: (i) engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities or (ii) engaged in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and the Company, each of its subsidiaries and each of their respective Affiliates and each person acting on its behalf has complied with the offering restrictions requirement of Regulation S. The sale of the Securities pursuant to Regulation S is not part of a plan or scheme to evade the registration provisions of the Act.

(c) The Securities satisfy the eligibility requirements of Rule 144A(d)(3) under the Act.

(d) Assuming the accuracy of the representations and warranties of the Purchasers contained in Section 4 and their compliance with the agreements set forth therein, no registration under the Act of the Securities is required for the offer and sale of the Securities to the Purchasers in the manner contemplated herein and it is not necessary to qualify the Indenture under the Trust Indenture Act.

(e) None of the Company, the Guarantors or any of their respective subsidiaries is or, after giving effect to the offering and sale of the Securities, will be an “investment company” as defined in the Investment Company Act, without taking account of any exemption arising out of the number of holders of the Company’s securities.

(f) None of the Company or any of its subsidiaries has paid or agreed to pay to any person any compensation for soliciting another to purchase any Securities (other than Guggenheim Securities, LLC).

(g) The Company has not entered into any contractual arrangement, other than this Agreement and the Commitment Letter, dated as of July [·], 2021, with the Purchasers relating to the Securities (the “**Commitment Letter**”), with respect to the distribution or sale of the Securities and the Company will not enter into any such arrangement except as contemplated hereby.

(h) Each of the Company and its subsidiaries has been duly incorporated or organized and is validly existing as an entity in good standing (where such concept is legally relevant) under the laws of the jurisdiction in which it is incorporated or organized with full corporate or other organizational power and authority to own or lease, as the case may be, and to operate its



properties and conduct its business as described in (i) the Company's Annual Report on Form 10-K for the year ended December 31, 2020, filed by the Company with the SEC on February 26, 2021 and (ii) all filings made by the Company with the SEC in accordance with Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act on or after January 1, 2021 and prior to the date of the Commitment Letter, with the exception of any information furnished by the Company with the SEC under Item 2.02 or Item 7.01 of a Current Report on Form 8-K (the reports described in clauses (i) and (ii) collectively, the "**Exchange Act Filings**"), and is duly qualified to do business as a foreign corporation or other entity and is in good standing (where such concept is legally relevant) under the laws of each jurisdiction where the ownership or leasing of its properties or the conduct of its business requires such qualification except where the failure to be so incorporated, organized or qualified, have such power or authority or be in good standing would not, individually or in the aggregate, have a material adverse effect on the condition (financial or otherwise), business or results of operations of the Company and its subsidiaries, taken as a whole and after giving effect to the Transactions (a "**Material Adverse Effect**").

(i) Each of the Company and the Guarantors has all requisite corporate or other power and authority to execute and deliver this Agreement and the Notes (collectively, the "**Transaction Documents**"), and to perform their respective obligations hereunder and under the Notes and the Indenture and to provide the representations, warranties and indemnities under, or contemplated by, the Transaction Documents; and all actions required to be taken for the due and proper authorization, execution and delivery by it of each of the Transaction Documents and the consummation by it of the transactions contemplated thereby have been duly and validly taken.

(j) (i) This Agreement has been duly authorized, executed and delivered by the Company and each of the Guarantors; (ii) the Indenture has been or, prior to the Closing Date, will be duly authorized and on the Closing Date will be duly executed and delivered by the Company and each of the Guarantors and, when duly executed and delivered by each of the parties thereto, will constitute a legal, valid and binding instrument enforceable against the Company and each of the Guarantors in accordance with its terms (in each case subject, as to the enforcement of remedies, to the effects of (x) bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium or other laws affecting creditors' rights generally from time to time in effect, (y) general principles of equity (whether considered in a proceeding in equity or at law) and (z) an implied covenant of good faith and fair dealing (collectively, the "**Enforceability Limitations**")); and (iii) the Notes have been duly authorized by the Company and, when duly executed and authenticated by the Trustee in accordance with the provisions of the Indenture and delivered to and paid for by the Purchasers, will be duly executed and delivered by the Company and when executed and delivered by the Company, will constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms

(subject to the Enforceability Limitations), and will be entitled to the benefits of the Indenture.

(k) No consent, approval, authorization, filing with or order of any court or governmental agency or body, or third party is required in connection with the execution or delivery of the Transaction Documents, the issuance and sale and delivery of the Notes by the Company and the issuance of the Guarantees by the Guarantors or the consummation of any other of the transactions herein contemplated, except such (i) as may be required under applicable state or foreign securities or blue sky laws, (ii) routine informational and corporate filings required by applicable law, (iii) future filings in the ordinary course of business to comply with general applicable regulatory, environmental, or other laws or applicable regulations in connection with performance of obligations under the Transaction Documents or (iv) as shall have been obtained or made prior to the Closing Date. None of the Company or any of its subsidiaries is (A) in violation of any provision of its charter, bylaws, by-laws, memorandum of association or articles of association or any equivalent organizational or constitutional document; (B) in breach of or default under the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject; or (C) in breach or violation of any statute, law, rule, regulation, judgment, order or decree applicable to the Company or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its properties other than in the cases of clauses (B) and (C), such violations and defaults that would not reasonably be expected to have a Material Adverse Effect.

(l) None of the execution and delivery of the Transaction Documents, the issuance and sale of the Securities, the issuance of the Guarantees by the Guarantors or the consummation of any other of the transactions herein or therein contemplated, or the fulfillment of the terms hereof or thereof will conflict with, result in a breach or violation of or imposition of any lien, charge or encumbrance upon any property or assets of the Company, the Guarantors or any of their respective subsidiaries pursuant to, (i) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company or any of its subsidiaries is a party or bound or to which its or their property is subject; or (ii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company, any of its subsidiaries or any of its properties, other than in the cases of clauses (i) and (ii), such breaches, violations, liens, charges, or encumbrances that would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect and would not materially adversely affect consummation of the Transactions contemplated hereby; or result in the violation of the charter, bylaws, bye-laws, memorandum

of association or articles of association or any equivalent organizational or constitutional document of the Company or any of its subsidiaries.

(m) The consolidated historical financial statements of the Company and its consolidated subsidiaries included in the Exchange Act Filings, present fairly in all material respects the consolidated financial position, results of operations and cash flows of the Company and its consolidated subsidiaries as of the dates and for the periods indicated and have been prepared in conformity with United States generally accepted accounting principles applied on a consistent basis throughout the periods involved (except as otherwise noted therein).

(n) Each of the Company and its subsidiaries owns or leases all such real properties as are necessary to the conduct of its respective operations as currently conducted, except as would not reasonably be expected to have a Material Adverse Effect.

(o) The Company and its subsidiaries: (i) have filed all non-U.S., U.S. federal, state and local tax returns that are required to be filed or have requested extensions thereof, except in any case in which the failure so to file would not reasonably be expected to have a Material Adverse Effect and except as set forth in or contemplated in the Exchange Act Filings (exclusive of any amendment or supplement thereto); and (ii) have paid all taxes required to be paid by them and any other tax assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such tax assessment, fine or penalty that is currently being contested in good faith or as would not reasonably be expected to have a Material Adverse Effect and except as set forth in or contemplated in the Exchange Act Filings (exclusive of any amendment or supplement thereto).

(p) The Company and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by the appropriate U.S. federal, state or non-U.S. regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such licenses, certificates, permits and other authorizations would not reasonably be expected to have a Material Adverse Effect, and none of the Company or any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit that, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to have a Material Adverse Effect, except as set forth in or contemplated in the Exchange Act Filings (exclusive of any amendment or supplement thereto).

(q) The Company and its subsidiaries (i) are in compliance with any and all applicable non-U.S., U.S. federal, state and local laws and regulations relating to the protection of human health and safety (as such is affected by hazardous or toxic substances or wastes, pollutants or contaminants), the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("**Environmental Laws**"); (ii) have received and are in compliance

with all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; (iii) have not received notice of any actual or potential liability under any Environmental Law; and (iv) have not been named as a “potentially responsible party” under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, except where such non-compliance with Environmental Laws, failure to receive or comply with required permits, licenses or other approvals, liability or status as a potentially responsible party would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect and except as set forth in or contemplated in the Exchange Act Filings (exclusive of any amendment or supplement thereto).

(r) (i) The minimum funding standard under Section 302 of the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (“**ERISA**”), has been satisfied by each “pension plan” (as defined in Section 3(2) of ERISA) that has been established or maintained by the Company and/or one or more of its subsidiaries; (ii) each of the Company and its subsidiaries has fulfilled its obligations, if any, under Section 515 of ERISA; (iii) each pension plan and welfare plan established or maintained by the Company and/or one or more of its subsidiaries is in compliance in all material respects with the currently applicable provisions of ERISA; and (iv) none of the Company or any of its subsidiaries has incurred or, except as set forth or contemplated in the Exchange Act Filings, would reasonably be expected to incur any material withdrawal liability under Section 4201 of ERISA, any material liability under Section 4062, 4063, or 4064 of ERISA, or any other material liability under Title IV of ERISA; except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

(s) The Company and its subsidiaries own, possess, license or have other rights to use all patents, trademarks and service marks, trade names, copyrights, domain names (in each case including all registrations and applications to register same), inventions, trade secrets, technology, know-how and other intellectual property (collectively, the “**Intellectual Property**”) necessary for the conduct of their respective businesses as now conducted or as proposed in the Exchange Act Filings to be conducted, except where the failure to own, possess, license or otherwise have such rights would not reasonably be expected to have a Material Adverse Effect. Except as set forth in the Exchange Act Filings, and except as would not reasonably be expected to have a Material Adverse Effect, the Company and its subsidiaries own, or have rights to use under license, all such Intellectual Property free and clear in all respects of all adverse claims, liens or other encumbrances.

(t) Neither the issuance, sale and delivery of the Securities nor the application of the proceeds thereof by the Company will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System, as the same is in effect on the Closing Date.

(u) Subject to such qualifications and assumptions as are set forth in the opinion of relevant local counsel for the Company and the Guarantors, there are no stamp or other issuance or transfer taxes or duties or other similar fees or charges imposed by any governmental authority required under applicable law to be paid in connection with the execution and delivery of any of the Transaction Documents, the issuance or sale hereunder by the Company of the Notes other than all such taxes, duties or other similar fees or charges imposed by any jurisdiction outside the United States in which the Company or any successor is organized or resident for tax purposes or any jurisdiction in which a paying agent for the Securities is located.

(v) It is not necessary under the laws of any jurisdiction in which the Company and the Guarantors are incorporated or organized or do business that any of the holders of the Securities be licensed, qualified or entitled to carry on business in any such jurisdiction by reason of the execution, delivery, performance or enforcement of any of the Transaction Documents, or the performance or enforcement of the Indenture.

(w) The Company and the Guarantors have the power to submit and have taken all necessary corporate action to submit to the jurisdiction of any federal or state court located in the borough of Manhattan in the City of New York (a “**New York Court**”).

(x) Subject to such qualifications and assumptions as are set forth in the opinion of relevant local counsel for the Company and the Guarantors, a holder of the Securities, the Trustee and each Purchaser are each entitled to sue as plaintiff in the courts of the jurisdiction of incorporation or formation and domicile of the Company and the Guarantors for the enforcement of their respective rights under the Transaction Documents and the Indenture and such access to such courts will not be subject to any conditions which are not applicable to residents of such jurisdiction or a company incorporated in such jurisdiction, other than the requirement to post a bond or guarantee with respect to court costs and legal fees.

(y) Subject to such qualifications and assumptions as are set forth in the opinion of relevant local counsel for the Company and the Guarantors, the courts of the jurisdiction of incorporation or formation and domicile of the Company or any Guarantor will recognize and enforce a judgment obtained against the Company or any Guarantor in a New York Court in an action arising out of or in connection with the Transaction Documents and the Indenture (as applicable), in each case, without reconsidering the merits thereof.

(z) Neither the Company nor any of its subsidiaries has: used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; violated or is in violation of any provision of the Foreign

Corrupt Practices Act of 1977 or the Bribery Act 2010 of the United Kingdom; or made any bribe, rebate, payoff, influence payment kickback or other unlawful payment.

(aa) The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the USA Patriot Act, the Bank Secrecy Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, that have been issued, administered or enforced by any governmental agency.

(bb) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its subsidiaries is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department, the United Nations Security Council, the European Union, Her Majesty's Treasury or any other relevant sanctions authority; and the Company will not directly or indirectly use the proceeds of the offering of the Securities contemplated hereby, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity for the purpose of financing the activities of any person that at the time of such financing is subject to any sanctions administered by or enforced by such authorities.

(cc) Except pursuant to this Agreement, the Commitment Letter and related fee letter and as contemplated under the Transactions, neither the Company nor any of its subsidiaries has incurred any liability for any finder's or broker's fee or agent's commission in connection with the offering and sale of the Securities or any transaction contemplated by this Agreement.

Any certificate signed by any officer of the Company or its subsidiaries and delivered to the Purchasers or counsel for the Purchasers in connection with the offering of the Securities shall be deemed a joint and several representation and warranty by each of the Company and its subsidiaries, as to matters covered thereby, to each Purchaser.

2. *Purchase and Sale.* Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Company agrees to issue and sell to each Purchaser, and each Purchaser agrees, severally and not jointly, to purchase the respective principal amount of Notes set forth opposite such Purchaser's name in Schedule 1 hereto at a price equal to [-]% of the principal amount thereof. Each Purchaser may assign its rights and obligations hereunder to one or more of its affiliates (including any investment fund, separate account, or other entity owned (in whole or in part), controlled, managed, and/or advised by such Purchaser's investment manager or an affiliate of such investment manager) with the prior written consent of the Company (such consent not to be unreasonably withheld, conditioned or delayed); provided, that such Purchaser shall not be released from its purchase obligation hereunder so assigned to the extent such assignee fails to purchase the Notes assigned to it on the Closing Date.

As used herein, references to a Purchaser shall refer to any such assignee pursuant to this Section 2.

3. *Delivery and Payment.* One or more certificates in definitive form for the Securities that the Purchasers have agreed to purchase hereunder, and in such denomination or denominations and registered in such name or names as the Purchasers request upon notice to the Company at least 36 hours prior to the Closing Date, shall be delivered by or on behalf of the Company to the Purchasers, against payment by or on behalf of the Purchasers of the purchase price therefor by wire transfer (same day funds), to such account or accounts as the Company shall specify prior to the Closing Date, or by such means as the parties hereto shall agree prior to the Closing Date. Such delivery of and payment for the Securities shall be made at 9:00 A.M., New York time, on the seventh Business Day following the date hereof, or at such other time or date as the Purchasers, on the one hand, and the Company, on the other hand, may agree upon, such time and date of delivery against payment being herein referred to as the “**Closing Date.**” The Company will make such certificate or certificates for the Securities available for checking by the Purchasers at least 24 hours prior to the Closing Date.

4. *Representations and Warranties by the Purchasers.*

(a) Each Purchaser acknowledges that the Securities have not been and will not be registered under the Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Act. The Commission has not endorsed the merits of this offering.

(b) Each Purchaser acknowledges that there is no public market for the Securities, and transfers and resales are, and will be, severely restricted due to both certain contractual restrictions and applicable securities law restrictions and may not be transferred or resold except as permitted under the Act and other applicable securities laws or pursuant to registration or exemption therefrom. There is no public trading market for the Securities, so holders must be prepared to hold their investment indefinitely.

(c) Each Purchaser, severally and not jointly, represents and warrants to and agrees with the Company and the Guarantors, that:

(i) it has not offered or sold, and will not offer or sell, any Securities within the United States or to, or for the account or benefit of, U.S. persons (x) as part of their distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and the date of closing of the offering except:

(A) to those persons whom it reasonably believes to be “qualified institutional buyers” (as defined in Rule 144A under the Act) or if any such person is buying for one or more

institutional accounts for which such person is acting as a fiduciary or agent, only when such person has represented to it that each such account is a qualified institutional buyer to whom notice has been given that such sale or delivery is being made in reliance on Rule 144A and, in each case, in transactions in accordance with Rule 144A; or

(B) in accordance with Rule 903 of Regulation S;

(ii) neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of any form of general solicitation or general advertising (within the meaning of Regulation D) in the United States or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Act;

(iii) in connection with any sale pursuant to Section 4(b)(i)(A), it has taken or will take reasonable steps to ensure that the purchaser of such Securities is aware that such sale is being made in reliance on Rule 144A under the Act;

(iv) neither it, nor any of its Affiliates nor any person acting on its or their behalf has engaged or will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and

(v) it is an "accredited investor" (as defined in 501(a) of Regulation D).

5. *Agreements.* Each of the Company and the Guarantors agrees with each Purchaser as follows:

(a) During the period from the Closing Date until two years after the Closing Date, the Company will not, and will use reasonable efforts to cause their respective Affiliate subsidiaries not to, resell any Securities that have been acquired by any of them except for Securities resold in a transaction registered under the Act.

(b) The Company agrees that it will not, and will use reasonable efforts to cause its Affiliates and any person acting on their behalf not to, make offers or sales of any security (as defined in the Act), or solicit offers to buy any security, under circumstances that could be integrated with the sale of the Securities in a manner that would reasonably be expected to require the registration of the Securities under the Act.

(c) None of the Company and its Affiliates and any person acting on their behalf will engage in any form of general solicitation or general advertising



(within the meaning of Regulation D) in connection with any offer or sale of the Securities in the United States.

(d) So long as any of the Securities are “restricted securities” within the meaning of Rule 144(a)(3) under the Act, the Company and each of the Guarantors will, unless they are subject to and comply with Section 13 or 15(d) of the Exchange Act or file the periodic reports contemplated by such provisions pursuant to the terms of the Indenture, provide to each holder of such restricted securities and to each prospective purchaser (as designated by such holder) of such restricted securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Act. This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders, from time to time of such restricted securities.

(e) None of the Company and its Affiliates and any person acting on their behalf will engage in any directed selling efforts with respect to the Securities, and each of them will comply with the offering restrictions requirement of Regulation S. Terms used in this paragraph have the meanings given to them by Regulation S.

(f) The Company will cooperate with the Purchasers and use its commercially reasonable efforts to permit the Securities to be eligible for clearance and settlement through The Depository Trust Company (“DTC”).

(g) The Company agrees to pay the costs and expenses relating to the following matters: (i) the reasonable, documented fees of the Trustee (and its counsel); (ii) any stamp or other issuance or transfer taxes or duties or other similar fees or charges imposed by any governmental authority in connection with the original issuance and sale of the Notes, save for any such taxes, duties, fees or charges which arise or are increased as a result of any document effecting the registration, issue or delivery of the Notes either being signed or executed in the United Kingdom or being brought into the United Kingdom; (iii) the approval of the Securities for book-entry transfer by DTC; (iv) the fees and expenses of the Company’s counsel; (v) the costs of reproducing and distributing each of the Transaction Documents and the Indenture; and (vi) all other costs and expenses incident to the performance by the Company and the Guarantors of their obligations hereunder.

6. *Conditions to the Obligations of the Purchasers.* The obligations of the Purchasers to purchase the Securities shall be subject to the accuracy in all material respects (except to the extent already qualified by materiality, in which case such obligations shall be subject to the accuracy in all respects) of the representations and warranties of the Company and the Guarantors contained herein at the Closing Date and the following additional conditions:

(a) No Event of Default (as defined under any of the Company Material Debt Instruments) shall have occurred and be continuing at the Closing Date under any of the Company Material Debt Instruments. As used in this Agreement, “**Company Material Debt Instruments**” means, as of any date of determination, the indentures, credit agreements and loan agreements listed in the Index to Exhibits of the Form 10-K of Norwegian Cruise Line Holdings Ltd. for the fiscal year ended December 31, 2020 to the extent they are still in effect as of the Closing Date, and any additional indentures, credit agreements and loan agreements entered into subsequently to the extent such debt instruments would be required to be listed in the Index to Exhibits of the Form 10-K of Norwegian Cruise Line Holdings Ltd. for a subsequent fiscal year and to the extent they are still in effect as of the Closing Date.

(b) The Company shall have requested and used commercially reasonable efforts to cause Kirkland & Ellis LLP, counsel for the Company and the Guarantors, to furnish to the Purchasers an opinion letter dated the Closing Date and in form and substance reasonably satisfactory to the Purchasers.

(c) The Company and the Guarantors shall have requested and used commercially reasonable efforts to cause (i) Walkers, British Virgin Islands counsel for the Company and the Guarantors, to have furnished to the Purchasers its written opinion, dated the Closing Date and addressed to the Purchasers, in form and substance reasonably satisfactory to the Purchasers, (ii) Walkers (Bermuda) Limited, Bermuda counsel for the Company and the Guarantors, to have furnished to the Purchasers its written opinion, dated the Closing Date and addressed to the Purchasers, in form and substance reasonably satisfactory to the Purchasers, (iii) Graham Thompson Attorneys, Bahamas counsel for the Company and the Guarantors, to have furnished to the Purchasers its written opinion, dated the Closing Date and addressed to the Purchasers, in form and substance reasonably satisfactory to the Purchasers and (iv) Kirkland & Ellis International LLP, U.K. counsel for the Company and the Guarantors, to have furnished to the Purchasers its written opinion, dated the Closing Date and addressed to the Purchasers, in form and substance reasonably satisfactory to the Purchasers.

(d) On the Closing Date, the Notes shall have been duly executed and delivered on behalf of the Company by a duly authorized officer and duly authenticated by the Trustee.

(e) On the Closing Date, the Purchasers shall have received fully executed copies of the Transaction Documents required to be delivered on the Closing Date.

(f) Prior to the Closing Date, the Company shall have taken all action reasonably required to be taken by it to have the Securities eligible for clearance and settlement through DTC.

The documents required to be delivered by this Section 6 will be available for inspection by the Purchasers on the Business Day prior to the Closing Date.

7. *Representations and Indemnities to Survive.* The respective agreements, representations, warranties, indemnities and other statements of each of the Company, the Guarantors or their respective officers and of the Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of the Purchasers, the Company or the Guarantors, and will survive delivery of and payment for the Securities. The provisions of Section 5(g) hereof shall survive the termination or cancellation of this Agreement.

8. *Notices.* All communications hereunder will be in writing and effective only on receipt, and:

(a) if to the Purchasers, shall be sent by hand delivery, mail, overnight courier or facsimile transmission to:

[to come]

(b) if to the Company shall be sent by mail, telex, overnight courier or facsimile transmission to:

NCL Corporation Ltd.  
7665 Corporate Center Drive  
Miami, Florida 33126  
Attention: General Counsel

*With a copy to:*

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Attention: Sophia Hudson

9. *Successors.* This Agreement will inure to the benefit of and be binding upon the parties hereto and at and after the Closing Date, the Company, the Guarantors and their respective successors and its successors and, except as expressly set forth in Section 5(d) hereof, no other person will have any right or obligation hereunder. No purchaser of Securities from any Purchaser shall be deemed to be a successor merely by reason of such purchase.

10. **GOVERNING LAW; WAIVER OF JURY TRIAL. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE GOVERNED BY AND**

**CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO ITS PRINCIPLES OF CONFLICTS OF LAWS. THE COMPANY, THE GUARANTORS AND YOU HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL AND NEW YORK STATE COURTS LOCATED IN THE CITY OF NEW YORK IN CONNECTION WITH ANY DISPUTE RELATING TO THIS AGREEMENT OR ANY MATTERS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

11. *Submission to Jurisdiction; Appointment of Agent for Service of Process.* Each of the Company and the Guarantors hereby irrevocably designates, appoints and empowers Corporate Creations International, Inc. as its designee, appointee and agent to receive, accept and acknowledge for and on its behalf, and its properties, assets and revenues, service of any and all legal process, summons, notices and documents that may be served in any action, suit or proceeding brought against it in any such United States or state court located in the County of New York with respect to its obligations, liabilities or any other matter arising out of or in connection with this Agreement and that may be made on such designee, appointee and agent in accordance with legal procedures prescribed for such courts. If for any reason such designee, appointee and agent hereunder shall cease to be available to act as such, each of the Company and the Guarantors agrees to designate a new designee, appointee and agent in the County of New York on the terms and for the purposes of this Section 11 satisfactory to the Trustee. Each of the Company and the Guarantors further hereby irrevocably consents and agrees to the service of any and all legal process, summons, notices and documents in any such action, suit or proceeding against them by serving a copy thereof upon the relevant agent for service of process referred to in this Section 11 (whether or not the appointment of such agent shall for any reason prove to be ineffective or such agent shall accept or acknowledge such service) or by mailing copies thereof by registered or certified air mail, postage prepaid, to the Company and the Guarantors, at the address specified in or designated pursuant to this Agreement. Each of the Company and the Guarantors agrees that the failure of any such designee, appointee and agent to give any notice of such service to it shall not impair or affect in any way the validity of such service or any judgment rendered in any action or proceeding based thereon. Nothing herein shall in any way be deemed to limit the ability of the Trustee to service any such legal process, summons, notices and documents in any other manner permitted by applicable law or to obtain jurisdiction over the Company or any Guarantor or bring actions, suits or proceedings against them in such other jurisdictions, and in such manner, as may be permitted by applicable law. Each of the Company and the Guarantors hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Agreement brought in the United States federal courts located in the County of New York or the courts of the State of New York located in the County of New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any

such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

12. *Waiver of Immunities.* To the extent that any of the Company, the Guarantors or any of their respective properties, assets or revenues may have or may hereafter become entitled to, or have attributed to them, any right of immunity, on the grounds of sovereignty, from any legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, or from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any jurisdiction in which proceedings may at any time be commenced, with respect to their obligations, liabilities or any other matter under or arising out of or in connection with this Agreement, each of the Company and the Guarantors hereby irrevocably and unconditionally, to the extent permitted by applicable law, waives and agrees not to plead or claim any such immunity and consents to such relief and enforcement.

13. *Counterparts.* This Agreement may be signed in one or more counterparts (which may be delivered in original form or facsimile or “pdf” file thereof), each of which when so executed shall constitute an original and all of which together shall constitute one and the same agreement. The words “execution,” “signed,” “signature,” and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement, if any, shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, “pdf,” “tif” or “jpg”) and other electronic signatures (including, without limitation, DocuSign and AdobeSign). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

14. *Headings.* The section headings used herein are for convenience only and shall not affect the construction hereof.

15. *Definitions.* The terms that follow, when used in this Agreement, shall have the meanings indicated.

“**Act**” shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

“**Affiliate**” shall have the meaning specified in Rule 501(b) of Regulation D.

“**Business Day**” shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which commercial banking institutions or trust companies are authorized or required by law to close in New York City.

“**Commission**” shall mean the Securities and Exchange Commission.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

“**Investment Company Act**” shall mean the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder.

“**Regulation D**” shall mean Regulation D under the Act.

“**Regulation S**” shall mean Regulation S under the Act.

“**Trust Indenture Act**” shall mean the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission promulgated thereunder.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, where upon this letter and your acceptance shall represent a binding agreement among the Company the Guarantors and the several Purchasers.

Very truly yours,

NCL CORPORATION LTD.

By: \_\_\_\_\_  
Name:  
Title:

NCL FINANCE, LTD.

By: \_\_\_\_\_  
Name:  
Title:

NCL UK IP CO LTD., as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

KRYSTALSEA LIMITED, as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to Note Purchase Agreement]

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NCL (BAHAMAS) LTD., as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

NCL US IP CO 2, LLC, as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

GREAT STIRRUP CAY LIMITED, as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to Note Purchase Agreement]

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The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

[PURCHASERS]

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Note Purchase Agreement]

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Schedule I

Principal Amount  
of Securities To  
Be Purchased

Purchaser

---

[Purchaser]

□

[Purchaser]

□

[Purchaser]

□

[Purchaser]

□

**Total**

**\$ □**

---

**Annex A**

The Guarantors

<b>Name of Guarantor</b>	<b>Jurisdiction of Incorporation / Organization</b>
KRYSTALSEA LIMITED	British Virgin Islands
NCL (Bahamas) Ltd.	Bermuda
Great Stirrup Cay Limited	Bahamas
NCL US IP Co 2, LLC	Delaware
NCL UK IP Co Ltd.	England and Wales

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Form of Indenture

[Attached.]

Exhibit B

[Commitment Letter – Option Contract Version]

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**NCL CORPORATION LTD.,**  
as Issuer,

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee, Principal Paying Agent, Transfer Agent and  
Registrar,

**INDENTURE**

Dated as of [·], 202[1][2]

**8.00% SENIOR NOTES DUE 2024**

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## TABLE OF CONTENTS

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PAGE

### ARTICLE ONE DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01	Definitions	1
Section 1.02	Other Definitions	28
Section 1.03	Rules of Construction	28

### ARTICLE TWO THE NOTES

Section 2.01	The Notes	29
Section 2.02	Execution and Authentication	30
Section 2.03	Registrar, Transfer Agent and Paying Agent	31
Section 2.04	Paying Agent to Hold Money	32
Section 2.05	Holder Lists	32
Section 2.06	Transfer and Exchange	32
Section 2.07	Replacement Notes	35
Section 2.08	Outstanding Notes	35
Section 2.09	Notes Held by Issuer	36
Section 2.10	Definitive Registered Notes	36
Section 2.11	Cancellation	37
Section 2.12	Defaulted Interest	37
Section 2.13	Computation of Interest	38
Section 2.14	ISIN and CUSIP Numbers	38
Section 2.15	Issuance of Additional Notes	38

### ARTICLE THREE REDEMPTION; OFFERS TO PURCHASE

Section 3.01	Right of Redemption	38
Section 3.02	Notices to Trustee	38
Section 3.03	Selection of Notes to Be Redeemed	38
Section 3.04	Notice of Redemption	39
Section 3.05	Deposit of Redemption Price	40
Section 3.06	[Reserved]	40
Section 3.07	Payment of Notes Called for Redemption	40
Section 3.08	Notes Redeemed in Part	40
Section 3.09	Redemption for Changes in Taxes	41

### ARTICLE FOUR COVENANTS

Section 4.01	Payment of Notes	42
Section 4.02	Corporate Existence	42
Section 4.03	Maintenance of Properties	42
Section 4.04	Insurance	42

Section 4.05	Statement as to Compliance	42
Section 4.06	Incurrence of Indebtedness and Issuance of Preferred Stock or Preference Shares	43
Section 4.07	Liens	48
Section 4.08	Restricted Payments	49
Section 4.09	Asset Sales	53
Section 4.10	Transactions with Affiliates	55
Section 4.11	Purchase of Notes upon a Change of Control	57
Section 4.12	Additional Amounts	59
Section 4.13	[Reserved]	61
Section 4.14	[Reserved]	61
Section 4.15	Additional Guarantees	61
Section 4.16	Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries	62
Section 4.17	Designation of Restricted and Unrestricted Subsidiaries	64
Section 4.18	[Reserved]	64
Section 4.19	Reports to Holders	65

ARTICLE FIVE  
MERGER, AMALGAMATION, CONSOLIDATION OR SALE OF ASSETS

Section 5.01	Merger, Amalgamation, Consolidation or Sale of Assets	66
Section 5.02	Successor Substituted	67

ARTICLE SIX  
DEFAULTS AND REMEDIES

Section 6.01	Events of Default	68
Section 6.02	Acceleration	70
Section 6.03	Other Remedies	72
Section 6.04	Waiver of Past Defaults	72
Section 6.05	Control by Majority	72
Section 6.06	Limitation on Suits	73
Section 6.07	Unconditional Right of Holders to Bring Suit for Payment	73
Section 6.08	Collection Suit by Trustee	73
Section 6.09	Trustee May File Proofs of Claim	74
Section 6.10	Application of Money Collected	74
Section 6.11	Undertaking for Costs	75
Section 6.12	Restoration of Rights and Remedies	75
Section 6.13	Rights and Remedies Cumulative	75
Section 6.14	Delay or Omission Not Waiver	75
Section 6.15	Record Date	75
Section 6.16	Waiver of Stay or Extension Laws	75

ARTICLE SEVEN  
TRUSTEE

Section 7.01	Duties of Trustee	76
Section 7.02	Certain Rights of Trustee	77
Section 7.03	Individual Rights of Trustee	79
Section 7.04	Disclaimer of Trustee	80
Section 7.05	Compensation and Indemnity	80
Section 7.06	Replacement of Trustee	81

Section 7.07	Successor Trustee by Merger	82
Section 7.08	[Reserved]	82
Section 7.09	Eligibility; Disqualification	82
Section 7.10	Appointment of Co-Trustee	82
Section 7.11	Resignation of Agents	83
Section 7.12	Agents General Provisions	84

ARTICLE EIGHT  
 DEFEASANCE; SATISFACTION AND DISCHARGE

Section 8.01	Issuer’s Option to Effect Defeasance or Covenant Defeasance	85
Section 8.02	Defeasance and Discharge	85
Section 8.03	Covenant Defeasance	86
Section 8.04	Conditions to Defeasance	86
Section 8.05	Satisfaction and Discharge of Indenture	87
Section 8.06	Survival of Certain Obligations	88
Section 8.07	Acknowledgment of Discharge by Trustee	88
Section 8.08	Application of Trust Money	88
Section 8.09	Repayment to Issuer	88
Section 8.10	Indemnity for Government Securities	88
Section 8.11	Reinstatement	88

ARTICLE NINE  
 AMENDMENTS AND WAIVERS

Section 9.01	Without Consent of Holders	89
Section 9.02	With Consent of Holders	90
Section 9.03	Effect of Supplemental Indentures	91
Section 9.04	Notation on or Exchange of Notes	91
Section 9.05	[Reserved]	91
Section 9.06	Notice of Amendment or Waiver	91
Section 9.07	Trustee to Sign Amendments, Etc	91
Section 9.08	Additional Voting Terms; Calculation of Principal Amount	91

ARTICLE TEN  
 GUARANTEE

Section 10.01	Note Guarantees	92
Section 10.02	Subrogation	93
Section 10.03	Release of Note Guarantees	93
Section 10.04	Limitation and Effectiveness of Note Guarantees	94
Section 10.05	Notation Not Required	94
Section 10.06	Successors and Assigns	94
Section 10.07	No Waiver	94
Section 10.08	Modification	94



ARTICLE ELEVEN  
[RESERVED]

ARTICLE TWELVE  
MISCELLANEOUS

Section 12.01	Notices	95
Section 12.02	Certificate and Opinion as to Conditions Precedent	96
Section 12.03	Statements Required in Certificate or Opinion	96
Section 12.04	Rules by Trustee, Paying Agent and Registrar	97
Section 12.05	No Personal Liability of Directors, Officers, Employees and Shareholders	97
Section 12.06	Legal Holidays	97
Section 12.07	Governing Law	97
Section 12.08	Jurisdiction	97
Section 12.09	No Recourse Against Others	98
Section 12.10	Successors	98
Section 12.11	Counterparts	98
Section 12.12	Table of Contents and Headings	98
Section 12.13	Severability	98
Section 12.14	Currency Indemnity	98

**Schedules**

Schedule I	– Subsidiary Guarantors
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**Exhibits**

Exhibit A	– Form of Note
Exhibit B	– Form of Transfer Certificate for Transfer from Restricted Global Note to Regulation S Global Note
Exhibit C	– Form of Transfer Certificate for Transfer from Regulation S Global Note to Restricted Global Note
Exhibit D	– Form of Supplemental Indenture

**INDENTURE**, dated as of [-], 202[1][2] among NCL Corporation Ltd., an exempted company incorporated under the laws of Bermuda and tax resident in the United Kingdom (the “**Issuer**”), the Guarantors party hereto and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, as trustee (in such capacity, the “**Trustee**”), as Principal Paying Agent, as Transfer Agent and as Registrar.

#### **RECITALS**

The Issuer has duly authorized the execution and delivery of this Indenture to provide for the issuance of its 8.00% Senior Notes due 2024 issued on the date hereof (the “**Original Notes**”) and any additional senior notes (the “**Additional Notes**”) that may be issued after the Issue Date in compliance with this Indenture. The Original Notes and the Additional Notes together are referred to herein as the “**Notes**”. The Issuer has received good and valuable consideration for the execution and delivery of this Indenture. All necessary acts and things have been done to make (i) the Notes, when duly issued and executed by the Issuer and authenticated and delivered hereunder, the legal, valid and binding obligations of the Issuer and (ii) this Indenture a legal, valid and binding agreement of the Issuer in accordance with the terms of this Indenture.

#### **NOW, THEREFORE, THIS INDENTURE WITNESSETH:**

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders, as follows:

#### **ARTICLE ONE DEFINITIONS AND INCORPORATION BY REFERENCE**

##### Section 1.01 *Definitions.*

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

- (a) Indebtedness of any other Person existing at the time such other Person is amalgamated or merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming, a Restricted Subsidiary; and
- (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

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

“**Applicable Premium**” means, with respect to any Note on any Redemption Date, the greater of:

- (1) 1.0% of the principal amount of the Note; and
-

(2) the excess of:

(a) the present value at such Redemption Date of (i) the Redemption Price of the Note at the Par Call Date, *plus* (ii) all required interest payments due on the Note through the Par Call Date (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date *plus* 50 basis points; over

(b) the principal amount of the Notes.

For the avoidance of doubt, calculation of the Applicable Premium shall not be an obligation or duty of the Trustee or the Registrar or any Paying Agent.

Unless the Issuer defaults in the payment of the Redemption Price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date.

“**Appraised Value**” of any Vessel at any time means the value of such Vessel as set forth on an independent appraisal (conducted no more than 12 months prior to any determination of the Appraised Value) and relied upon by the Issuer in good faith.

“**ARCA**” means the Fifth Amended and Restated Credit Agreement, dated as of May 8, 2020, among NCL Corporation Ltd., as borrower, Voyager Vessel Company, LLC, as co-borrower, the subsidiary guarantors party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and a syndicate of other banks party thereto as joint bookrunners, arrangers, co-documentation agents and lenders, as amended by that certain Amendment No. 1, dated as of January 29, 2021, and by that certain Amendment No. 2, dated as of March 25, 2021, and as may further be amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or any successor or replacement agreement or agreements or increasing the amount loaned thereunder (in each case subject to compliance with Section 4.06) or altering the maturity thereof.

“**Asset Sale**” means:

(a) the sale, lease, conveyance or other disposition of any assets by the Issuer or any of its Restricted Subsidiaries; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries taken as a whole will be governed by Section 4.11 and/or Article Five and not by Section 4.09; and

(b) the issuance of Equity Interests by any Restricted Subsidiary or the sale by the Issuer or any of its Restricted Subsidiaries of Equity Interests in any of the Restricted Subsidiaries (in each case, other than directors’ qualifying shares and shares to be held by third parties to meet the applicable legal requirements).

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

(a) any single transaction or series of related transactions that involves assets or Equity Interests having a Fair Market Value of less than \$125.0 million;

- (b) a sale, lease, conveyance or other disposition of assets or Equity Interests between or among the Issuer and any Restricted Subsidiary;
- (c) an issuance of Equity Interests by a Restricted Subsidiary to the Issuer or to a Restricted Subsidiary;
- (d) the sale, lease, conveyance or other disposition of inventory, insurance proceeds or other assets in the ordinary course of business and any sale or other disposition of damaged, worn-out or obsolete assets or assets that are no longer useful in the conduct of the business of the Issuer and its Restricted Subsidiaries;
- (e) licenses and sublicenses by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business;
- (f) any surrender or waiver of contract rights or settlement, release, recovery on or surrender of contract, tort or other claims in the ordinary course of business;
- (g) any transfer, assignment or other disposition deemed to occur in connection with the creation or granting of Liens not prohibited under Section 4.07;
- (h) the sale or other disposition of cash or Cash Equivalents;
- (i) a Restricted Payment that does not violate Section 4.08 or a Permitted Investment;
- (j) the disposition of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;
- (k) the foreclosure, condemnation or any similar action with respect to any property or other assets or a surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;
- (l) the sale of any property in a sale and leaseback transaction that is entered into within six months of the acquisition of such property or completion of the construction of the applicable Vessel; and
- (m) time charters and other similar arrangements in the ordinary course of business.

“**Attributable Debt**” means, with respect to any sale and leaseback transaction, at the time of determination, the present value (discounted at the interest rate reasonably determined in good faith by a responsible financial or accounting officer of the Issuer to be the interest rate implicit in the lease determined in accordance with GAAP, or, if not known, at the Issuer’s incremental borrowing rate) of the total obligations of the lessee of the property subject to such lease for rental payments during the remaining term of the lease included in such sale and leaseback transaction, including any period for which such lease has been extended or may, at the option of the lessor, be extended, or until the earliest date on which the lessee may terminate such lease without penalty or upon payment of penalty (in which case the rental payments shall include such penalty), after excluding from such rental payments all amounts required to be paid on account of maintenance and repairs, insurance, taxes, assessments, water, utilities and similar charges; *provided, however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of “Capital Lease Obligation.”

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

“**Bankruptcy Law**” means Title 11 of the United States Code, as amended, or any similar U.S. federal or state law or the laws of any other jurisdiction (or any political subdivision thereof) relating to bankruptcy, insolvency, winding up, voluntary or judicial liquidation, composition with creditors, reprieve from payment, controlled management, fraudulent conveyance, general settlement with creditors, reorganization or similar or equivalent laws affecting the rights of creditors generally. For the avoidance of doubt, the provisions of the UK Companies Act 2006 governing a solvent reorganisation or a voluntary liquidation thereunder shall not be deemed to be Bankruptcy Laws.

“**Beneficial Owner**” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the U.S. Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the U.S. Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“**Board of Directors**” means:

(a) with respect to a corporation, a Bermuda exempted company, a BVI business company, a Cayman Islands exempted company and a Bahamas international business company, the board of directors of the corporation or company or any committee thereof duly authorized to act on behalf of such board;

(b) with respect to a partnership, the board of directors of the general partner of the partnership;

(c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(d) with respect to any other Person, the board or committee of such Person serving a similar function.

“**Book-Entry Interest**” means a beneficial interest in a Global Note held through and shown on, and transferred only through, records maintained in book-entry form by DTC and its nominees and successors.

“**Business Day**” means a day other than a Saturday, Sunday or other day on which banking institutions in New York or a place of payment under this Indenture are authorized or required by law, regulation or executive order to close.

“**Capital Lease Obligation**” means, with respect to any Person, any obligation of such Person under a lease of (or other agreement conveying the right to use) any property (whether real, personal or mixed), which obligation is required to be classified and accounted for as a capital lease obligation under GAAP, and, for purposes of this Indenture, the amount of such obligation at any date will be the capitalized amount thereof at such date, determined in accordance with GAAP and the Stated Maturity thereof will be the date of last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

“**Capital Stock**” means:

(a) in the case of a corporation, corporate stock;

- (b) in the case of a Bermuda exempted company, a Cayman Islands exempted company and a Bahamas international business company, shares (of any class) in its capital;
- (c) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (d) in the case of an Isle of Man company or a BVI business company, shares (of any class) of the company;
- (e) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (f) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

- (a) direct obligations (or certificates representing an interest in such obligations) issued by, or unconditionally guaranteed by, the government of a member state of the European Union, the United States of America, the United Kingdom, Switzerland or Canada (including, in each case, any agency or instrumentality thereof), as the case may be, the payment of which is backed by the full faith and credit of the relevant member state of the European Union or the United States of America, the United Kingdom, Switzerland or Canada, as the case may be, and which are not callable or redeemable at the Issuer’s option;
- (b) overnight bank deposits, time deposit accounts, certificates of deposit, banker’s acceptances and money market deposits (and similar instruments) with maturities of 12 months or less from the date of acquisition issued by a bank or trust company which is organized under, or authorized to operate as a bank or trust company under, the laws of a member state of the European Union or of the United States of America or any state thereof, Switzerland, the United Kingdom, Australia or Canada; *provided* that such bank or trust company has capital, surplus and undivided profits aggregating in excess of \$250.0 million (or the foreign currency equivalent thereof as of the date of such investment) and whose long-term debt is rated “A-1” or higher by Moody’s or “A+” or higher by S&P or the equivalent rating category of another internationally recognized rating agency; *provided, further*, that any cash held pursuant to clause (f) below not covered by the foregoing may be held through overnight bank deposits, time deposit accounts, certificates of deposit, banker’s acceptances and money market deposits (and similar instruments) with maturities of 12 months or less from the date of acquisition issued by a bank or trust company organized and operating in the applicable jurisdiction;
- (c) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a) and (b) above entered into with any financial institution meeting the qualifications specified in clause (b) above;
- (d) commercial paper having one of the two highest ratings obtainable from Moody’s or S&P and, in each case, maturing within one year after the date of acquisition;
- (e) money market funds or other mutual funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (d) of this definition; and

(f) cash in any currency in which the Issuer and its subsidiaries now or in the future operate, in such amounts as the Issuer determines to be necessary in the ordinary course of their business.

“**Change of Control**” means the occurrence of either of the following:

(a) the sale, lease or transfer (other than by way of merger, amalgamation or consolidation, including any merger, amalgamation or consolidation solely for the purpose of reorganizing the Issuer in another jurisdiction to realize tax or other benefits), in one or a series of related transactions, of all or substantially all the assets of the Issuer and its Subsidiaries, taken as a whole, to a Person other than NCL Holdings, the Issuer or any Subsidiary; or

(b) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of ultimate beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the Voting Stock of the Issuer.

“**Change of Control Triggering Event**” means the occurrence of both a Change of Control and a Rating Event.

“**Clearstream**” means Clearstream Banking, *société anonyme*.

“**Code**” means the Internal Revenue Code of 1986, as amended.

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

“**Consolidated EBITDA**” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus* (a) the following to the extent deducted in calculating such Consolidated Net Income, without duplication:

(1) provision for Taxes (including without duplication, Tax distributions) based on income, profits or capital of a Person and its Subsidiaries for such period, including, without limitation, state, franchise and similar taxes;

(2) 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 a Person and its Subsidiaries for such period (net of interest income of a Person and its Subsidiaries for such period);

(3) depreciation and amortization expenses of a Person and its Subsidiaries for such period;

(4) 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);

(5) any other non-cash charges; *provided* that, for purposes of this subclause (5) 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; and

(6) 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 the provisions described under Section 4.10,

*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 Issuer 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).

“**Consolidated Net Income**” means, with respect to any specified Person for any period, the aggregate of the net income (loss) attributable to such Person and its Subsidiaries which are Restricted Subsidiaries for such period, determined on a consolidated basis, determined in accordance with GAAP and without any reduction in respect of preferred stock dividends; *provided that*:

(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), 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 Issuer) 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 any acquisition that is consummated on or after the Issue 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 Issue 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 interest rate 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 Indebtedness**” means, at any date, 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 Issuer and the Subsidiaries determined on a consolidated basis on such date in accordance with GAAP.

“**Consolidated Total Leverage Ratio**” means as of any date of determination, the ratio of Consolidated Total Indebtedness on such day less the unrestricted cash and Permitted Investments to Consolidated EBITDA of the Issuer and its Restricted Subsidiaries as of and for the Issuer’s most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of calculation; in each case, with such *pro forma* adjustments as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of “Fixed Charge Coverage Ratio.”

“**continuing**” means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

“**Credit Facilities**” means one or more debt facilities, instruments or arrangements incurred by the Issuer or any Restricted Subsidiary (including but not limited to the ARCA) with banks, other institutions or investors providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions

against such receivables), letters of credit, notes or other Indebtedness, in each case, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time (and whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or trustees or other banks or institutions and whether provided under the ARCA or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any notes and letters of credit issued pursuant thereto and any Guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges, agreements, security agreements and collateral documents). Without limiting the generality of the foregoing, the term “Credit Facilities” shall include any agreement or instrument (1) changing the maturity of any Indebtedness incurred thereunder or contemplated thereby, (2) adding Subsidiaries of the Issuer as additional borrowers, issuers or guarantors thereunder, (3) increasing the amount of Indebtedness incurred thereunder or available to be borrowed thereunder or (4) otherwise altering the terms and conditions thereof. Notwithstanding the foregoing, no instrument shall constitute a “Credit Facility” for the purposes of this definition unless such instrument is designated to the Trustee in writing by the Issuer as constituting a “Credit Facility.”

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

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

“**Definitive Registered Note**” means, with respect to the Notes, a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A attached hereto except that such Note shall not bear the legends applicable to Global Notes and shall not have the “Schedule of Principal Amount in the Global Note” attached thereto.

“**Disqualified Stock**” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the six-month anniversary of the date that the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the issuer thereof to repurchase such Capital Stock upon the occurrence of a “change of control” or an “asset sale” will not constitute Disqualified Stock if the terms of such Capital Stock provide that the issuer thereof may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.08. For purposes hereof, the amount of Disqualified Stock which does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the Fair Market Value of such Disqualified Stock, such Fair Market Value to be determined as set forth herein.

“**DTC**” means The Depository Trust Company, a New York corporation, its nominees and successors.

“**ECA Entities**” means any entity that directly owns an ECA Vessel and any vessel with an Appraised Value in excess of \$100.0 million that is purchased with the proceeds of any sale of any ECA Vessel or ECA Entity.

“**ECA Facilities**” means the agreements governing Existing Indebtedness, other than the ARCA and the Existing Notes, under which the obligations are secured by Liens on one or more ECA Vessels (each, an “**ECA Facility**”).

“**ECA Vessels**” means Norwegian Breakaway, Norwegian Getaway, Norwegian Escape, Norwegian Joy, Norwegian Bliss, Norwegian Encore, Marina, Riviera, Seven Seas Explorer, Seven Seas Splendor and any vessel with an Appraised Value in excess of \$100.0 million that is purchased with the proceeds of any sale of any ECA Vessel or ECA Entity.

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

“**Equity Offering**” means a public or private sale either (a) of the Equity Interests (other than Disqualified Stock and other than offerings registered on Form S-8 (or any successor form) under the U.S. Securities Act or any similar offering in other jurisdictions) of the Issuer or (b) of the Equity Interests of a direct or indirect parent entity of the Issuer to the extent that the net proceeds therefrom are contributed to the equity capital of the Issuer or any of its Restricted Subsidiaries.

“**Euroclear**” means Euroclear SA/NV.

“**Event of Loss**” means the actual or constructive total loss, arranged or compromised total loss, destruction, condemnation, confiscation, requisition, seizure or forfeiture of, or other taking of title or use of, a Vessel.

“**Exchangeable Notes**” means the 5.375% exchangeable senior notes due 2025 issued by the Issuer and the 6.00% exchangeable senior notes due 2024 issued by the Issuer, each as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the existing holders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or any successor or replacement agreement or agreements or increasing the amount of notes issued thereunder (in each case subject to compliance with Section 4.06) or altering the maturity thereof.

“**Existing Indebtedness**” means all Indebtedness of the Issuer and its Restricted Subsidiaries in existence on the Issue Date and the Exchangeable Notes.

“**Existing Notes**” means the Existing Secured Notes, the Exchangeable Notes and the Existing Unsecured Notes, collectively.

“**Existing Secured Notes**” means the 12.25% senior secured notes due 2024 issued by the Issuer and the 10.25% senior secured notes due 2026 issued by the Issuer, each as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the existing holders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or any successor or replacement agreement or agreements or increasing the amount of notes issued thereunder (in each case subject to compliance with Section 4.06) or altering the maturity thereof.

“**Existing Unsecured Notes**” means the 3.625% senior unsecured notes due 2024 issued by the Issuer, the 5.875% senior unsecured notes due 2026 issued by the Issuer and the 6.125% senior unsecured notes due 2028 issued by NCL Finance, Ltd., each as amended, restated, supplemented, waived, replaced

(whether or not upon termination, and whether with the existing holders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or any successor or replacement agreement or agreements or increasing the amount of notes issued thereunder (in each case subject to compliance with Section 4.06) or altering the maturity thereof.

“**Fair Market Value**” means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress of either party, determined in good faith by the Issuer’s Chief Executive Officer or responsible accounting or financial officer of the Issuer.

“**FATCA**” means current Sections 1471 through 1474 of the Code or any amended or successor version that is substantively comparable and not materially more onerous to comply with, any regulations promulgated thereunder, any official interpretations thereof, any intergovernmental agreement between a non-U.S. jurisdiction and the United States (or any related law or administrative practices or procedures) implementing the foregoing or any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above).

“**FATCA Withholding**” means any withholding or deduction required under FATCA.

“**Fixed Charge Calculation Date**” has the meaning assigned to such term in the definition of “Fixed Charge Coverage Ratio.”

“**Fixed Charge Coverage Ratio**” means, with respect to any Person for any period, the ratio of Consolidated EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the Issuer or any of its Restricted Subsidiaries incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Fixed Charge Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or preferred stock, as if the same had occurred at the beginning of the applicable four-quarter 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, after which delivery date such Indebtedness shall be deemed to have been incurred on the first day of such four- quarter reference period; *provided, however*, that the *pro forma* calculation of Fixed Charges shall not give effect to (i) any Permitted Debt incurred on the Fixed Charge Calculation Date or (ii) the discharge on the Fixed Charge Calculation Date of any Indebtedness to the extent that such discharge results from the proceeds of Permitted Debt.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP) and any operational changes, business realignment projects or initiatives, restructurings or reorganizations that the Issuer or any Restricted Subsidiary has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Calculation Date (each, for purposes of this definition, a “*pro forma event*”) shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, restructurings or reorganizations which would include cost savings resulting from head count reduction, closure of facilities and similar operational and other cost saving (and the change of any associated fixed charge obligations and the change in

Consolidated EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. On or following the delivery date of any new Vessel and for so long as such four-quarter reference period includes such delivery date, in the event that the Issuer or any Subsidiary took delivery of any new Vessel during such four-quarter reference period, Consolidated EBITDA shall include the projected Consolidated EBITDA (based on reasonable assumptions) for such Vessel as if such Vessel had been in operation on the first day of such four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, restructuring or reorganization that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project or initiative, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Issuer as set forth in an Officer's Certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from the applicable event. Any calculation of the Fixed Charge Coverage Ratio may be made, at the option of the Issuer, either (i) at the time the Board of Directors of the Issuer approves the action necessitating the calculation of the Fixed Charge Coverage Ratio or (ii) at the completion of such action necessitating the calculation of the Fixed Charge Coverage Ratio.

If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve-month period immediately prior to the date of determination in a manner consistent with that used in calculating Consolidated EBITDA for the applicable period.

“**Fixed Charges**” means, with respect to any specified Person for any period, the sum, without duplication, of:

(a) the consolidated interest expense (net of interest income) of such Person and its Restricted Subsidiaries for such period related to Indebtedness, whether paid or accrued, including, without limitation, amortization of debt discount (but not debt issuance costs), non-cash interest payments, the interest component of deferred payment obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; *plus*

(b) the consolidated interest expense of such Person and its Subsidiaries which are Restricted Subsidiaries that was capitalized during such period; *plus*

(c) any interest on Indebtedness of another Person that is guaranteed by such Person or one of its Subsidiaries which are Restricted Subsidiaries or is secured by a Lien on assets of such Person or one of its Subsidiaries which are Restricted Subsidiaries; *plus*

(d) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of any Restricted Subsidiary, other than dividends on Equity Interests payable to the Issuer or a Restricted Subsidiary, *times* (b) a fraction, the numerator of which is one and the denominator of which is one minus then current combined national, state and local statutory tax rate of such Person, expressed as a decimal, as estimated in good faith by a responsible accounting or financial officer of the Issuer.

Notwithstanding any of the foregoing, Fixed Charges shall not include (i) any payments on any operating leases, (ii) any non-cash interest expense resulting from the application of Accounting Standards Codification Topic 470-20 “Debt — Debt with Conversion Options— Recognition” or (iii) the interest component of all payments associated with Capital Lease Obligations.

“**GAAP**” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect on the Issue Date. For the purposes of this Indenture, the term “consolidated” with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

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

“**Guarantee**” means a guarantee other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business, of all or any part of any Indebtedness (whether arising by agreements to keep-well, to take or pay or to maintain financial statement conditions, pledges of assets, sureties or otherwise).

“**Guarantors**” means any Restricted Subsidiary that guarantees the Notes in accordance with the provisions of this Indenture, and their respective successors and assigns, until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

“**Hedging Obligations**” means, with respect to any specified Person, the obligations of such Person under:

- (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (b) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

“**Holder**” means each Person in whose name the Notes are registered on the Registrar’s books, which shall initially be the nominee of DTC, Euroclear or Clearstream.

“**Indebtedness**” means, with respect to any specified Person (excluding accrued expenses and trade payables), without duplication:

- (a) the principal amount of indebtedness of such Person in respect of borrowed money;
- (b) the principal amount of obligations of such Person evidenced by bonds, notes, debentures or similar instruments for which such Person is responsible or liable;
- (c) reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or similar instruments (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of incurrence), in each case only to the extent that the underlying obligation in respect of which the instrument was issued would be treated as Indebtedness;
- (d) Capital Lease Obligations of such Person;
- (e) the principal component of all obligations of such Person to pay the balance deferred and unpaid of the purchase price of any property or services due more than one year after such property is acquired or such services are completed;
- (f) net obligations of such Person under Hedging Obligations (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time); and
- (g) Attributable Debt of such Person;

if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

The term “Indebtedness” shall not include:

- (a) anything accounted for as an operating lease in accordance with GAAP as at the Issue Date;

(b) contingent obligations in the ordinary course of business;

(c) in connection with the purchase by the Issuer or any Restricted Subsidiary of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing;

(d) deferred or prepaid revenues;

(e) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the applicable seller;

(f) any contingent obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes;

(g) [reserved]; or

(h) any Capital Stock.

“**Indenture**” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

“**Interest Payment Date**” means the Stated Maturity of an installment of interest on the Notes.

“**Investment Grade**” means (1) with respect to S&P, a rating equal to or higher than BBB- (or the equivalent), (2) with respect to Moody's, a rating equal to or higher than Baa3 (or the equivalent) and (3) with respect to any additional Rating Agency or Rating Agencies selected by the Issuer, the equivalent investment grade credit rating.

“**Investments**” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations, but excluding advances or extensions of credit to customers or suppliers made in the ordinary course of business), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as Investments on a balance sheet prepared in accordance with GAAP. The acquisition by the Issuer or any Restricted Subsidiary of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Issuer or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 4.08. Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“**Issue Date**” means [·], 202[1][2].

“**Issuer Order**” means a written order signed in the name of the Issuer by any Person authorized by a resolution of the Board of Directors of the Issuer.



“**Lien**” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement or any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“**Management Advances**” means loans or advances made to, or Guarantees with respect to loans or advances made to, directors, officers or employees of the Issuer or any Restricted Subsidiary:

- (a) in respect of travel, entertainment or moving related expenses incurred in the ordinary course of business;
- (b) in respect of moving related expenses incurred in connection with any closing or consolidation of any office; or
- (c) in the ordinary course of business and (in the case of this clause (c)) not exceeding \$5.0 million in the aggregate outstanding at any time.

“**Moody’s**” means Moody’s Investors Service, Inc.

“**NCL Holdings**” means Norwegian Cruise Line Holdings Ltd., the direct parent company of the Issuer.

“**Net Book Value**” means, with respect to any asset or property at any time, the net book value of such asset or property as reflected on the most recent balance sheet of the Issuer at such time, determined on a consolidated basis in accordance with GAAP.

“**Net Proceeds**” means with respect to any Asset Sale or Event of Loss, the aggregate cash proceeds and Cash Equivalents received by the Issuer or any of its Restricted Subsidiaries in respect of such Asset Sale or Event of Loss (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), *provided* that with respect to any Asset Sale or Event of Loss, such amount shall be net of the direct costs relating to such Asset Sale or Event of Loss, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale or Event of Loss, taxes paid or payable as a result of the Asset Sale or Event of Loss, any charges, payments or expenses incurred in connection with an Asset Sale or Event of Loss (including, without limitation, (i) any exit or disposal costs, (ii) any repair, restoration or environmental remediation costs, charges or payments, (iii) any penalties or fines resulting from such Event of Loss, (iv) any severance costs resulting from such Event of Loss, (v) any costs related to salvage, scrapping or related activities and (vi) any fees, settlement payments or other charges related to any litigation or administrative proceeding resulting from such Event of Loss) and any reserve for adjustment or indemnification obligations in respect of the sale price of such asset or assets established in accordance with GAAP. To the extent the amounts that must be netted against any cash proceeds and Cash Equivalents cannot be reasonably determined by the Issuer with respect to any Asset Sale or Event of Loss, such cash proceeds and Cash Equivalents shall not be deemed received until such amounts to be netted are known by the Issuer.

“**New Vessel Aggregate Secured Debt Cap**” means the sum of each of the New Vessel Secured Debt Caps (with such New Vessel Aggregate Secured Debt Cap to be expressed as the sum of the euro and U.S. dollar denominations of the New Vessel Secured Debt Caps reflected in the New Vessel Aggregate Secured Debt Cap).

“**New Vessel Financing**” means any financing arrangement (including but not limited to a sale and leaseback transaction or bareboat charter or lease or an arrangement whereby a Vessel under construction is pledged as collateral to secure the indebtedness of a shipbuilder), entered into by the Issuer or a Restricted Subsidiary for the purpose of financing or refinancing all or any part of the purchase price, cost of design or construction of a Vessel or Vessels or the acquisition of Capital Stock of entities owning or to own Vessels, *provided* that any Vessel contracted for construction, under construction or completed on the Issue Date is not a Vessel to which this definition applies.

“**New Vessel Secured Debt Cap**” means, in respect of a New Vessel Financing, no more than 90% of the contract price (including any amendment to the contract price) for the acquisition and any other Ready for Sea Cost of the related Vessel (and 100% of any related export credit insurance premium), expressed in euros or U.S. dollars, as the case may be, being financed by such New Vessel Financing.

“**Note Documents**” means the Notes, any Additional Notes, the Note Guarantees, this Indenture and any other agreements, documents or instruments related to any of the foregoing, as they may be amended, restated, modified, renewed, supplemented, refunded, replaced or refinanced, from time to time.

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

“**Obligations**” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“**Officer**” means, with respect to any Person, the Chairman or Vice-Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the President, an Executive Vice President, a Senior Vice President or Vice President, the Treasurer, an Assistant Treasurer, the Controller, an Assistant Controller, the Secretary, an Assistant Secretary, or any individual designated by the Board of Directors, of such Person.

“**Officer’s Certificate**” means a certificate signed on behalf of the Issuer by an Officer.

“**Opinion of Counsel**” means a written opinion from legal counsel, subject to customary exceptions and qualifications. The counsel may be an employee of or counsel to the Issuer.

“**Par Call Date**” means [-].

“**Permitted Business**” means (a) in respect of the Issuer and its Restricted Subsidiaries, any businesses, services or activities engaged in by the Issuer or any of the Restricted Subsidiaries on the Issue Date and (b) any businesses, services and activities engaged in by the Issuer or any of the Restricted Subsidiaries that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof.

“**Permitted Investments**” means:

- (a) any Investment in the Issuer or a Restricted Subsidiary;
- (b) any Investment in cash in U.S. dollars, euros, Swiss francs, U.K. pounds sterling or Australian dollars, and Cash Equivalents;
- (c) any Investment by the Issuer or any Restricted Subsidiary in a Person, if as a result of such Investment:

- (i) such Person becomes a Restricted Subsidiary; or
- (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary;
- (d) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.09 or any other disposition of assets not constituting an Asset Sale;
- (e) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Issuer;
- (f) any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Issuer or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes with Persons who are not Affiliates;
- (g) Investments in receivables owing to the Issuer or any Restricted Subsidiary created or acquired in the ordinary course of business;
- (h) Investments represented by Hedging Obligations, which obligations are permitted to be incurred under Section 4.06(b)(ix);
- (i) repurchases of the Notes, the Existing Notes or loans under the ARCA or ECA Facility;
- (j) any Guarantee of Indebtedness permitted to be incurred under Section 4.06 other than a Guarantee of Indebtedness of an Affiliate of the Issuer that is not a Restricted Subsidiary;
- (k) any Investment existing on, or made pursuant to binding commitments existing on, the Issue Date and any Investment consisting of an extension, modification or renewal of any Investment existing on, or made pursuant to a binding commitment existing on, the Issue Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Issue Date or (b) as otherwise permitted under this Indenture;
- (l) Investments acquired after the Issue Date as a result of the acquisition by the Issuer or any Restricted Subsidiary of another Person, including by way of a merger, amalgamation or consolidation with or into the Issuer or any of its Restricted Subsidiaries in a transaction that is not prohibited by Article Five after the Issue Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;
- (m) Management Advances;
- (n) Investments consisting of the licensing of intellectual property rights pursuant to joint marketing arrangements with other Persons in the ordinary course of business;
- (o) Investments consisting of, or to finance the acquisition, purchase, charter or leasing or the construction, installation or the making of any improvement with respect to any asset (including Vessels) or purchases and acquisitions of inventory, supplies, materials, services or equipment or purchases of contract rights, licenses or leases of intellectual property rights (including prepaid expenses and advances

to suppliers), in each case, in the ordinary course of business (including, for the avoidance of doubt any deposits made to secure the acquisition, purchase or construction of, or any options to acquire, any vessel);

(p) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value) made on or after the first anniversary of the Issue Date, when taken together with all other Investments made pursuant to this clause (p) that are at the time outstanding not to exceed the greater of \$300.0 million and 2.00% of Total Tangible Assets of the Issuer; *provided* that if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary pursuant to Section 4.08, such Investment, if applicable, shall thereafter be deemed to have been made pursuant to clause (a) or (c) of the definition of “Permitted Investments” and not this clause;

(q) other Investments in joint ventures having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (q) that are at the time outstanding, not to exceed the greater of \$150.0 million and 1.00% of Total Tangible Assets of the Issuer; *provided* that if an Investment is made pursuant to this clause in a Person that is not a Restricted Subsidiary and such Person subsequently becomes a Restricted Subsidiary or is subsequently designated a Restricted Subsidiary pursuant to Section 4.08, such Investment, if applicable, shall thereafter be deemed to have been made pursuant to clause (a) or (c) of the definition of “Permitted Investments” and not this clause;

(r) additional Investments in joint ventures in which the Issuer or any of its Restricted Subsidiaries holds an Investment existing on the Issue Date, *provided* such Investments are made in the ordinary course of business; and

(s) additional Investments in additional joint ventures held by the Issuer or any Restricted Subsidiary engaged in a Permitted Business, *provided* that the Equity Interests held by the Issuer or such Restricted Subsidiary in such Investment or joint venture are pledged to secure the applicable series of Existing Secured Notes, to the extent such pledge is required by such relevant instrument.

“**Permitted Jurisdictions**” means (i) any state of the United States of America, the District of Columbia or any subdivision thereof or territory of the United States of America, (ii) Panama, (iii) Bermuda, (iv) the Commonwealth of The Bahamas, (v) the Isle of Man, (vi) the Marshall Islands, (vii) Liberia, (viii) Barbados and (ix) the Cayman Islands.

“**Permitted Liens**” means:

(a) Liens in favor of the Issuer or any of the Guarantors;

(b) Liens on property (including Capital Stock) of a Person existing at the time such Person becomes a Restricted Subsidiary or is merged with or into, amalgamated with or consolidated with the Issuer or any Restricted Subsidiary; *provided* that such Liens were in existence prior to the contemplation of such Person becoming a Restricted Subsidiary or such merger, amalgamation or consolidation, were not incurred in contemplation thereof and do not extend to any assets other than those of the Person (or the Capital Stock of such Person) that becomes a Restricted Subsidiary or is merged with or into, amalgamated with or consolidated with the Issuer or any Restricted Subsidiary;

(c) Liens to secure the performance of statutory obligations, insurance, surety, bid, performance, travel or appeal bonds, credit card processing arrangements, workers compensation obligations, performance bonds or other obligations of a like nature incurred in the ordinary course of

business (including Liens to secure letters of credit or similar instruments issued to assure payment of such obligations or for the protection of customer deposits or credit card payments);

(d) Liens on any property or assets of the Issuer or any Restricted Subsidiary for the purpose of securing Capital Lease Obligations, purchase money obligations, mortgage financings or other Indebtedness, in each case, incurred pursuant to Section 4.06(b)(iv) in connection with the financing of all or any part of the purchase price, lease expense, rental payments or cost of design, construction, installation, repair, replacement or improvement of property, plant or equipment or other assets (including Capital Stock) used in the business of the Issuer or any of its Restricted Subsidiaries; *provided* that any such Lien may not extend to any assets or property owned by the Issuer or any of its Restricted Subsidiaries at the time the Lien is incurred other than (i) the assets (including Vessels) and property acquired, improved, constructed, leased or financed and improvements, accessions, proceeds, products, dividends and distributions in respect thereof (*provided* that to the extent any such Capital Lease Obligations, purchase money obligations, mortgage financings or other Indebtedness relate to multiple assets or properties, then all such assets and properties may secure any such Capital Lease Obligations, purchase money obligations, mortgage financings or other Indebtedness) and (ii) to the extent such Lien secures financing in connection with the purchase of a Vessel, Related Vessel Property;

(e) Liens existing on the Issue Date;

(f) Liens for taxes, assessments or governmental charges or claims that (x) are not yet overdue by more than 30 days or (y) if overdue by more than 30 days are being contested in good faith by appropriate proceedings that have the effect of preventing the forfeiture or sale of the property subject to any such Lien and for which adequate reserves are being maintained to the extent required by GAAP;

(g) Liens imposed by law, such as carriers', warehousemen's, landlord's and mechanics', materialmen's, repairmen's, construction or other like Liens arising in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate proceedings and in respect of which, if applicable, the Issuer or any Restricted Subsidiary shall have set aside on its books reserves in accordance with GAAP; and with respect to Vessels: (i) Liens fully covered (in excess of customary deductibles) by valid policies of insurance and (ii) Liens for general average and salvage, including contract salvage; or Liens arising solely by virtue of any statutory or common law provisions relating to attorneys' liens or bankers' liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution;

(h) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(i) Liens created for the benefit of (and to secure) the Notes (or the Note Guarantees) issued on the Issue Date;

(j) Liens securing Indebtedness under Hedging Obligations, which obligations are permitted to be incurred under Section 4.06(b)(ix);

(k) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;

- (l) Liens arising out of judgments or awards not constituting an Event of Default and notices of *lis pendens* and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;
- (m) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness;
- (n) Liens on specific items of inventory or other goods (and the proceeds thereof) of any Person securing such Person's obligations in respect of bankers' acceptances issued or created in the ordinary course of business for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (o) leases, licenses, subleases and sublicenses of assets in the ordinary course of business and Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of assets entered into in the ordinary course of business;
- (p) [reserved];
- (q) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any developer, landlord or other third party on property over which the Issuer or any Restricted Subsidiary has easement rights or on any real property leased by the Issuer or any Restricted Subsidiary and subordination or similar agreements relating thereto and (ii) any condemnation or eminent domain proceedings or compulsory purchase order affecting real property;
- (r) Liens securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities;
- (s) Liens on Unearned Customer Deposits (i) in favor of payment processors pursuant to agreements therewith consistent with industry practice or (ii) in favor of customers;
- (t) pledges of goods, the related documents of title and/or other related documents arising or created in the ordinary course of the Issuer's or any Restricted Subsidiary's business or operations as Liens only for Indebtedness to a bank or financial institution directly relating to the goods or documents on or over which the pledge exists;
- (u) Liens over cash paid into an escrow account pursuant to any purchase price retention arrangement as part of any permitted disposal by the Issuer or a Restricted Subsidiary on condition that the cash paid into such escrow account in relation to a disposal does not represent more than 15.0% of the net proceeds of such disposal;
- (v) Liens incurred in the ordinary course of business of the Issuer or any Restricted Subsidiary arising from Vessel chartering, dry-docking, maintenance, repair, refurbishment, the furnishing of supplies and bunkers to Vessels or masters', officers' or crews' wages and maritime Liens, in the case of each of the foregoing, which were not incurred or created to secure the payment of Indebtedness;
- (w) Liens securing an aggregate principal amount of Indebtedness not to exceed the aggregate amount of Indebtedness permitted to be incurred pursuant to Section 4.06(b)(v); *provided* that such Lien extends only to (i) the assets (including Vessels), purchase price or cost of design, construction, installation or improvement of which is financed or refinanced thereby and any improvements, accessions, proceeds, products, dividends and distributions in respect thereof, (ii) any Related Vessel Property or (iii) the Capital Stock of a Vessel Holding Issuer;

(x) Liens created on any asset of the Issuer or a Restricted Subsidiary established to hold assets of any stock option plan or any other management or employee benefit or incentive plan or unit trust of the Issuer or a Restricted Subsidiary securing any loan to finance the acquisition of such assets;

(y) Liens incurred by the Issuer or any Restricted Subsidiary with respect to obligations that do not exceed the greater of \$200.0 million and 1.25% of Total Tangible Assets at any one time outstanding;

(z) Liens arising from financing statement filings (or similar filings in any applicable jurisdiction) regarding operating leases entered into by the Issuer and its Restricted Subsidiaries in the ordinary course of business;

(aa) any interest or title of a lessor under any Capital Lease Obligation or an operating lease;

(bb) Liens on the Equity Interests of Unrestricted Subsidiaries;

(cc) Liens on Vessels under construction securing Indebtedness of shipyard owners and operators; and

(dd) any extension, renewal, refinancing or replacement, in whole or in part, of any Lien described in the foregoing clauses (a) through (cc) (but excluding clause (y)); *provided* that (x) any such Lien is limited to all or part of the same property or assets (*plus* improvements, accessions, proceeds, products or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of the outstanding principal amount or, if greater, committed amount of such Indebtedness at the time the original Lien became a Permitted Lien under this Indenture and an amount necessary to pay any fees and expenses, including premiums, related to such extension, renewal, refinancing or replacement.

“**Permitted Refinancing Indebtedness**” means any Indebtedness incurred by the Issuer or any of its Restricted Subsidiaries, any Disqualified Stock issued by the Issuer or any of its Restricted Subsidiaries and any preferred stock issued by any Restricted Subsidiary, in each case, in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, exchange, defease or discharge other Indebtedness of the Issuer or any of its Restricted Subsidiaries (other than intercompany Indebtedness), including Permitted Refinancing Indebtedness; *provided* that:

(a) the aggregate principal amount (or accreted value, if applicable, or if issued with original issue discount, aggregate issue price, or, if greater, committed amount (only to the extent the committed amount could have been incurred on the date of initial incurrence)) of such new Indebtedness, the liquidation preference of such new Disqualified Stock or the amount of such new preferred stock does not exceed the principal amount (or accreted value, if applicable, or if issued with original issue discount, aggregate issue price or, if greater, committed amount (only to the extent the committed amount could have been incurred on the date of initial incurrence)) of the Indebtedness, the liquidation preference of the Disqualified Stock or the amount of the preferred stock (plus in each case the amount of accrued and unpaid interest or dividends on and the amount of all fees and expenses, including premiums, incurred in connection with the incurrence or issuance of, such Indebtedness, Disqualified Stock or preferred stock) renewed, refunded, refinanced, replaced, exchanged, defeased or discharged;

(b) such Permitted Refinancing Indebtedness has (a) a final maturity date that is either (i) no earlier than the final maturity date of the Indebtedness being renewed, refunded, refinanced, replaced, exchanged, defeased or discharged or (ii) after the final maturity date of the Notes and (b) has a Weighted

Average Life to Maturity that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(c) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the Notes or the Note Guarantees, as the case may be, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes or the Note Guarantees, as the case may be, on terms at least as favorable to the holders of Notes or the Note Guarantees, as the case may be, as those contained in the documentation governing the Indebtedness being renewed, refunded, refinanced, replaced, exchanged, defeased or discharged; and

(d) if such Indebtedness is incurred either by the Issuer (if the Issuer was the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged) or by the Restricted Subsidiary that was the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged, such Indebtedness is guaranteed only by Persons who were obligors on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged.

**“Permitted Tax Distributions”** means (i) dividends or other distributions to pay any U.S. federal, state, local or non-U.S. income taxes actually payable by the direct or indirect holders of the Issuer’s Capital Stock (or, in the case of any such holder that owns any assets other than the Issuer’s Capital Stock at any applicable time, the U.S. federal, state, local or non-U.S. income taxes that would have been actually payable had such holder owned no other assets) by virtue of the fact that the Issuer is a pass-through entity for U.S. federal, state, local or non-U.S. income tax purposes (as applicable), for any such taxable year (or portion thereof) ending after December 31, 2011 and, to the extent resulting from audit adjustments after the Issue Date, for any such taxable year (or portion thereof) ending prior to December 31, 2011 and (ii) for any taxable year (or portion thereof) for which the Issuer is a member of a group filing a consolidated, group, affiliated, combined or unitary tax return (including any such group or similar group under U.S. federal, state, local or non-U.S. law) with any direct or indirect parent of the Issuer, any dividends or other distributions to fund any U.S. federal, state, local or non-U.S. income taxes that are attributable to the income, revenue, receipts or capital of the Issuer and its Subsidiaries for which such direct or indirect parent of the Issuer is liable up to an amount not to exceed with respect to such taxes the amount of any such taxes that the Issuer and its Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis calculated as if the Issuer and its Subsidiaries had paid tax on a consolidated, combined, group, affiliated or unitary basis on behalf of an affiliated group (or similar group) consisting only of the Issuer and its Subsidiaries.

**“Person”** means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity, whether or not having separate legal personality.

**“Productive Asset Lease”** means any lease or charter of one or more Vessels (other than leases or charters required to be classified and accounted for as capital leases under GAAP).

**“QIB”** means a **“Qualified Institutional Buyer”** as defined in Rule 144A.

**“Rating Agencies”** means each of Moody’s and S&P, or any of their respective successors or any national rating agency substituted for either of them as selected by the Issuer.

**“Rating Event”** means:

(a) if the Notes are not rated Investment Grade by each of the Rating Agencies on the first day of the Trigger Period, the Notes are downgraded by at least one rating category (e.g., from BB+ to BB or



Ba1 to Ba2) from the applicable rating of the Notes on the first day of the Trigger Period by either of the Rating Agencies on any date during the Trigger Period;

(b) if the Notes are rated Investment Grade by each of the Rating Agencies on the first day of the Trigger Period, the Notes are downgraded to below Investment Grade (*i.e.*, below BBB- or Baa3) by either of the Rating Agencies on any date during the Trigger Period; or

(c) if both (A) the Notes are rated Investment Grade by one of the Rating Agencies, and (B) the Notes are not rated Investment Grade by the other Rating Agency, in each case, on the first day of the Trigger Period, then any of the following occur: (i) in the case of the Rating Agency referred to in clause (A), the Notes are downgraded to below Investment Grade (*i.e.*, below BBB- or Baa3) by such Rating Agency on any date during the Trigger Period, and (ii) in the case of the Rating Agency referred to in clause (B), the Notes are downgraded by at least one rating category (*e.g.*, from BB+ to BB or Ba1 to Ba2) from the applicable rating of the Notes on the first day of the Trigger Period by each such Rating Agency on any date during the Trigger Period;

*provided* that a Rating Event otherwise arising by virtue of a particular downgrade in rating shall not be deemed to have occurred in respect of a particular Change of Control (and thus shall not be deemed a Rating Event for purposes of the definition of Change of Control Triggering Event hereunder) if the Rating Agency making the reduction in rating to which this definition would otherwise apply does not announce or publicly confirm or inform the Issuer that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of, the applicable Change of Control (whether or not the applicable Change of Control shall have occurred at the time of the Rating Event). For the avoidance of doubt, no Change of Control Triggering Event will be deemed to have occurred in connection with any particular Change of Control unless and until such Change of Control has actually been consummated.

“**Ready for Sea Cost**” means with respect to a Vessel to be acquired, constructed or leased (pursuant to a Capital Lease Obligation) by the Issuer or any Restricted Subsidiary, the aggregate amount of all expenditures incurred to acquire or construct and bring such Vessel to the condition and location necessary for its intended use, including any and all inspections, appraisals, repairs, modifications, additions, permits and licenses in connection with such acquisition or lease, which would be classified as “**property, plant and equipment**” in accordance with GAAP and any assets relating to such Vessel.

“**Record Date**,” for the interest payable on any Interest Payment Date, means the [-] and [-] (in each case, whether or not a Business Day) preceding such Interest Payment Date.

“**Redemption Date**” means, when used with respect to any Note to be redeemed, in whole or in part, the date fixed for such redemption by or pursuant to this Indenture.

“**Redemption Price**” means, when used with respect to any Note to be redeemed, the price at which it is to be redeemed pursuant to this Indenture.

“**Regulation S**” means Regulation S under the U.S. Securities Act (including any successor regulation thereto), as it may be amended from time to time.

“**Related Vessel Property**” means, with respect to any Vessel (i) any insurance policies on such Vessel, (ii) any requisition compensation payable in respect of any compulsory acquisition thereof, (iii) any earnings derived from the use or operation thereof and/or any earnings account with respect to such earnings, and (iv) any charters, operating leases, licenses and related agreements entered into in respect of the Vessel and any security or guarantee in respect of the relevant charterer’s or lessee’s obligations under

any relevant charter, operating lease, license or related agreement, (v) any cash collateral account established with respect to such Vessel pursuant to the financing arrangements with respect thereto, (vi) any inter-company loan or facility agreements relating to the financing of the acquisition of, and/or the leasing arrangements (pursuant to Capital Lease Obligations) with respect to, such Vessel, (vii) any building or conversion contracts relating to such Vessel and any security or guarantee in respect of the builder's obligations under such contracts, (viii) any interest rate swap, foreign currency hedge, exchange or similar agreement incurred in connection with the financing of such Vessel and required to be assigned by the lender and (ix) any security interest in, or agreement or assignment relating to, any of the foregoing or any mortgage in respect of such Vessel.

“**Replacement Assets**” means (1) assets not classified as current assets under GAAP that will be used or useful in a Permitted Business or (2) substantially all the assets of a Permitted Business or a majority of the Voting Stock of any Person engaged in a Permitted Business that will become on the date of acquisition thereof a Restricted Subsidiary.

“**Restricted Investment**” means an Investment other than a Permitted Investment.

“**Restricted Subsidiary**” means any Subsidiary of the Issuer that is not an Unrestricted Subsidiary.

“**Rule 144**” means Rule 144 under the U.S. Securities Act (including any successor regulation thereto), as it may be amended from time to time.

“**Rule 144A**” means Rule 144A under the U.S. Securities Act (including any successor regulation thereto), as it may be amended from time to time.

“**S&P**” means Standard & Poor's Ratings Group.

“**Significant Subsidiary**” means, at the date of determination, any Restricted Subsidiary that together with its Subsidiaries which are Restricted Subsidiaries (i) for the most recent fiscal year, accounted for more than 10% of the consolidated revenues of the Issuer or (ii) as of the end of the most recent fiscal year, was the owner of more than 10% of the consolidated assets of the Issuer.

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

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

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

(b) any partnership or limited liability company of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other

Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“**Subsidiary Guarantor**” means any Restricted Subsidiary of the Issuer that guarantees the Notes in accordance with the provisions of this Indenture, and their respective successors and assigns, until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

“**Supplemental Indenture**” means a supplemental indenture to this Indenture substantially in the form of Exhibit D attached hereto.

“**Tax**” or “**Taxes**” means any tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and additions to tax related thereto, and, for the avoidance of doubt, including any withholding or deduction for or on account of Tax).

“**Total Assets**” means the total assets of the Issuer and its Subsidiaries that are Restricted Subsidiaries, as shown on the most recent balance sheet of the Issuer, determined on a consolidated basis in accordance with GAAP, calculated after giving effect to *pro forma* adjustments as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of “Fixed Charge Coverage Ratio.”

“**Total Tangible Assets**” means the Total Assets excluding consolidated intangible assets, calculated after giving effect to *pro forma* adjustments as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of “Fixed Charge Coverage Ratio.”

“**Treasury Rate**” means, as of any Redemption Date, the weekly average rounded to the nearest 1/100th of a percentage point (for the most recently completed week for which such information is available as of the date that is two Business Days prior to such Redemption Date) of the yield to maturity of United States Treasury Securities with a constant maturity (as compiled and published in Federal Reserve Statistical Release H.15 with respect to each applicable day during such week or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the Redemption Date to the Par Call Date; *provided, however*, that if the period from the Redemption Date to the Par Call Date is not equal to the constant maturity of a United States Treasury Security for which such a yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury Securities for which such yields are given, except that if the period from the Redemption Date to the Par Call Date is less than one year, the weekly average yield on actually traded United States Treasury Securities adjusted to a constant maturity of one year shall be used.

“**Trigger Period**” means the period commencing on the first public announcement by the Issuer of an arrangement that could result in a Change of Control until the end of the 60-day period following public notice of the occurrence of the Change of Control; *provided*, that if the rating of the Notes is under publicly announced consideration for possible downgrade by any of the Rating Agencies, such 60-day period shall be extended until the first to occur of (x) the date that such Rating Agency announces the results of its review and (y) the date that is 180 days after consummation of the Change of Control.

“**Trust Officer**” means any officer within the agency and corporate trust group, division or section of the Trustee (however named, or any successor group of the Trustee) and also means, with respect to any particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject, who, in each case, shall have direct responsibility for the administration of this Indenture.

“**Unearned Customer Deposits**” means amounts paid to the Issuer or any of its Subsidiaries representing customer deposits for unsailed bookings (whether paid directly by the customer or by a credit card company).

“**Unrestricted Subsidiary**” means any Subsidiary of the Issuer that is designated by the Board of Directors of the Issuer as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors of the Issuer but only to the extent that such Subsidiary:

(a) except as permitted by Section 4.10, is not party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are, taken as a whole, no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Issuer; and

(b) is a Person with respect to which neither the Issuer nor any Restricted Subsidiary has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person’s financial condition or to cause such Person to achieve any specified levels of operating results.

“**U.S. dollar**” or “**\$**” means the lawful currency of the United States of America.

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

“**U.S. Securities Act**” means the U.S. Securities Act of 1933, as amended, or any successor statute, and the rules and regulations promulgated by the Commission thereunder.

“**Vessel**” means a passenger cruise vessel which is owned by and registered (or to be owned by and registered) in the name of the Issuer or any of its Restricted Subsidiaries or operated or to be operated by the Issuer or any of its Restricted Subsidiaries, in each case together with all related spares, equipment and any additions or improvements.

“**Vessel Holding Issuer**” means a Subsidiary of the Issuer, the assets of which consist solely of one or more Vessels and the corresponding Related Vessel Property and whose activities are limited to the ownership of such Vessels and Related Vessel Property and any other asset reasonably related to or resulting from the acquisition, purchase, charter, leasing, rental, construction, ownership, operation, improvement, expansion and maintenance of such Vessel, the leasing of such Vessels and any activities reasonably incidental to the foregoing.

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

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

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

(b) the then outstanding principal amounts of such Indebtedness.

<b>Term</b>	<b>Section</b>
“Additional Amounts”	4.12(a)
“Additional Notes”	Recitals
“Affiliate Transaction”	4.10(a)
“Agents”	2.03
“Applicable Procedures”	2.06(b)(ii)
“Asset Sale Offer”	4.09(c)
“Authorized Agent”	12.08
“Change in Tax Law”	3.09(b)
“Change of Control Offer”	4.11(a)
“Change of Control Purchase Date”	4.11(a)
“Change of Control Purchase Price”	4.11(a)
“Covenant Defeasance”	8.03
“Deemed Date”	4.06(e)
“Defaulted Interest”	2.12
“Event of Default”	6.01(a)
“Excess Proceeds”	4.09(c)
“Global Notes”	2.01(c)
“Increased Amount”	4.07(b)
“incur”	4.06(a)
“Issuer”	Preamble
“Judgment Currency”	12.14
“Legal Defeasance”	8.02
“Notes”	Recitals
“Notes Offer”	4.09(b)(i)
“Note Obligations”	10.01(a)
“Original Notes”	Recitals
“Participants”	2.01(c)
“Paying Agent”	2.03
“Permitted Debt”	4.06(b)
“Permitted Payments”	4.08(b)
“Principal Paying Agent”	2.03
“Registrar”	2.03
“Regulation S Global Note”	2.01(b)
“Required Currency”	12.14
“Restricted Global Note”	2.01(b)
“Restricted Payments”	4.08(a)(iv)
“Security Register”	2.03
“Tax Jurisdiction”	4.12(a)
“Tax Redemption Date”	3.09
“TIA”	1.03(i)
“Triggering Lien”	4.07(a)
“Transfer Agent”	2.03
“Trustee”	Preamble

Section 1.03 *Rules of Construction.* Unless the context otherwise requires:

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

- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) “including” or “include” means including or include without limitation;
- (e) words in the singular include the plural and words in the plural include the singular;
- (f) unsecured or unguaranteed Indebtedness shall not be deemed to be subordinate or junior to secured or guaranteed Indebtedness merely by virtue of its nature as unsecured or unguaranteed Indebtedness;
- (g) any Indebtedness secured by a Lien ranking junior to any of the Liens securing other Indebtedness shall not be deemed to be subordinate or junior to such other Indebtedness by virtue of the ranking of such Liens;
- (h) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section, clause or other subdivision; and
- (i) the Trust Indenture Act of 1939, as amended (the “TIA”), shall not apply to this Indenture, the Notes, the Note Guarantees or any documents or instruments related thereto, and no terms used in any of the foregoing shall have meanings given to them by the TIA.

ARTICLE TWO  
THE NOTES

Section 2.01 *The Notes.*

(a) *Form and Dating.* The Notes and the Trustee’s (or the authenticating agent’s) certificate of authentication shall be substantially in the form of Exhibit A attached hereto with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture. The Notes may have notations, legends or endorsements required by law, the rules of any securities exchange agreements to which the Issuer is subject, if any, or usage; *provided* that any such notation, legend or endorsement is in form reasonably acceptable to the Issuer. The Issuer shall approve the form of the Notes. Each Note shall be dated the date of its authentication. The terms and provisions contained in the form of the Notes shall constitute and are hereby expressly made a part of this Indenture. The Notes shall be issued only in registered form without coupons and only in minimum denominations of \$2,000 in principal amount and any integral multiples of \$1,000 in excess thereof.

(b) *Global Notes.* Notes offered and sold to QIBs in reliance on Rule 144A shall be issued initially in the form of one or more Global Notes substantially in the form of Exhibit A attached hereto, with such applicable legends as are provided in Exhibit A attached hereto, except as otherwise permitted herein (the “**Restricted Global Note**”), which shall be deposited on behalf of the purchasers of the Notes represented thereby with a custodian for DTC, and registered in the name of DTC or its nominee, duly executed by the Issuer and authenticated by the Trustee (or its authenticating agent in accordance with Section 2.02) as hereinafter provided. The aggregate principal amount of the Restricted Global Note may from time to time be increased or decreased by adjustments made by the Registrar on Schedule A to the Restricted Global Note and recorded in the Security Register, as hereinafter provided.

Notes offered and sold in reliance on Regulation S shall be issued initially in the form of one or more Global Notes substantially in the form of Exhibit A attached hereto, with such applicable legends as are provided in Exhibit A attached hereto, except as otherwise permitted herein (the “**Regulation S Global Note**”), which shall be deposited on behalf of the purchasers of the Notes represented thereby with a custodian for DTC, and registered in the name of DTC or its nominee, duly executed by the Issuer and authenticated by the Trustee (or its authenticating agent in accordance with Section 2.02) as hereinafter provided. The aggregate principal amount of the Regulation S Global Note may from time to time be increased or decreased by adjustments made by the Registrar on Schedule A to the Regulation S Global Note and recorded in the Security Register, as hereinafter provided.

(c) *Book-Entry Provisions.* This Section 2.01(c) shall apply to the Regulation S Global Notes and the Restricted Global Notes (together, the “**Global Notes**”) deposited with or on behalf of DTC.

Members of, or participants and account holders in, DTC (including Euroclear and Clearstream) (“**Participants**”) shall have no rights under this Indenture with respect to any Global Note held on their behalf by DTC or by the Trustee or any custodian of DTC or under such Global Note, and DTC or its nominees may be treated by the Issuer, a Guarantor, the Trustee and any agent of the Issuer, a Guarantor or the Trustee as the sole owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, a Guarantor, the Trustee or any agent of the Issuer, a Guarantor or the Trustee from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC, on the one hand, and the Participants, on the other, the operation of customary practices of such persons governing the exercise of the rights of a Holder of a beneficial interest in any Global Note.

Subject to the provisions of Section 2.10(b), the registered Holder of a Global Note may grant proxies and otherwise authorize any Person, including Participants and Persons that may hold interests through Participants, to take any action that a Holder is entitled to take under this Indenture or the Notes.

Except as provided in Section 2.10, owners of a beneficial interest in Global Notes will not be entitled to receive physical delivery of Definitive Registered Notes.

Section 2.02 *Execution and Authentication.* An authorized member of the Issuer’s Board of Directors or an executive officer of the Issuer shall sign the Notes on behalf of the Issuer by manual, electronic or facsimile signature.

If an authorized member of the Issuer’s Board of Directors or an executive officer whose signature is on a Note no longer holds that office at the time the Trustee (or its authenticating agent) authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid or obligatory for any purpose until an authorized signatory of the Trustee (or its authenticating agent) manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Issuer shall execute and, upon receipt of an Issuer Order, the Trustee shall authenticate (whether itself or via the authenticating agent) (a) Original Notes, on the date hereof, for original issue an aggregate principal amount of \$[ ] and (b) Additional Notes, from time to time, subject to compliance at the time of issuance of such Additional Notes with the provisions of Section 4.06 and Section 4.07. The Issuer is permitted to issue Additional Notes as part of a further issue under this Indenture, from time to time; provided that, any Additional Notes may not have the same CUSIP number and/or ISIN (or be represented by the same Global Note or Global Notes) as the Notes unless the Additional Notes are fungible

with the Notes for U.S. federal income tax purposes. The Issuer will issue Notes in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

The Trustee may appoint an authenticating agent reasonably acceptable to the Issuer to authenticate the Notes. Unless limited by the terms of such appointment, any such authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by any such agent. An authenticating agent has the same rights as any Registrar, co-Registrar, Transfer Agent or Paying Agent to deal with the Issuer or an Affiliate of the Issuer.

The Trustee shall have the right to decline to authenticate and deliver any Notes under this Section 2.02 if the Trustee, being advised by counsel, determines that such action may not lawfully be taken or if the Trustee in good faith shall determine that such action would expose the Trustee to personal liability to existing Holders.

Section 2.03 *Registrar, Transfer Agent and Paying Agent.*

The Issuer shall maintain an office or agency for the registration of the Notes and of their transfer or exchange (the “**Registrar**”), an office or agency where Notes may be transferred or exchanged (the “**Transfer Agent**”), an office or agency where the Notes may be presented for payment (the “**Paying Agent**” and references to the Paying Agent shall include the Principal Paying Agent) and an office or agency where notices or demands to or upon the Issuer in respect of the Notes may be served.

The Issuer may appoint one or more Transfer Agents, one or more co-Registrars and one or more additional Paying Agents.

The Issuer or any of its Affiliates may act as Transfer Agent, Registrar, co- Registrar, Paying Agent and agent for service of notices and demands in connection with the Notes; provided that neither the Issuer nor any of its Affiliates shall act as Paying Agent for the purposes of Articles Three and Eight and Sections 4.09 and 4.11.

The Issuer hereby appoints (i) U.S. Bank National Association, located at 60 Livingston Avenue, St. Paul, Minnesota 55107 (the “**Principal Paying Agent**”) and (ii) U.S. Bank National Association, located at 60 Livingston Avenue, St. Paul, Minnesota 55107, as Registrar. Each hereby accepts such appointments. The Transfer Agent, Principal Paying Agent and Registrar and any authenticating agent are collectively referred to in this Indenture as the “**Agents**”. The roles, duties and functions of the Agents are of a mechanical nature and each Agent shall only perform those acts and duties as specifically set out in this Indenture and no other acts, covenants, obligations or duties shall be implied or read into this Indenture against any of the Agents. For the avoidance of doubt, a Paying Agent’s obligation to disburse any funds shall be subject to prior receipt by it of those funds to be disbursed.

Subject to any applicable laws and regulations, the Issuer shall cause the Registrar to keep a register (the “**Security Register**”) at its corporate trust office in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of ownership, exchange, and transfer of the Notes. Such registration in the Security Register shall be conclusive evidence of the ownership of Notes. Included in the books and records for the Notes shall be notations as to whether such Notes have been paid, exchanged or transferred, canceled, lost, stolen, mutilated or destroyed and whether such Notes have been replaced. In the case of the replacement of any of the Notes, the Registrar shall keep a record of the Note so replaced and the Note issued in replacement thereof. In the case of the cancellation of any of the Notes, the Registrar shall keep a record of the Note so canceled and the date on which such Note was canceled.

The Issuer shall enter into an appropriate agency agreement with any Paying Agent or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to



such agent. The Issuer shall notify the Trustee of the name and address of any such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee may appoint a suitably qualified and reputable party to act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.05.

Section 2.04 *Paying Agent to Hold Money.* Not later than 12:00 p.m. (New York, New York time), one Business Day prior to each due date of the principal, premium, if any, and interest on any Notes, the Issuer shall deposit with the Principal Paying Agent money in immediately available funds in U.S. dollars, sufficient to pay such principal, premium, if any, and interest so becoming due on the due date for payment under the Notes. The Issuer shall procure payment confirmation on or prior to the third Business Day preceding payment. The Principal Paying Agent (and, if applicable, each other Paying Agent) shall remit such payment in a timely manner to the Holders on the relevant due date for payment, it being acknowledged by each Holder that if the Issuer deposits such money with the Principal Paying Agent after the time specified in the immediately preceding sentence, the Principal Paying Agent shall remit such money to the Holders on the relevant due date for payment, unless such remittance is impracticable having regard to applicable banking procedures and timing constraints, in which case the Principal Paying Agent shall remit such money to the Holders on the next Business Day, but without liability for any interest resulting from such late payment. For the avoidance of doubt, the Principal Paying Agent shall only be obliged to remit money to Holders if it has actually received such money from the Issuer in clear funds. The Principal Paying Agent shall promptly notify the Trustee of any default by the Issuer (or any other obligor on the Notes) in making any payment. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee and account for any funds disbursed, and the Trustee may at any time during the continuance of any payment default, upon written request to a Paying Agent, require such Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon doing so, the Paying Agent shall have no further liability for the money so paid over to the Trustee. If the Issuer or any Affiliate of the Issuer acts as Paying Agent, it shall, on or before each due date of any principal, premium, if any, or interest on the Notes, segregate and hold in a separate trust fund for the benefit of the Holders a sum of money sufficient to pay such principal, premium, if any, or interest so becoming due until such sum of money shall be paid to such Holders or otherwise disposed of as provided in this Indenture, and shall promptly notify the Trustee of its action or failure to act.

The Trustee may, if the Issuer has notified it in writing that the Issuer intends to effect a defeasance or to satisfy and discharge this Indenture in accordance with the provisions of Article Eight, notify the Paying Agent in writing of this fact and require the Paying Agent (until notified by the Trustee to the contrary) to act thereafter as Paying Agent of the Trustee and not the Issuer in relation to any amounts deposited with it in accordance with the provisions of Article Eight.

Section 2.05 *Holder Lists.* The Registrar shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee, in writing no later than the Record Date for each Interest Payment Date and at such other times as the Trustee may request in writing, a list, in such form and as of such Record Date as the Trustee may reasonably require, of the names and addresses of Holders, including the aggregate principal amount of Notes held by each Holder.

Section 2.06 *Transfer and Exchange.*

(a) Where Notes are presented to the Registrar or a co-Registrar with a request to register a transfer or to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall register the transfer or make the exchange in accordance with the requirements of this Section 2.06. To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee (or the authenticating agent) shall, upon receipt of an Issuer Order, authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes, of any authorized denominations and of a like

aggregate principal amount, at the Registrar's request; *provided* that no Note of less than \$2,000 may be transferred or exchanged. No service charge shall be made for any registration of transfer or exchange of Notes (except as otherwise expressly permitted herein), but the Issuer may require payment of a sum sufficient to cover any agency fee or similar charge payable in connection with any such registration of transfer or exchange of Notes (other than any agency fee or similar charge payable in connection with any redemption of the Notes or upon exchanges pursuant to Sections 3.07, 3.08 or 9.04) or in accordance with an Asset Sale Offer pursuant to Section 4.09 or Change of Control Offer pursuant to Section 4.11, not involving a transfer.

Upon presentation for exchange or transfer of any Note as permitted by the terms of this Indenture and by any legend appearing on such Note, such Note shall be exchanged or transferred upon the Security Register and one or more new Notes shall be authenticated and issued in the name of the Holder (in the case of exchanges only) or the transferee, as the case may be. No exchange or transfer of a Note shall be effective under this Indenture unless and until such Note has been registered in the name of such Person in the Security Register.

Furthermore, the exchange or transfer of any Note shall not be effective under this Indenture unless the request for such exchange or transfer is made by the Holder or by a duly authorized attorney-in-fact at the office of the Registrar.

Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Issuer or the Registrar) be duly endorsed, or be accompanied by a written instrument of transfer, in form satisfactory to the Issuer and the Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Issuer evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as the Notes surrendered upon such registration of transfer or exchange.

Neither the Issuer nor the Trustee, Registrar or any Paying Agent shall be required (i) to issue, register the transfer of, or exchange any Note during a period beginning at the opening of 15 days before the day of the delivery of a notice of redemption of Notes selected for redemption under Section 3.02 and ending at the close of business on the day of such delivery, or (ii) to register the transfer of or exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(b) Notwithstanding any provision to the contrary herein, so long as a Global Note remains outstanding and is held by or on behalf of DTC, transfers of a Global Note, in whole or in part, or of any beneficial interest therein, shall only be made in accordance with Section 2.01(c), Section 2.06(a) and this Section 2.06(b); *provided* that a beneficial interest in a Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Global Note in accordance with the transfer restrictions set forth in the restricted Note legend on the Note, if any.

(i) Except for transfers or exchanges made in accordance with either of clauses (ii) or (iii) of this Section 2.06(b), transfers of a Global Note shall be limited to transfers of such Global Note in whole, but not in part, to nominees of DTC or to a successor of DTC or such successor's nominee.

(ii) Restricted Global Note to Regulation S Global Note. If the holder of a beneficial interest in the Restricted Global Note at any time wishes to exchange its interest in such Restricted Global Note for an interest in the Regulation S Global Note, or to transfer its interest in such

Restricted Global Note to a Person who wishes to take delivery thereof in the form of a beneficial interest in the Regulation S Global Note, such transfer or exchange may be effected, only in accordance with this clause (ii) and the rules and procedures of DTC, in each case to the extent applicable (the “**Applicable Procedures**”). Upon receipt by the Registrar from the Transfer Agent of (A) written instructions directing the Registrar to credit or cause to be credited an interest in the Regulation S Global Note in a specified principal amount and to cause to be debited an interest in the Restricted Global Note in such specified principal amount, and (B) a certificate in the form of Exhibit B attached hereto given by the holder of such beneficial interest stating that the transfer of such interest has been made in compliance with the transfer restrictions applicable to the Global Notes and (x) pursuant to and in accordance with Regulation S or (y) that the interest in the Restricted Global Note being transferred is being transferred in a transaction permitted by Rule 144, then the Registrar shall reduce or cause to be reduced the principal amount of the Restricted Global Note and shall cause DTC to increase or cause to be increased the principal amount of the Regulation S Global Note by the aggregate principal amount of the interest in the Restricted Global Note to be exchanged or transferred.

(iii) Regulation S Global Note to Restricted Global Note. If the holder of a beneficial interest in the Regulation S Global Note at any time wishes to transfer such interest to a Person who wishes to take delivery thereof in the form of a beneficial interest in the Restricted Global Note, such transfer may be effected only in accordance with this clause (iii) and the Applicable Procedures. Upon receipt by the Registrar from the Transfer Agent of (A) written instructions directing the Registrar to credit or cause to be credited an interest in the Restricted Global Note in a specified principal amount and to cause to be debited an interest in the Regulation S Global Note in such specified principal amount, and (B) a certificate in the form of Exhibit C attached hereto given by the holder of such beneficial interest stating that the transfer of such interest has been made in compliance with the transfer restrictions applicable to the Global Notes and stating that (x) the Person transferring such interest reasonably believes that the Person acquiring such interest is a QIB and is obtaining such interest in a transaction meeting the requirements of Rule 144A and any applicable securities laws of any state of the United States or (y) that the Person transferring such interest is relying on an exemption other than Rule 144A from the registration requirements of the U.S. Securities Act and, in such circumstances, such Opinion of Counsel as the Issuer or the Trustee may reasonably request to ensure that the requested transfer or exchange is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act, then the Registrar shall reduce or cause to be reduced the principal amount of the Regulation S Global Note and to increase or cause to be increased the principal amount of the Restricted Global Note by the aggregate principal amount of the interest in such Regulation S Global Note to be exchanged or transferred.

(c) If Notes are issued upon the transfer, exchange or replacement of Notes bearing the restricted Notes legends set forth in Exhibit A attached hereto, the Notes so issued shall bear the restricted Notes legends, and a request to remove such restricted Notes legends from Notes shall not be honored unless there is delivered to the Issuer such satisfactory evidence, which may include an Opinion of Counsel licensed to practice law in the State of New York, as may be reasonably required by the Issuer, that neither the legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Rule 144 under the U.S. Securities Act. Upon provision of such satisfactory evidence, the Trustee, at the direction of the Issuer, shall (or shall direct the authenticating agent to) authenticate and deliver Notes that do not bear the legend.

(d) The Trustee and the Agents shall have no responsibility for any actions taken or not taken by DTC, Euroclear or Clearstream, as the case may be.

(e) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Participants, members or Beneficial Owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(f) In connection with any proposed exchange of a Global Note for a Definitive Registered Note, the Issuer or DTC or its Participants shall provide or cause to be provided to the Trustee all information reasonably requested by the Trustee that is necessary to allow the Trustee to comply with any applicable tax reporting obligations. The Trustee may rely on information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

(g) Notwithstanding anything to the contrary in this Section 2.06, the Issuer is not required to register the transfer of any Definitive Registered Notes:

(i) for a period of 15 days prior to any date fixed for the redemption of the Notes;

(ii) for a period of 15 days immediately prior to the date fixed for selection of Notes to be redeemed in part;

(iii) for a period of 15 days prior to the Record Date with respect to any Interest Payment Date;

(iv) which the Holder has tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer or an Asset Sale Offer.

Section 2.07 *Replacement Notes.* If a mutilated Definitive Registered Note is surrendered to the Registrar or if the Holder claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall (or shall direct the authenticating agent to), upon receipt of an Issuer Order, authenticate a replacement Note in such form as the Note mutilated, lost, destroyed or wrongfully taken if the Holder satisfies any other reasonable requirements of the Issuer and any requirement of the Trustee. If required by the Trustee or the Issuer, such Holder shall furnish an indemnity bond sufficient in the judgment of the Issuer and the Trustee to protect the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar and any co-Registrar, and any authenticating agent, from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note.

In the event any such mutilated, lost, destroyed or wrongfully taken Note has become or is about to become due and payable, the Issuer in its discretion may pay such Note instead of issuing a new Note in replacement thereof.

Every replacement Note shall be an additional obligation of the Issuer.

The provisions of this Section 2.07 are exclusive and will preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or wrongfully taken Notes.

Section 2.08 *Outstanding Notes.* Notes outstanding at any time are all Notes authenticated by or on behalf of the Trustee except for those cancelled by it, those delivered to it for cancellation and those

described in this Section 2.08 as not outstanding. Subject to Section 2.09, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee and the Issuer receive proof satisfactory to them that the Note that has been replaced is held by a bona fide purchaser.

If the Paying Agent holds, in accordance with this Indenture, on a Redemption Date or maturity date money sufficient to pay all principal, interest and Additional Amounts, if any, payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.09 *Notes Held by Issuer.* In determining whether the Holders of the required principal amount of Notes have concurred in any direction or consent or any amendment, modification or other change to this Indenture, Notes owned by the Issuer or by any of its Affiliates shall be disregarded and treated as if they were not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent or any amendment, modification or other change to this Indenture, only Notes which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to the Notes and that the pledgee is not the Issuer or any of its Affiliates.

Section 2.10 *Definitive Registered Notes.*

(a) A Global Note deposited with a custodian for DTC pursuant to Section 2.01 shall be transferred in whole to the Beneficial Owners thereof in the form of Definitive Registered Notes only if such transfer complies with Section 2.06 and (i) DTC notifies the Issuer that it is unwilling or unable to continue to act as depository for such Global Note or DTC ceases to be registered as a clearing agency under the Exchange Act, and in each case a successor depository is not appointed by the Issuer within 90 days of such notice, (ii) the Issuer, at its option, executes and delivers to the Trustee an Officer's Certificate stating that such Global Note shall be so exchangeable or (iii) the owner of a Book-Entry Interest requests such an exchange in writing delivered through DTC following an Event of Default under this Indenture. Notice of any such transfer shall be given by the Issuer in accordance with the provisions of Section 12.02(a).

(b) Any Global Note that is transferable to the Beneficial Owners thereof in the form of Definitive Registered Notes pursuant to this Section 2.10 shall be surrendered by the custodian for DTC, to the Transfer Agent, to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall itself or via the authenticating agent authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount at maturity of Notes of authorized denominations in the form of Definitive Registered Notes. Any portion of a Global Note transferred or exchanged pursuant to this Section 2.10 shall be executed, authenticated and delivered only in registered form in minimum denominations of \$2,000 and any integral multiples of \$1,000 in excess thereof and registered in such names as DTC may direct. Subject to the foregoing, a Global Note is not exchangeable except for a Global Note of like denomination to be registered in the name of DTC or its nominee. In the event that a Global Note becomes exchangeable for Definitive Registered Notes, payment of principal, premium, if any, and interest on the Definitive Registered Notes will be payable, and the transfer of the Definitive Registered Notes will be registrable, at the office or agency of the Issuer maintained for such

purposes in accordance with Section 2.03. Such Definitive Registered Notes shall bear the applicable legends set forth in Exhibit A attached hereto.

(c) In the event of the occurrence of any of the events specified in Section 2.10(a), the Issuer shall promptly make available to the Trustee and the authenticating agent a reasonable supply of Definitive Registered Notes in definitive, fully registered form without interest coupons.

Section 2.11 *Cancellation.* The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee, in accordance with its customary procedures, and no one else shall cancel (subject to the record retention requirements of the Exchange Act and the Trustee's retention policy) all Notes surrendered for registration of transfer, exchange, payment or cancellation and dispose of such cancelled Notes in its customary manner. Except as otherwise provided in this Indenture, the Issuer may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest.* Any interest on any Note that is payable, but is not punctually paid or duly provided for, on the dates and in the manner provided in the Notes and this Indenture (all such interest herein called "**Defaulted Interest**") shall forthwith cease to be payable to the Holder on the relevant Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Issuer, at its election in each case, as provided in clause (a) or (b) below:

(a) The Issuer may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer may deposit with the Paying Agent an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest; or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held for the benefit of the Persons entitled to such Defaulted Interest as provided in this clause. In addition, the Issuer shall fix a special record date for the payment of such Defaulted Interest, such date to be not more than 15 days and not less than 10 days prior to the proposed payment date and not less than 15 days after the receipt by the Trustee of the notice of the proposed payment date. The Issuer shall promptly but, in any event, not less than 15 days prior to the special record date, notify the Trustee of such special record date and, in the name and at the expense of the Issuer, the Trustee shall cause notice of the proposed payment date of such Defaulted Interest and the special record date therefor to be delivered first-class, postage prepaid to each Holder as such Holder's address appears in the Security Register, not less than 10 days prior to such special record date. Notice of the proposed payment date of such Defaulted Interest and the special record date therefor having been so delivered, such Defaulted Interest shall be paid to the Persons in whose names the Notes are registered at the close of business on such special record date and shall no longer be payable pursuant to clause (b) below.

(b) The Issuer may make payment of any Defaulted Interest on the Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Issuer to the Trustee of the proposed payment date pursuant to this clause, such manner of payment shall be deemed reasonably practicable.

Subject to the foregoing provisions of this Section 2.12, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

Section 2.13 *Computation of Interest.* Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 2.14 *ISIN and CUSIP Numbers.* The Issuer in issuing the Notes may use ISIN and CUSIP numbers (if then generally in use), and, if so, the Trustee shall use ISIN and CUSIP numbers, as appropriate, in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers or codes either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer shall promptly notify the Trustee of any change in the ISIN or CUSIP numbers.

Section 2.15 *Issuance of Additional Notes.* The Issuer may, subject to Section 4.06 of this Indenture, issue Additional Notes under this Indenture in accordance with the procedures of Section 2.02. The Original Notes issued on the Issue Date and any Additional Notes subsequently issued shall be treated as a single class for all purposes under this Indenture.

### ARTICLE THREE REDEMPTION; OFFERS TO PURCHASE

Section 3.01 *Right of Redemption.* The Issuer may redeem all or any portion of the Notes upon the terms and at the Redemption Prices set forth in the Notes. Any redemption pursuant to this Section 3.01 shall be made pursuant to the provisions of this Article Three.

Section 3.02 *Notices to Trustee.* If the Issuer elects to redeem Notes pursuant to Section 3.01, it shall notify the Trustee in writing of the Redemption Date and the record date, the principal amount of Notes to be redeemed, the Redemption Price and the paragraph of the Notes pursuant to which the redemption will occur.

The Issuer shall give each notice to the Trustee provided for in this Section 3.02 in writing at least 10 days before the date notice is delivered to the Holders pursuant to Section 3.04 unless the Trustee consents to a shorter period. Such notice shall be accompanied by an Officer's Certificate from the Issuer to the effect that such redemption will comply with the conditions herein. If fewer than all the Notes are to be redeemed, the record date relating to such redemption shall be selected by the Issuer and given to the Trustee, which record date shall be not less than 15 days after the date of notice to the Trustee.

Section 3.03 *Selection of Notes to Be Redeemed.* If fewer than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes to be redeemed by a method that complies with the requirements, as certified to it by the Issuer, of the principal securities exchange, if any, on which the Notes are listed at such time, and in compliance with the requirements of the relevant clearing system or, if the Notes are not listed on a securities exchange, or such securities exchange prescribes no method of selection and the Notes are not held through clearing system or the clearing system prescribes no method of selection, on a *pro rata* basis, by lot or by such other method as the Trustee deems fair and appropriate; *provided, however*, that no such partial redemption shall reduce the portion of the principal amount of a Note not redeemed to less than \$2,000.

The Trustee shall make the selection from the Notes outstanding and not previously called for redemption. The Trustee may select for redemption portions equal to \$1,000 in principal amount and any integral multiple thereof; *provided* that no Notes of \$2,000 in principal amount or less may be redeemed in part. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Issuer promptly in writing of the Notes or portions of Notes to be called for redemption.

The Trustee shall not be liable for selections made in accordance with the provisions of this Section 3.03 or for selections made by DTC.

Any redemption and notice may, in the Issuer's discretion, be subject to the satisfaction of one or more conditions precedent.

Section 3.04 *Notice of Redemption.*

(a) At least 10 days but not more than 60 days before a date for redemption of the Notes, the Issuer shall deliver a notice of redemption by first-class mail to each Holder to be redeemed at its address contained in the Security Register, except that redemption notices may be delivered more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture, and shall comply with the provisions of Section 12.01(b).

(b) The notice shall identify the Notes to be redeemed (including ISIN and CUSIP numbers) and shall state:

(i) the Redemption Date and the record date;

(ii) the appropriate calculation of the Redemption Price and the amount of accrued interest, if any, and Additional Amounts, if any, to be paid;

(iii) the name and address of the Paying Agent;

(iv) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price *plus* accrued interest, if any, and Additional Amounts, if any;

(v) that, if any Note is being redeemed in part, the portion of the principal amount (equal to \$1,000 in principal amount or any integral multiple thereof) of such Note to be redeemed and that, on and after the Redemption Date, upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion thereof will be reissued;

(vi) that, if any Note contains an ISIN or CUSIP number, no representation is being made as to the correctness of such ISIN or CUSIP number either as printed on the Notes or as contained in the notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes;

(vii) that, unless the Issuer and the Guarantors default in making such redemption payment, interest on the Notes (or portion thereof) called for redemption shall cease to accrue on and after the Redemption Date; and

(viii) the paragraph of the Notes or section of this Indenture pursuant to which the Notes called for redemption are being redeemed.

At the Issuer's written request, the Trustee shall give a notice of redemption in the Issuer's name and at the Issuer's expense. In such event, the Issuer shall provide the Trustee with the notice and the other information required by this Section 3.04.

For Notes which are represented by global certificates held on behalf of DTC, notices may be given by delivery of the relevant notices to DTC for communication to entitled account holders in substitution for the aforesaid delivery.



(c) In connection with any redemption of Notes described in this Section 3.04, any such redemption and/or notice of redemption may, at the Issuer's discretion, be subject to one or more conditions precedent, including the completion of any related refinancing or a Change of Control. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Issuer's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied or waived, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied or waived by the Redemption Date, or by the Redemption Date so delayed.

Section 3.05 *Deposit of Redemption Price.* At least one Business Day prior to any Redemption Date, by no later than 12:00 p.m. (New York, New York time) on that date, the Issuer shall deposit or cause to be deposited with the Paying Agent (or, if the Issuer or any of its Affiliates is the Paying Agent, shall segregate and hold in trust) a sum in same day funds sufficient to pay the Redemption Price of and accrued interest and Additional Amounts, if any, on all Notes to be redeemed on that date other than Notes or portions of Notes called for redemption that have previously been delivered by the Issuer to the Trustee for cancellation. The Paying Agent shall return to the Issuer following a written request by the Issuer any money so deposited that is not required for that purpose.

Section 3.06 *[Reserved].*

Section 3.07 *Payment of Notes Called for Redemption.* If notice of redemption has been given in the manner provided below, the Notes or portion of Notes specified in such notice to be redeemed shall become due and payable on the Redemption Date at the Redemption Price stated therein, together with accrued interest to such Redemption Date, and on and after such date (unless the Issuer shall default in the payment of such Notes at the Redemption Price and accrued interest to the Redemption Date, in which case the principal, until paid, shall bear interest from the Redemption Date at the rate prescribed in the Notes) such Notes shall cease to accrue interest. Upon surrender of any Note for redemption in accordance with a notice of redemption, such Note shall be paid and redeemed by the Issuer at the Redemption Price, together with accrued interest, if any, to the Redemption Date; *provided* that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders registered as such at the close of business on the relevant Record Date.

Notice of redemption shall be deemed to be given when delivered, whether or not the Holder receives the notice. In any event, failure to give such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of Notes held by Holders to whom such notice was properly given.

Section 3.08 *Notes Redeemed in Part.*

(a) Upon surrender of a Global Note that is redeemed in part, the Paying Agent shall forward such Global Note to the Registrar who shall make a notation on the Security Register to reduce the principal amount of such Global Note to an amount equal to the unredeemed portion of the Global Note surrendered; *provided* that each such Global Note shall be in a principal amount at final Stated Maturity of \$2,000 or an integral multiple of \$1,000 in excess thereof.

(b) Upon surrender and cancellation of a Definitive Registered Note that is redeemed in part, the Issuer shall execute and the Trustee shall authenticate for the Holder (at the Issuer's expense) a new Note equal in principal amount to the unredeemed portion of the Note surrendered and canceled; *provided* that each such Definitive Registered Note shall be in a principal amount at final Stated Maturity of \$2,000 or an integral multiple of \$1,000 in excess thereof.

Section 3.09 *Redemption for Changes in Taxes.* The Issuer may redeem the Notes, in whole but not in part, at its discretion at any time upon giving not less than 10 nor more than 60 days' prior written notice to the Holders of the Notes (which notice shall be irrevocable and given in accordance with the procedures set forth under Section 3.04), at a Redemption Price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date fixed by the Issuer for redemption (a "**Tax Redemption Date**") and all Additional Amounts (if any) then due or which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable in respect of the Notes or Note Guarantee, the Issuer or any Guarantor is or would be required to pay Additional Amounts (but, in the case of a Guarantor, only if the payment giving rise to such requirement cannot be made by the Issuer or another Guarantor without the obligation to pay Additional Amounts), and the Issuer or the relevant Guarantor cannot avoid any such payment obligation by taking reasonable measures available (including, for the avoidance of doubt, appointment of a new Paying Agent but excluding the reincorporation or reorganization of the Issuer or any Guarantor), and the requirement arises as a result of:

(a) any change in, or amendment to, the laws (or any regulations or rulings promulgated thereunder) of the relevant Tax Jurisdiction which change or amendment is announced and becomes effective after the Issue Date (or if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, after such later date); or

(b) any change in, or amendment to, the official application, administration or interpretation of such laws, regulations or rulings (including by virtue of a holding, judgment or order by a court of competent jurisdiction or a change in published practice or revenue guidance), which change or amendment is announced and becomes effective after the Issue Date (or if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, after such later date) (each of the foregoing clauses (a) and (b), a "**Change in Tax Law**").

The Issuer shall not give any such notice of redemption earlier than 60 days prior to the earliest date on which the Issuer or the relevant Guarantor would be obligated to make such payment or Additional Amounts if a payment in respect of the Notes or Note Guarantee were then due and at the time such notice is given, the obligation to pay Additional Amounts must remain in effect. Prior to the publication or, where relevant, delivery of any notice of redemption of the Notes pursuant to the foregoing, the Issuer shall deliver the Trustee an opinion of independent tax counsel of recognized standing qualified under the laws of the relevant Tax Jurisdiction (which counsel shall be reasonably acceptable to the Trustee) to the effect that there has been a Change in Tax Law which would entitle the Issuer to redeem the Notes hereunder. In addition, before the Issuer delivers a notice of redemption of the Notes as described above, it shall deliver to the Trustee an Officer's Certificate to the effect that it cannot avoid its obligation to pay Additional Amounts by the Issuer or the relevant Guarantor taking reasonable measures available to it.

The Trustee will accept and shall be entitled to rely on such Officer's Certificate and Opinion of Counsel as sufficient evidence of the existence and satisfaction of the conditions as described above, in which event it will be conclusive and binding on all of the Holders.

The foregoing provisions of this Section 3.09 will apply, *mutatis mutandis*, to any successor of the Issuer (or any Guarantor) with respect to a Change in Tax Law occurring after the time such Person becomes successor to the Issuer (or any Guarantor).

ARTICLE FOUR  
COVENANTS

Section 4.01 *Payment of Notes.* The Issuer and the Guarantors, jointly and severally, covenant and agree for the benefit of the Holders that they shall duly and punctually pay the principal of, premium, if any, interest and Additional Amounts, if any, on the Notes on the dates and in the manner provided in the Notes and in this Indenture. Subject to Section 2.04, principal, premium, if any, interest and Additional Amounts, if any, shall be considered paid on the date due if on such date the Trustee or the Paying Agent (other than the Issuer or any of its Affiliates) holds, as of 10:00 a.m. (New York, New York time) on the due date, in accordance with this Indenture, money sufficient to pay all principal, premium, if any, interest and Additional Amounts, if any, then due. If the Issuer or any of its Affiliates acts as Paying Agent, principal, premium, if any, interest and Additional Amounts, if any, shall be considered paid on the due date if the entity acting as Paying Agent complies with Section 2.04.

The Issuer or the Guarantors shall pay interest on overdue principal at the rate specified therefor in the Notes. The Issuer or the Guarantors shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Section 4.02 *Corporate Existence.* Subject to Article Five, the Issuer and each Guarantor shall do or cause to be done all things necessary to preserve and keep in full force and effect their corporate, partnership, limited liability company or other existence and the rights (charter and statutory), licenses and franchises of the Issuer and each Guarantor; *provided* that the Issuer shall not be required to preserve any such right, license or franchise if the Board of Directors of the Issuer shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Issuer and the Guarantors as a whole.

Section 4.03 *Maintenance of Properties.* The Issuer shall cause all properties owned by it or any Guarantor or used or held for use in the conduct of its business or the business of any Guarantor to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Issuer may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; *provided* that nothing in this Section 4.03 shall prevent the Issuer from discontinuing the maintenance of any such properties if such discontinuance is, in the judgment of the Issuer, desirable in the conduct of the business of the Issuer and the Guarantors as a whole.

Section 4.04 *Insurance.* The Issuer shall maintain, and shall cause the Guarantors to maintain, insurance with carriers believed by the Issuer to be responsible, against such risks and in such amounts, and with such deductibles, retentions, self-insured amounts and coinsurance provisions, as the Issuer believes are customarily carried by businesses similarly situated and owning like properties, including as appropriate general liability, property and casualty loss insurance (but on the basis that the Issuer and the Guarantors self-insure Vessels for certain war risks); *provided* that in no event shall the Issuer and the Guarantors be required to obtain any business interruption, loss of hire or delay in delivery insurance.

Section 4.05 *Statement as to Compliance.*

(a) The Issuer shall deliver to the Trustee, within 120 days after the end of each fiscal year or within 14 days of written request by the Trustee, an Officer's Certificate stating that in the course of the performance by the signer of its duties as an Officer of the Issuer he would normally have knowledge of any Default and whether or not the signer knows of any Default that occurred during such period and, if any, specifying such Default, its status and what action the Issuer is taking or proposed to take with respect

thereto. For purposes of this Section 4.05(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

(b) If the Issuer shall become aware that (i) any Default or Event of Default has occurred and is continuing or (ii) any Holder seeks to exercise any remedy hereunder with respect to a claimed Default under this Indenture or the Notes, the Issuer shall promptly, and in any event within 30 days, deliver to the Trustee an Officer's Certificate specifying such event, notice or other action (including any action the Issuer is taking or propose to take in respect thereof).

Section 4.06 *Incurrence of Indebtedness and Issuance of Preferred Stock or Preference Shares.*

(a) The Issuer will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Issuer will not and will not permit any Restricted Subsidiary to issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock or preference shares; *provided, however*, that the Issuer may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and the Restricted Subsidiaries may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, preferred stock or preference shares, if the Fixed Charge Coverage Ratio for the Issuer's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or such preferred stock or preference shares are issued, as the case may be, would have been at least 2.0 to 1.0, determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock or the preferred stock or preference shares had been issued, as the case may be, at the beginning of such four-quarter period.

(b) Section 4.06(a) shall not prohibit, however, the incurrence of any of the following items of Indebtedness, without duplication (collectively, "Permitted Debt"):

(i) Indebtedness under Credit Facilities and ECA Facilities in an aggregate principal amount at any time outstanding not to exceed \$16,340.8 million;

(ii) the incurrence by the Issuer and its Restricted Subsidiaries of Existing Indebtedness (other than Indebtedness under the ARCA);

(iii) the incurrence by the Issuer and the Guarantors of Indebtedness represented by the Notes issued on the Issue Date and the related Note Guarantees;

(iv) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness represented by Attributable Debt, Capital Lease Obligations, mortgage financings or purchase money obligations, the issuance by the Issuer or any Restricted Subsidiary of Disqualified Stock and the issuance by any Restricted Subsidiary of preferred stock or preference shares, in each case, incurred or issued for the purpose of financing all or any part of the purchase price, lease expense, rental payments or cost of design, construction, installation, repair, replacement or improvement of property (including Vessels), plant or equipment or other assets (including Capital Stock) used in the business of the Issuer or any of its Restricted Subsidiaries, in an aggregate principal amount or liquidation preference, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred or Disqualified Stock or preferred stock or preference shares issued pursuant to this clause (iv), not to exceed the greater of \$250.0 million and 1.75% of Total Tangible Assets at any time outstanding (it being understood

that any such Indebtedness may be incurred and such Disqualified Stock and preferred stock or preference shares may be issued after the acquisition, purchase, charter, leasing or rental or the design, construction, installation, repair, replacement or the making of any improvement with respect to any asset (including Vessels)); *provided* that the principal amount of any Indebtedness, Disqualified Stock or preferred stock or preference shares permitted under this clause (iv) did not in each case at the time of incurrence exceed, together with amounts previously incurred and outstanding under this clause (iv) with respect to any such applicable Vessel, (A) in the case of a completed Vessel, the greater of the Net Book Value and the Appraised Value and (B) in the case of an uncompleted Vessel, 90% of the contract price for the acquisition or construction of such Vessel, in the case of this clause (B), as determined on the date on which the agreement for acquisition or construction of such Vessel was entered into by the Issuer or its Restricted Subsidiary, *plus* any other Ready for Sea Cost of such Vessel *plus* 100% of any related export credit insurance premium;

(v) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness, the issuance by the Issuer or any Restricted Subsidiary of Disqualified Stock and the issuance by any Restricted Subsidiary of preferred stock or preference shares in connection with any New Vessel Financing in an aggregate principal amount at any one time outstanding (including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred or Disqualified Stock or preferred stock or preference shares issued under this clause (v)) not exceeding the New Vessel Aggregate Secured Debt Cap as calculated on the date of the relevant incurrence under this clause (v);

(vi) Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, any Indebtedness (other than intercompany Indebtedness, Disqualified Stock or preferred stock or preference shares) that was permitted to be incurred under Section 4.06(a) or clause (i), (ii), (iii), (iv), (v), (vi), (xii) or (xviii) of this Section 4.06(b);

(vii) the incurrence by the Issuer or any Restricted Subsidiary of intercompany Indebtedness between or among the Issuer or any Restricted Subsidiary; *provided* that:

(A) if the Issuer or any Guarantor is the obligor on such Indebtedness and the payee is not the Issuer or a Guarantor, such Indebtedness must be unsecured and (i) except in respect of the intercompany current liabilities incurred in the ordinary course of business in connection with the cash management operations of the Issuer and its Restricted Subsidiaries and (ii) only to the extent legally permitted (the Issuer and its Restricted Subsidiaries having completed all procedures required in the reasonable judgment of directors or officers of the obligee or obligor to protect such Persons from any penalty or civil or criminal liability in connection with the subordination of such Indebtedness)) expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes, in the case of the Issuer, or the Note Guarantee, in the case of a Guarantor; and

(B) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Issuer or a Restricted Subsidiary, will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Issuer or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vii);

(viii) the issuance by any Restricted Subsidiary to the Issuer or to any of its Restricted Subsidiaries of Disqualified Stock, preferred stock or preference shares; *provided* that (A) any subsequent issuance or transfer of Equity Interests that results in any such Disqualified Stock, preferred stock or preference shares being held by a Person other than the Issuer or a Restricted Subsidiary and (B) any sale or other transfer of any such Disqualified Stock, preferred stock or preference shares to a Person that is not either the Issuer or a Restricted Subsidiary, will be deemed, in each case, to constitute an issuance of such Disqualified Stock, preferred stock or preference shares by such Restricted Subsidiary that was not permitted by this clause (viii);

(ix) the incurrence by the Issuer or any Restricted Subsidiary of Hedging Obligations that are not for speculative purposes;

(x) the Guarantee by the Issuer or any Restricted Subsidiary of Indebtedness of the Issuer or any Restricted Subsidiary to the extent that the guaranteed Indebtedness was permitted to be incurred by another provision of this Section 4.06; *provided* that, in each case, if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes or a Note Guarantee, then the Guarantee must be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;

(xi) the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness (A) in respect of workers' compensation claims, self-insurance obligations, captive insurance companies and bankers' acceptances in the ordinary course of business; (B) in respect of letters of credit, surety, bid, performance, travel or appeal bonds, completion guarantees, judgment, advance payment, customs, VAT or other tax guarantees or similar instruments issued in the ordinary course of business of such Person or consistent with past practice or industry practice (including as required by any governmental authority) and not in connection with the borrowing of money, including letters of credit or similar instruments in respect of self-insurance and workers compensation obligations, or for the protection of customer deposits or credit card payments; *provided, however*, that upon the drawing of such letters of credit or other instrument, such obligations are reimbursed within 30 days following such drawing; (C) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within 30 days; and (D) consisting of (x) the financing of insurance premiums or (y) take-or-pay obligations contained in supply agreements, in each case, in the ordinary course of business;

(xii) Indebtedness, Disqualified Stock, preferred stock or preference shares (A) of any Person outstanding on the date on which such Person becomes a Restricted Subsidiary or is merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Issuer or any Restricted Subsidiary or (B) incurred or issued to provide all or any portion of the funds used to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Issuer or a Restricted Subsidiary; *provided, however*, with respect to this clause (xii), that at the time of the acquisition or other transaction pursuant to which such Indebtedness, Disqualified Stock, preferred stock or preference shares were deemed to be incurred or issued,

(xiii) the Issuer would have been able to incur \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.06(a) after giving *pro forma* effect to the relevant acquisition or other transaction and the incurrence of such Indebtedness or issuance of such Disqualified Stock, preferred stock or preference shares pursuant to this clause (xii) or (y) the Fixed Charge Coverage Ratio for the Issuer's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such

additional Indebtedness is incurred or Disqualified Stock or preferred stock is, or preference shares are, issued pursuant to this clause (xii), taken as one period, would not be less than it was immediately prior to giving *pro forma* effect to such acquisition or other transaction and the incurrence of such Indebtedness or issuance of such Disqualified Stock, preferred stock or preference shares;

(xiv) Indebtedness arising from agreements of the Issuer or a Restricted Subsidiary providing for customary indemnification, obligations in respect of earnouts or other adjustments of purchase price or, in each case, similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Equity Interests of a Subsidiary; *provided* that (in the case of a disposition) the maximum liability of the Issuer and its Restricted Subsidiaries in respect of all such Indebtedness shall at no time exceed the gross proceeds, including the Fair Market Value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Issuer and its Restricted Subsidiaries in connection with such disposition;

(xv) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness in the form of Unearned Customer Deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(xvi) Indebtedness of the Issuer or any Restricted Subsidiary incurred in connection with credit card processing arrangements or other similar payment processing arrangements entered into in the ordinary course of business;

(xvii) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness, the issuance by the Issuer or any Restricted Subsidiary of Disqualified Stock and the issuance by any Restricted Subsidiary of preferred stock or preference shares to finance the replacement (through construction or acquisition) of a Vessel upon an Event of Loss of such Vessel in an aggregate amount no greater than the Ready for Sea Cost for such replacement Vessel, in each case less all compensation, damages and other payments (including insurance proceeds other than in respect of business interruption insurance) received by the Issuer or any of its Restricted Subsidiaries from any Person in connection with such Event of Loss in excess of amounts actually used to repay Indebtedness secured by the Vessel subject to such Event of Loss and any costs and expenses incurred by the Issuer or any of its Restricted Subsidiaries in connection with such Event of Loss;

(xviii) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness in relation to (A) regular maintenance required on any of the Vessels owned or chartered by the Issuer or any of its Restricted Subsidiaries, and (B) any expenditures that are, or are reasonably expected to be, recoverable from insurance on such Vessels;

(xix) the incurrence of Indebtedness by the Issuer or any Restricted Subsidiary of Indebtedness, the issuance by the Issuer or any Restricted Subsidiary of Disqualified Stock and the issuance by any Restricted Subsidiary of preferred stock or preference shares in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred or Disqualified Stock, preferred stock or preference shares issued pursuant to this clause (xviii), not to exceed the greater of \$750.0 million and 4.50% of Total Tangible Assets; and

(xx) Indebtedness existing solely by reason of Permitted Liens described in clause (cc) of the definition thereof.

(c) Neither the Issuer nor any Guarantor will incur any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Issuer or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Note Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Issuer or any Guarantor solely by virtue of being unsecured.

(d) For purposes of determining compliance with this Section 4.06, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xix) of Section 4.06(b), or is entitled to be incurred pursuant to Section 4.06(a), the Issuer, in its sole discretion, will be permitted to classify such item of Indebtedness on the date of its incurrence and only be required to include the amount and type of such Indebtedness in one of such clauses and will be permitted on the date of such incurrence to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in Sections 4.06(a) and 4.06(b) and from time to time to reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.06.

(e) In connection with the incurrence or issuance, as applicable, of (x) revolving loan Indebtedness or (y) any commitment relating to the incurrence or issuance of Indebtedness, Disqualified Stock, preferred stock or preference shares, in each case, in compliance with this Section 4.06, and the granting of any Lien to secure such Indebtedness, the Issuer or applicable Restricted Subsidiary may, at its option, designate such incurrence or issuance and the granting of any Lien therefor as having occurred on the date of first incurrence of such revolving loan Indebtedness or commitment (such date, the “**Deemed Date**”), and any related subsequent actual incurrence or issuance and granting of such Lien therefor will be deemed for all purposes under this Indenture to have been incurred or issued and granted on such Deemed Date, including, without limitation, for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets described herein (if applicable), the Consolidated Total Leverage Ratio and Consolidated EBITDA (and all such calculations on and after the Deemed Date until the termination or funding of such commitment shall be made on a *pro forma* basis giving effect to the deemed incurrence or issuance, the granting of any Lien therefor and related transactions in connection therewith).

(f) The accrual of interest or preferred stock or preference share dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock or preference shares as Indebtedness due to a change in accounting principles, the payment of dividends on preferred stock, preference shares or Disqualified Stock in the form of additional shares of the same class of preferred stock, preference shares or Disqualified Stock, the accretion of liquidation preference and the increase in the amount of Indebtedness outstanding solely as a result of fluctuations in exchange rates or currency values will not be deemed to be an incurrence of Indebtedness or an issuance of preferred stock, preference shares or Disqualified Stock for purposes of this Section 4.06; *provided*, in each such case, that the amount of any such accrual, accretion, amortization, payment, reclassification or increase is included in the Fixed Charges of the Issuer as accrued.

(g) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a different currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred or, in the case of Indebtedness incurred under a revolving credit facility and at the option of the Issuer, first committed; *provided* that (a) if such Indebtedness is incurred to refinance other Indebtedness denominated in a currency other than U.S. dollars, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing indebtedness



does not exceed the aggregate principal amount of such Indebtedness being refinanced; and (b) if and for so long as any Indebtedness is subject to a Hedging Obligation with respect to the currency in which such Indebtedness is denominated covering principal amounts payable on such Indebtedness, the amount of such Indebtedness, if denominated in U.S. dollars, will be the amount of the principal payment required to be made under such Hedging Obligation and, otherwise, the U.S. dollar-equivalent of such amount *plus* the U.S. dollar-equivalent of any premium which is at such time due and payable but is not covered by such Hedging Obligation.

(h) Notwithstanding any other provision of this Section 4.06, the maximum amount of Indebtedness that the Issuer or any Restricted Subsidiary may incur pursuant to this Section 4.06 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

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

(i) in the case of any Indebtedness issued with original issue discount, the amount of the liability in respect thereof determined in accordance with GAAP;

(ii) the principal amount of the Indebtedness, in the case of any other Indebtedness; and

(iii) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

(A) the Fair Market Value of such assets at the date of determination; and

(B) the amount of the Indebtedness of the other Person.

Section 4.07 *Liens.*

(a) The Issuer shall not and shall not cause or permit any of the Guarantors to, directly or indirectly, create, incur, assume or otherwise cause to exist or become effective any Lien of any kind securing Indebtedness upon any of their property or assets, now owned or hereafter acquired, except (i) Permitted Liens or (ii) a Lien on such property or assets that is not a Permitted Lien (each Lien under clause (ii), a “**Triggering Lien**”) if, contemporaneously with (or prior to) the incurrence of such Triggering Lien, all Note Obligations are secured on an equal and ratable basis with or on a senior basis to the obligations so secured until such time as such obligations are no longer secured by such Triggering Lien; *provided* that, if the Indebtedness secured by such Triggering Lien is subordinate or junior in right of payment to the Notes or a Note Guarantee, as the case may be, then such Triggering Lien securing such Indebtedness shall be subordinate or junior in priority to the Lien securing the Note Obligations.

(b) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The “**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 accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common shares of the Issuer or any direct or indirect parent entity of the Issuer, the payment of dividends on preferred stock or preference shares in

the form of additional shares of preferred stock or preference shares of the same class, the accretion of liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness. For the avoidance of doubt, any Lien that is permitted under this Indenture to secure Indebtedness shall also be permitted to secure any obligations related to such Indebtedness.

(c) Any Lien created in favor of this Indenture and the Notes or a Note Guarantee pursuant to Section 4.07(a)(ii) will be automatically and unconditionally released and discharged upon the release and discharge of the Triggering Lien to which it relates.

(d) For purposes of determining compliance with this Section 4.07, (A) Liens securing Indebtedness and obligations need not be incurred solely by reference to one category of Permitted Liens (or subparts thereof) but are permitted to be incurred in part under any combination thereof, and (B) in the event that a Lien meets the criteria of one or more of the categories of Permitted Liens (or subparts thereof), the Issuer may, in its sole discretion, classify, divide or later reclassify or redivide (as if incurred at such later time) such Liens (or any portions thereof) in any manner that complies with the definition of Permitted Liens, and such Liens (or portions thereof, as applicable) will be treated as having been incurred pursuant to such clause, clauses or subparts of the definition of Permitted Liens (and in the case of a subsequent division, classification or reclassification, such Liens shall cease to be divided or classified as it was prior to such subsequent division, classification or reclassification).

Section 4.08 *Restricted Payments.*

(a) The Issuer shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any other payment or distribution on account of the Issuer's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger, amalgamation or consolidation involving the Issuer or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Issuer's or any of its Restricted Subsidiaries' Equity Interests in their capacity as holders (in each case, other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Issuer and other than dividends or distributions payable to the Issuer or a Restricted Subsidiary);

(ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger, amalgamation or consolidation involving the Issuer) any Equity Interests of the Issuer or any direct or indirect parent entity of the Issuer;

(iii) make any principal payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value, any Indebtedness of the Issuer or any Guarantor that is expressly contractually subordinated in right of payment to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Issuer and any of its Restricted Subsidiaries), except (A) a payment of principal at the Stated Maturity thereof or (B) the purchase, repurchase, redemption, defeasance or other acquisition of Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or scheduled maturity, in each case due within one year of the date of such purchase, repurchase, redemption, defeasance or other acquisition; or

(iv) make any Restricted Investment;

(all such payments and other actions set forth in these clauses (i) through (iv) above being collectively referred to as “**Restricted Payments**”), unless, at the time of such Restricted Payment:

(A) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;

(B) the Issuer would, at the time of such Restricted Payment and after giving *pro forma* effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.06(a);

(C) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries since the Issue Date (excluding Restricted Payments permitted by clauses (i) (without duplication of amounts paid pursuant to any other clause of Section 4.08(b)), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi) and (xii) of Section 4.08(b)), is less than the sum, without duplication, of:

(1) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from the first day of the fiscal quarter commencing immediately following the fiscal quarter in which the Issue Date occurs to the end of the Issuer’s most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(2) 100% of the aggregate net cash proceeds and the Fair Market Value of other assets received by the Issuer since the Issue Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Issuer (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock of the Issuer or any Restricted Subsidiary or convertible or exchangeable debt securities of the Issuer or any Restricted Subsidiary, in each case that have been converted into or exchanged for Equity Interests of the Issuer (other than (x) net cash proceeds and marketable securities received from an issuance or sale of Equity Interests, Disqualified Stock or convertible or exchangeable debt securities sold to a Subsidiary of the Issuer, (y) net cash proceeds and marketable securities received from an issuance or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities that have been converted into, exchanged or redeemed for Disqualified Stock and (z) net cash proceeds and marketable securities to the extent any Restricted Payment has been made from such proceeds pursuant to Section 4.08(b)(iv)); *plus*

(3) to the extent that any Restricted Investment that was made after the Issue Date is (i) sold, disposed of or otherwise cancelled, liquidated or repaid, 100% of the aggregate amount received in cash and the Fair Market Value of marketable securities received; or (ii) made in an entity that subsequently becomes a Restricted Subsidiary, 100% of the Fair Market Value of the such Restricted Investment as of the date such entity becomes a Restricted Subsidiary; *plus*

(4) to the extent that any Unrestricted Subsidiary of the Issuer designated as such after the Issue Date is redesignated as a Restricted Subsidiary,

or is merged, amalgamated or consolidated into the Issuer or a Restricted Subsidiary, or all of the assets of such Unrestricted Subsidiary are transferred to the Issuer or a Restricted Subsidiary, in each case, after the Issue Date, the Fair Market Value of the Issuer's Restricted Investment in such Subsidiary as of the date of such redesignation, merger, amalgamation, consolidation or transfer of assets to the extent such Investments reduced the Restricted Payments capacity under this clause (4) and were not previously repaid or otherwise reduced; *provided, however*, that no amount will be included in Consolidated Net Income of the Issuer for purposes of the preceding clause (1) to the extent that it is included under this clause (4); *plus*

(5) 100% of any dividends or distributions received by the Issuer or a Restricted Subsidiary after the Issue Date from an Unrestricted Subsidiary to the extent that such dividends or distributions were not otherwise included in the Consolidated Net Income of the Issuer for such period (excluding, for the avoidance of doubt, repayments of, or interest payments in respect of, any Permitted Investment pursuant to clause (p) of the definition thereof); and

(D) at least one year shall have elapsed since the Issue Date, and (x) in the case of a Restricted Payment made on or after the first anniversary of the Issue Date and before the second anniversary of the Issue Date, the Consolidated Total Leverage Ratio of the Issuer and its Restricted Subsidiaries would not have been greater than 6.0:1.0 on a *pro forma* basis and (y) in the case of a Restricted Payment made on or after the second anniversary of the Issue Date, the Consolidated Total Leverage Ratio of the Issuer and its Restricted Subsidiaries would not have been greater than 5.0:1.0 on a *pro forma* basis; *provided* that neither clause (x) nor clause (y) shall apply to the making of any Restricted Payment that is a Restricted Investment.

(b) The preceding provisions will not prohibit the following (“**Permitted Payments**”):

(i) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or distribution or redemption payment would have complied with the provisions of this Indenture;

(ii) the making of any Restricted Payment in exchange for, or out of or with the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Issuer) of, Equity Interests of the Issuer or any direct or indirect parent of the Issuer (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Issuer; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from Section 4.08(a)(iv)(C)(2);

(iii) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee with the net cash proceeds from an incurrence of Permitted Refinancing Indebtedness;

(iv) so long as no Default or Event of Default has occurred and is continuing, the purchase, repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Issuer, any direct or indirect parent of the Issuer or any Restricted Subsidiary held by any current or former officer, director, employee or consultant of the Issuer, any direct or indirect parent

of the Issuer or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, restricted stock grant, shareholders' agreement or similar agreement; *provided* that the aggregate price paid for all such purchased, repurchased, redeemed, acquired or retired Equity Interests may not exceed \$10.0 million in the aggregate in any twelve-month period with unused amounts being carried over to any subsequent twelve-month period subject to a maximum aggregate amount of \$20.0 million being available in any twelve-month period; and *provided, further*, that such amount in any twelve-month period may be increased by an amount not to exceed the cash proceeds from the sale of Equity Interests of the Issuer or any direct or indirect parent of the Issuer, in each case, received by the Issuer during such twelve-month period, in each case to members of management, directors or consultants of the Issuer, any of its direct or indirect parent of the Issuer or any Restricted Subsidiaries to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the making of Restricted Payments pursuant to Section 4.08(a)(iv)(C)(3) or clause (ii) of this Section 4.08(b);

(v) the repurchase of Equity Interests deemed to occur upon the exercise of stock or share options to the extent such Equity Interests represent a portion of the exercise price of those stock or share options;

(vi) so long as no Default or Event of Default has occurred and is continuing, the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Issuer or any preferred stock or preference shares of any Restricted Subsidiary issued on or after the Issue Date in accordance with Section 4.06;

(vii) payments of cash, dividends, distributions, advances or other Restricted Payments by the Issuer or any of its Restricted Subsidiaries to allow the payment of cash in lieu of the issuance of fractional shares upon (i) the exercise of options or warrants or (ii) the conversion or exchange of Capital Stock of any such Person;

(viii) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary to the holders of its Equity Interests (other than the Issuer or any Restricted Subsidiary) on no more than a *pro rata* basis;

(ix) the making of (i) cash payments made by the Issuer or any of its Restricted Subsidiaries in satisfaction of the conversion obligation upon conversion of convertible Indebtedness issued in a convertible notes offering and (ii) any payments by the Issuer or any of its Restricted Subsidiaries pursuant to the exercise, settlement or termination of any related capped call, hedge, warrant or other similar transactions;

(x) any Permitted Tax Distributions;

(xi) any dividends or other distributions or payments (directly or indirectly) to any direct or indirect parent of the Issuer in the ordinary course of business in respect of franchise or similar Taxes and other fees and expenses in connection with the maintenance of its existence and its direct or indirect ownership of the Issuer;

(xii) other Restricted Payments in an aggregate amount not to exceed \$50.0 million since the Issue Date so long as, immediately after giving effect to such Restricted Payment, no Default or Event of Default has occurred and is continuing; and

(xiii) other Restricted Payments made on or after the first anniversary of the Issue Date, in an aggregate amount not to exceed \$200.0 million since the Issue Date, *provided* that (x) in the

case of a Restricted Payment made pursuant to this clause (xiii) on or after the first anniversary of the Issue Date and before the second anniversary of the Issue Date, the Consolidated Total Leverage Ratio of the Issuer and its Restricted Subsidiaries would not have been greater than 6.0:1.0 on a *pro forma* basis and (y) in the case of a Restricted Payment made pursuant to this clause (xiii) on or after the second anniversary of the Issue Date, the Consolidated Total Leverage Ratio of the Issuer and its Restricted Subsidiaries would not have been greater than 5.0:1.0 on a *pro forma* basis.

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

For purposes of determining compliance with this covenant, (1) in the event that a proposed Restricted Payment (or portion thereof) meets the criteria of one or more categories (or subparts thereof) of Permitted Payments or Permitted Investments, or is entitled to be incurred pursuant to the first paragraph of this covenant, the Issuer will be entitled to classify or reclassify such payment (or portion thereof) based on circumstances existing on the date of such reclassification in any manner that complies with this covenant, and such payment (or portion thereof) will be treated as having been made pursuant to the first paragraph of this covenant or such clause or clauses (or subparts thereof) in the definition of Permitted Payments or Permitted Investments and (2) the amount of any return of or on capital from any Investment shall be netted against the amount of such Investment for purposes of determining compliance with this covenant.

Section 4.09 *Asset Sales.*

(a) The Issuer shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, consummate an Asset Sale unless:

(i) the Issuer (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(ii) at least 75% of the consideration received in the Asset Sale by the Issuer or such Restricted Subsidiary is in the form of cash, Cash Equivalents or Replacement Assets or a combination thereof (which determination may be made by the Issuer, at its option, either (x) at the time such Asset Sale is approved by the Issuer's Board of Directors or (y) at the time the Asset Sale is completed). For purposes of this clause (ii), each of the following will be deemed to be cash:

(A) any liabilities, as recorded on the balance sheet of the Issuer or any Restricted Subsidiary (other than contingent liabilities or liabilities that are by their terms subordinated to the Notes or the Note Guarantees), that are assumed by the transferee of any such assets and as a result of which the Issuer and its Restricted Subsidiaries are no longer obligated with respect to such liabilities or are indemnified against further liabilities or that are otherwise retired or repaid;

(B) any securities, notes or other obligations received by the Issuer or any such Restricted Subsidiary from such transferee that are converted by the Issuer or such Restricted Subsidiary into cash or Cash Equivalents within 180 days following the closing of the Asset Sale, to the extent of the cash or Cash Equivalents received in that conversion;

(C) any Capital Stock or assets of the kind referred to in Section 4.09(b)(ii) or (iv);

(D) Indebtedness (other than Indebtedness that is by its terms subordinated to the Notes or the Note Guarantees) of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Sale, to the extent that each Restricted Subsidiary is released from any Guarantee of such Indebtedness in connection with such Asset Sale;

(E) consideration consisting of Indebtedness of the Issuer or any Guarantor received from Persons who are not the Issuer or any Restricted Subsidiary; and

(F) consideration other than cash, Cash Equivalents or Replacement Assets received by the Issuer or any Restricted Subsidiary in Asset Sales with a Fair Market Value not exceeding \$125.0 million in the aggregate outstanding at any one time.

(b) Within 450 days after the receipt of any Net Proceeds from an Asset Sale, any Event of Loss, the Issuer (or the applicable Restricted Subsidiary, as the case may be) may apply such Net Proceeds:

(i) to repurchase the Notes pursuant to an offer to all Holders at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest to (but not including) the date of purchase (a “Notes Offer”);

(ii) to acquire all or substantially all of the assets of, or any Capital Stock of, another Permitted Business; provided that after giving effect to any such acquisition of Capital Stock, the Permitted Business is or becomes a Restricted Subsidiary;

(iii) to make a capital expenditure;

(iv) to acquire other assets (other than Capital Stock) not classified as current assets under GAAP that are used or useful in a Permitted Business;

(v) to repurchase, prepay, redeem or repay Indebtedness (A) of the Issuer or a Restricted Subsidiary which is not a Guarantor (other than Indebtedness owed to the Issuer or a Restricted Subsidiary), (B) of the Issuer or any Guarantor that is secured by a Lien on the assets that were the subject of such Asset Sale or Event of Loss or (C) of the Issuer or a Guarantor that is *pari passu* in right of payment with the Notes or any Note Guarantee; provided that, in the case of this clause (C), the Issuer (or the applicable Restricted Subsidiary) may repurchase, prepay, redeem or repay such *pari passu* Indebtedness only if the Issuer (or the applicable Restricted Subsidiary) makes an offer to all Holders to purchase their Notes in accordance with the provisions set forth below for an Asset Sale Offer for an aggregate principal amount of Notes at least equal to the proportion that (x) the total aggregate principal amount of Notes outstanding bears to (y) the sum of the total aggregate principal amount of Notes outstanding plus the total aggregate principal amount outstanding of such *pari passu* Indebtedness;

(vi) to enter into a binding commitment to apply the Net Proceeds pursuant to clause (ii), (iii) or (iv) of this Section 4.09(b); provided that such binding commitment (or any subsequent commitments replacing the initial commitment that may be cancelled or terminated) shall be treated as a permitted application of the Net Proceeds from the date of such commitment until the earlier of (x) the date on which such acquisition or expenditure is consummated and (y) the 180th day following the expiration of the aforementioned 450 day period; or

(vii) any combination of the foregoing.

Pending the final application of any Net Proceeds, the Issuer (or the applicable Restricted Subsidiary) may temporarily reduce borrowings under any revolving credit facility, or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

(c) Any Net Proceeds from Asset Sales or an Event of Loss that are not applied or invested as provided in Section 4.09(b) (it being understood that any portion of such Net Proceeds used to make an offer to purchase Notes as described in Section 4.09(b)(i) or (v) above shall be deemed to have been applied or invested whether or not such Notes Offer is accepted) will constitute “**Excess Proceeds**.” When the aggregate amount of Excess Proceeds exceeds \$100.0 million (or at an earlier time, at the option of the Issuer), within ten Business Days thereof, the Issuer will make an offer (an “**Asset Sale Offer**”) to all Holders and may make an offer to all holders of other Indebtedness that is *pari passu* in right of payment with the Notes or any Note Guarantees with respect to offers to purchase, prepay or redeem with the proceeds of sales of assets or events of loss to purchase, prepay or redeem the maximum principal amount of Notes and such other *pari passu* Indebtedness (*plus* all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith) that may be purchased, prepaid or redeemed out of the Excess Proceeds. The offer price for the Notes in any Asset Sale Offer will be equal to 100% of the principal amount, *plus* accrued and unpaid interest and Additional Amounts, if any, to the date of purchase, prepayment or redemption, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Issuer may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and such other *pari passu* Indebtedness tendered into (or to be prepaid or redeemed in connection with) such Asset Sale Offer exceeds the amount of Excess Proceeds, or if the aggregate amount of Notes tendered pursuant to a Notes Offer exceeds the amount of the Net Proceeds so applied, the Trustee will select the Notes and such other *pari passu* Indebtedness, if applicable, to be purchased on a pro rata basis (or in the manner provided in Section 3.03), based on the amounts tendered or required to be prepaid or redeemed. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

The Issuer will comply with the requirements of Rule 14e-1 under the U.S. Exchange Act and any other securities laws and regulations (and rules of any exchange on which the Notes are then listed) to the extent those laws, regulations or rules are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer or a Notes Offer. To the extent that the provisions of any securities laws or regulations or exchange rules conflict with the Asset Sale or Notes Offer provisions of this Indenture, the Issuer will comply with the applicable securities laws, regulations and rules and will not be deemed to have breached its obligations under the Asset Sale or Notes Offer provisions of this Indenture by virtue of such compliance.

#### Section 4.10 *Transactions with Affiliates.*

(a) The Issuer shall not, and shall not cause or permit any of its Restricted Subsidiaries to, make any payment to or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each, an “**Affiliate Transaction**”) involving aggregate payments or consideration in excess of \$50.0 million, unless:

(i) the Affiliate Transaction is on terms that are, taken as a whole, no less favorable to the Issuer or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with a Person who is not such an Affiliate; and



(ii) the Issuer delivers to the Trustee, with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$125.0 million, a resolution of the Board of Directors of the Issuer set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with this Section 4.10 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of the Issuer (or in the event there is only one disinterested director, by such disinterested director, or, in the event there are no disinterested directors, by unanimous approval of the members of the Board of Directors of the Issuer).

(b) Notwithstanding the foregoing, the following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.10(a):

(i) any employment agreement, collective bargaining agreement, consulting agreement or employee benefit arrangements with any employee, consultant, officer or director of the Issuer or any Restricted Subsidiary, including under any stock option, stock appreciation rights, stock incentive or similar plans, entered into in the ordinary course of business;

(ii) transactions between or among the Issuer and/or its Restricted Subsidiaries;

(iii) transactions with a Person (other than an Unrestricted Subsidiary of the Issuer) that is an Affiliate of the Issuer solely because the Issuer owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(iv) payment of reasonable and customary fees, salaries, bonuses, compensation, other employee benefits and reimbursements of expenses (pursuant to indemnity arrangements or otherwise) of Officers, directors, employees or consultants of the Issuer or any of its Restricted Subsidiaries;

(v) any issuance of Equity Interests (other than Disqualified Stock) of the Issuer to Affiliates of the Issuer;

(vi) Restricted Payments that do not violate Section 4.08;

(vii) transactions pursuant to or contemplated by any agreement in effect on the Issue Date and transactions pursuant to any amendment, modification or extension to such agreement, so long as such amendment, modification or extension, taken as a whole, is not materially more disadvantageous to the Holders than the original agreement as in effect on the Issue Date;

(viii) Permitted Investments (other than Permitted Investments described in clauses (c), (d), (e), (o), (p), (q) and (r) of the definition thereof);

(ix) Management Advances;

(x) 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 Indenture that are fair to the Issuer or the Restricted Subsidiaries in the reasonable determination of the members of the Board of Directors of the Issuer or the senior management thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated Person;

(xi) the granting and performance of any registration rights for the Issuer's Capital Stock;

(xii) any contribution to the capital of the Issuer;

(xiii) pledges of Equity Interests of Unrestricted Subsidiaries;

(xiv) transactions with respect to which the Issuer has obtained an opinion of an accounting, appraisal or investment banking firm of international standing, or other recognized independent expert of international standing with experience appraising the terms and conditions of the type of transaction or series of related transactions for which an opinion is required, stating that the transaction or series of related transactions is (A) fair from a financial point of view taking into account all relevant circumstances or (B) on terms not less favorable than might have been obtained in a comparable transaction at such time on an arm's-length basis from a Person who is not an Affiliate;

(xv) [reserved]; and

(xvi) transactions undertaken in good faith (as certified by a responsible financial or accounting officer of the Issuer in an Officer's Certificate) between the Issuer and any other Person or a Restricted Subsidiary and any other Person with which the Issuer or any of its Restricted Subsidiaries files a combined, consolidated, unitary or similar group tax return or which the Issuer or any of its Restricted Subsidiaries is part of a group for tax purposes that are effected for the purpose of improving the combined, consolidated, unitary or similar group tax efficiency of the Issuer and its Subsidiaries and not for the purpose of circumventing any provision of this Indenture.

Section 4.11 *Purchase of Notes upon a Change of Control.*

(a) If a Change of Control Triggering Event occurs at any time, then the Issuer shall make an offer (a "**Change of Control Offer**") to each Holder to purchase such Holder's Notes, at a purchase price (the "**Change of Control Purchase Price**") in cash in an amount equal to 101% of the principal amount thereof, *plus* accrued and unpaid interest, if any, to the date of purchase (the "**Change of Control Purchase Date**") (subject to the rights of Holders on the relevant Record Dates to receive interest due on the relevant Interest Payment Date).

(b) Within 30 days following any Change of Control Triggering Event, the Issuer shall deliver a notice to each Holder of the Notes at such Holder's registered address or otherwise deliver a notice in accordance with the procedures set forth in Section 3.04, which notice shall state:

(i) that a Change of Control Triggering Event has occurred, and the date it occurred, and that a Change of Control Offer is being made;

(ii) the circumstances and relevant facts regarding such Change of Control (including, but not limited to, applicable information with respect to *pro forma* historical income, cash flow and capitalization after giving effect to the Change of Control);

(iii) the Change of Control Purchase Price and the Change of Control Purchase Date, which shall be a Business Day no earlier than 10 days nor later than 60 days from the date such notice is delivered, pursuant to the procedures required by this Indenture and described in such notice;

- (iv) that any Note accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Purchase Date unless the Change of Control Purchase Price is not paid;
  - (v) that any Note (or part thereof) not tendered shall continue to accrue interest; and
  - (vi) any other procedures that a Holder must follow to accept a Change of Control Offer or to withdraw such acceptance.
- (c) On the Change of Control Purchase Date, the Issuer shall, to the extent lawful:
- (i) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;
  - (ii) deposit with the Paying Agent an amount equal to the Change of Control Purchase Price in respect of all Notes or portions of Notes properly tendered; and
  - (iii) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.
- (d) The Paying Agent shall promptly deliver to each Holder which has properly tendered and so accepted the Change of Control Offer for such Notes, and the Trustee (or an authenticating agent appointed by the Issuer) shall promptly authenticate and deliver (or cause to be transferred by book-entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any. Any Note so accepted for payment will cease to accrue interest on or after the Change of Control Purchase Date. The Issuer shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Purchase Date.
- (e) This Section 4.11 will be applicable whether or not any other provisions of this Indenture are applicable.
- (f) If the Change of Control Purchase Date is on or after an interest Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, if any, shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender pursuant to the Change of Control Offer.
- (g) The Issuer will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer or (2) a notice of redemption has been given pursuant to the provisions of paragraph 6 of the Notes, unless and until there is a default in payment of the applicable Redemption Price. Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.
- (h) The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act, and any other securities laws and regulations (and rules of any exchange on which the Notes are then listed) to the extent those laws, regulations or rules are applicable in connection with the repurchase of the Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations

or exchange rules conflict with the Change of Control provisions of this Indenture, the Issuer shall comply with the applicable securities laws, regulations and rules and will not be deemed to have breached its obligations under this Indenture by virtue of such compliance.

Section 4.12 *Additional Amounts.*

(a) All payments made by or on behalf of the Issuer or any of the Guarantors (including, in each case, any successor entity) under or with respect to the Notes or any Note Guarantee shall be made free and clear of and without withholding or deduction for, or on account of, any present or future Taxes unless the withholding or deduction of such Taxes is then required by law. If the Issuer, any Guarantor or any other applicable withholding agent is required by law to withhold or deduct any amount for, or on account of, any Taxes imposed or levied by or on behalf of (1) any jurisdiction in which the Issuer or any Guarantor is or was incorporated, engaged in business, organized or resident for tax purposes or any political subdivision thereof or therein or (2) any jurisdiction from or through which any payment is made by or on behalf of the Issuer or any Guarantor (including, without limitation, the jurisdiction of any Paying Agent) or any political subdivision thereof or therein (each of (1) and (2), a “**Tax Jurisdiction**”) in respect of any payments under or with respect to the Notes or any Note Guarantee, including, without limitation, payments of principal, Redemption Price, purchase price, interest or premium, the Issuer or the relevant Guarantor, as applicable, shall pay such additional amounts (the “**Additional Amounts**”) as may be necessary in order that the net amounts received in respect of such payments by each Holder after such withholding or deduction will equal the respective amounts that would have been received by each Holder in respect of such payments in the absence of such withholding or deduction; *provided, however,* that no Additional Amounts shall be payable with respect to:

(i) any Taxes, to the extent such Taxes would not have been imposed but for the holder or the beneficial owner of the Notes (or a fiduciary, settlor, beneficiary, partner of, member or shareholder of, or possessor of a power over, the relevant Holder or beneficial owner, if the relevant Holder or beneficial owner is an estate, trust, nominee, partnership, limited liability company or corporation) being or having been a citizen or resident or national of, or incorporated, engaged in a trade or business in, being or having been physically present in or having a permanent establishment in, the relevant Tax Jurisdiction or having or having had any other present or former connection with the relevant Tax Jurisdiction, other than any connection arising solely from the acquisition, ownership or disposition of Notes, the exercise or enforcement of rights under such Note, this Indenture or a Note Guarantee, or the receipt of payments in respect of such Note or a Note Guarantee;

(ii) any Taxes, to the extent such Taxes were imposed as a result of the presentation of a Note for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the Holder (except to the extent that the Holder would have been entitled to Additional Amounts had the Note been presented on the last day of such 30 day period);

(iii) any estate, inheritance, gift, sale, transfer, personal property or similar Taxes;

(iv) any Taxes payable other than by deduction or withholding from payments under, or with respect to, the Notes or any Note Guarantee;

(v) any Taxes to the extent such Taxes would not have been imposed or withheld but for the failure of the Holder or beneficial owner of the Notes, following the Issuer’s reasonable written request addressed to the Holder at least 30 days before any such withholding or deduction would be imposed, to comply with any certification, identification, information or other reporting

requirements, whether required by statute, treaty, regulation or administrative practice of a Tax Jurisdiction, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by the Tax Jurisdiction (including, without limitation, a certification that the Holder or beneficial owner is not resident in the Tax Jurisdiction), but in each case, only to the extent the Holder or beneficial owner is legally eligible to provide such certification or documentation;

(vi) any Taxes imposed in connection with a Note presented for payment (where presentation is permitted or required for payment) by or on behalf of a Holder or beneficial owner of the Notes to the extent such Taxes could have been avoided by presenting the relevant Note to, or otherwise accepting payment from, another Paying Agent;

(vii) any Taxes imposed on or with respect to any payment by the Issuer or any of the Guarantors to the Holder of the Notes if such Holder is a fiduciary or partnership or any person other than the sole beneficial owner of such payment to the extent that such Taxes would not have been imposed on such payments had such Holder been the sole beneficial owner of such Note;

(viii) any Taxes imposed by the United States, any state thereof or the District of Columbia, or any subdivision thereof or territory thereof, including any U.S. federal withholding taxes and any Taxes that are imposed pursuant to current Sections 1471 through 1474 of the Code or any amended or successor version that is substantively comparable and not materially more onerous to comply with, any regulations promulgated thereunder, any official interpretations thereof, any intergovernmental agreement between a non-U.S. jurisdiction and the United States (or any related law or administrative practices or procedures) implementing the foregoing or any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above); or

(ix) any combination of clauses (i) through (viii) above.

In addition to the foregoing, the Issuer and the Guarantors will also pay and indemnify the holder for any present or future stamp, issue, registration, value added, transfer, court or documentary Taxes, or any other excise or property taxes, charges or similar levies (including penalties, interest and additions to tax related thereto) which are levied by any relevant Tax Jurisdiction on the execution, delivery, issuance, or registration of any of the Notes, this Indenture, any Note Guarantee or any other document referred to therein, or the receipt of any payments with respect thereto, or enforcement of, any of the Notes or any Note Guarantee (limited, solely in the case of Taxes attributable to the receipt of any payments or that are imposed on or result from a sale or other transfer or disposition of a Note by a Holder or a beneficial owner, to any such Taxes imposed in a Tax Jurisdiction that are not excluded under clauses (i) through (iii) or (v) through (ix) above or any combination thereof), save in each case for any such taxes, charges or levies which arise or are increased as a result of any document effecting the registration, issue or delivery of any of the notes either being signed or executed in the United Kingdom or being brought into the United Kingdom.

(b) If the Issuer or any Guarantor, as the case may be, becomes aware that it will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Notes or any Note Guarantee, the Issuer or the relevant Guarantor, as the case may be, shall deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises after the 30th day prior to that payment date, in which case the Issuer or the relevant Guarantor shall notify the Trustee promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificates must also set forth any other information reasonably necessary to enable the Paying Agents to pay Additional Amounts to Holders

on the relevant payment date. The Issuer or the relevant Guarantor will provide the Trustee with documentation reasonably satisfactory to the Trustee evidencing the payment of Additional Amounts. The Trustee shall be entitled to rely absolutely on an Officer's Certificate as conclusive proof that such payments are necessary.

(c) The Issuer or the relevant Guarantor, if it is the applicable withholding agent, shall make all withholdings and deductions (within the time period) required by law and shall remit the full amount deducted or withheld to the relevant Tax authority in accordance with applicable law. The Issuer or the relevant Guarantor shall use its reasonable efforts to obtain Tax receipts from each Tax authority evidencing the payment of any Taxes so deducted or withheld. The Issuer or the relevant Guarantor shall furnish to the Trustee (or to a Holder of the Notes upon request), within 60 days after the date the payment of any Taxes so deducted or withheld is made, certified copies of Tax receipts evidencing payment by the Issuer or a Guarantor, as the case may be, or if, notwithstanding such entity's efforts to obtain receipts, receipts are not obtained, other evidence of payments (reasonably satisfactory to the Trustee) by such entity.

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

(e) This Section 4.12 shall survive any termination, defeasance or discharge of this Indenture, any transfer by a Holder or beneficial owner of its Notes, and will apply, *mutatis mutandis*, to any jurisdiction in which any successor Person to the Issuer (or any Guarantor) is incorporated, engaged in business, organized or resident for tax purposes, or any jurisdiction from or through which payment is made under or with respect to the Notes (or any Note Guarantee) by or on behalf of such Person and, in each case, any political subdivision thereof or therein.

Section 4.13 *[Reserved]*.

Section 4.14 *[Reserved]*.

Section 4.15 *Additional Guarantees.*

(a) The Issuer may, at its option, elect to cause any of its Restricted Subsidiaries that is not a Guarantor to Guarantee the payment of the Notes by executing and delivering a Supplemental Indenture providing for the Note Guarantee of the payment of the Notes by such Restricted Subsidiary which Note Guarantee may be senior to or *pari passu* in right of payment with such Restricted Subsidiary's Guarantee of other permitted Indebtedness and with respect to any Guarantee of Indebtedness that is expressly contractually subordinated in right of payment to the Notes or to any Note Guarantee by such Restricted Subsidiary, any such Guarantee will be subordinated to such Restricted Subsidiary's Note Guarantee at least to the same extent as such subordinated Indebtedness is subordinated to the Notes.

In connection with clause (a) above, the Issuer shall deliver to the Trustee an Opinion of Counsel that such Supplemental Indenture has been duly authorized, executed and delivered by such Restricted Subsidiary and constitutes a valid and binding obligation of such Restricted Subsidiary, enforceable against such Restricted Subsidiary in accordance with its terms, subject to customary exceptions.

Section 4.16 *Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.*

(a) The Issuer shall not, and shall not cause or permit any of its respective Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (i) pay dividends or make any other distributions on its Capital Stock to the Issuer or any Restricted Subsidiary, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Issuer or any Restricted Subsidiary;
- (ii) make loans or advances to the Issuer or any Restricted Subsidiary; or
- (iii) sell, lease or transfer any of its properties or assets to the Issuer or any Restricted Subsidiary;

*provided* that (x) the priority of any preferred stock or preference shares in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock or ordinary shares, (y) the subordination of (including the application of any standstill period to) loans or advances made to the Issuer or any Restricted Subsidiary to other Indebtedness incurred by the Issuer or any Restricted Subsidiary and (z) the provisions contained in documentation governing or relating to Indebtedness requiring transactions between or among the Issuer and any Restricted Subsidiary or between or among any Restricted Subsidiaries to be on fair and reasonable terms or on an arm's-length basis, in each case, shall not be deemed to constitute such an encumbrance or restriction.

(b) The provisions of Section 4.16(a) above shall not apply to encumbrances or restrictions existing under or by reason of:

(i) agreements or instruments governing or relating to Indebtedness as in effect on the Issue Date (including pursuant to the ARCA, the Existing Notes and the ECA Facilities and the related documentation, and including certain perpetual licenses (and any sublicenses thereunder) with respect to certain intellectual property granted by NCL US IP Co 2, LLC, a Delaware limited liability company, and the U.S. Branch of NCL UK IP Co Ltd, a private limited company organized under the laws of England and Wales to the Issuer in connection with the Existing Secured Notes) and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially less favorable, taken as a whole, to the Holder with respect to such dividend and other payment restrictions than those contained in those agreements or instruments on the Issue Date (as determined in good faith by the Issuer);

(ii) the Note Documents;

(iii) agreements or instruments governing other Indebtedness permitted to be incurred under Section 4.06 and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the Issuer determines at the time of the incurrence of such Indebtedness that such encumbrances or restrictions will not adversely affect, in any material respect, the Issuer's ability to make principal or interest payments on the Notes;

(iv) applicable law, rule, regulation or order or the terms of any license, authorization, concession or permit;

(v) any agreement or instrument governing or relating to Indebtedness or Capital Stock of a Person acquired by the Issuer or any of its Restricted Subsidiaries as in effect at the time of such acquisition (other than any agreement or instrument entered into in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(vi) customary non-assignment and similar provisions in contracts, leases and licenses entered into in the ordinary course of business;

(vii) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature set forth in Section 4.16(a)(iii) or any encumbrance or restriction pursuant to a joint venture agreement that imposes restrictions on the transfer of the assets of the joint venture;

(viii) any agreement for the sale or other disposition of the Capital Stock or all or substantially all of the property and assets of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending its sale or other disposition;

(ix) Permitted Refinancing Indebtedness; *provided* that either (i) the restrictions contained in the agreements or instruments governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements or instruments governing the Indebtedness being refinanced or (ii) the Issuer determines at the time of the incurrence of such Indebtedness that such encumbrances or restrictions will not adversely effect, in any material respect, the Issuer's ability to make principal or interest payments on the Notes;

(x) Liens permitted to be incurred under Section 4.07 that limit the right of the debtor to dispose of the assets subject to such Liens;

(xi) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements (including agreements entered into in connection with a Restricted Investment) entered into with the approval of the Issuer's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(xii) restrictions on cash or other deposits or net worth imposed by customers or suppliers or required by insurance, surety or bonding companies, in each case, under contracts entered into in the ordinary course of business;

(xiii) any customary Productive Asset Leases for Vessels and other assets used in the ordinary course of business; *provided* that such encumbrance or restriction only extends to the Vessel or other asset financed in such Productive Asset Lease;

(xiv) any encumbrance or restriction existing with respect to any Unrestricted Subsidiary or the property or assets of such Unrestricted Subsidiary that is designated as a Restricted Subsidiary in accordance with the terms of this Indenture at the time of such designation and not incurred in contemplation of such designation, which encumbrances or restrictions are not applicable to any Person other than such Unrestricted Subsidiary or the property or assets of such Unrestricted Subsidiary; *provided* that the encumbrances or restrictions are customary for the



business of such Unrestricted Subsidiary and would not, at the time agreed to, be expected to affect the ability of the Issuer and the Guarantors to make payments under the Notes and this Indenture;

(xv) customary encumbrances or restrictions contained in agreements in connection with Hedging Obligations permitted under this Indenture;

(xvi) [reserved]; and

(xvii) any encumbrance or restriction existing under any agreement that extends, renews, refinances, replaces, amends, modifies, restates or supplements the agreements containing the encumbrances or restrictions in the foregoing clauses (i) through (xvi), or in this clause (xvii); *provided* that the terms and conditions of any such encumbrances or restrictions are no more restrictive in any material respect than those under or pursuant to the agreement so extended, renewed, refinanced, replaced, amended, modified, restated or supplemented.

Section 4.17 *Designation of Restricted and Unrestricted Subsidiaries.*

(a) The Board of Directors of the Issuer may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default.

(b) If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Issuer and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.08 or under one or more clauses of the definition of "Permitted Investments," as determined by the Issuer. The designation of a Restricted Subsidiary as an Unrestricted Subsidiary will only be permitted if the deemed Investment resulting from such designation would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

(c) The Issuer may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

(d) Any designation of a Subsidiary of the Issuer as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a copy of a resolution of the Board of Directors of the Issuer giving effect to such designation and an Officer's Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.08. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.06, the Issuer will be in default of such Section 4.06. The Board of Directors of the Issuer may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (i) such Indebtedness is permitted under Section 4.06, calculated on a *pro forma* basis as if such designation had occurred at the beginning of the applicable reference period; and (ii) no Default or Event of Default would be in existence following such designation.

Section 4.18 *[Reserved.]*

Section 4.19 *Reports to Holders.*

(a) So long as any Notes are outstanding, notwithstanding that the Issuer may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to the rules and regulations promulgated by the SEC, the Issuer will file with the Commission within the time periods specified in the SEC's rules and regulations that are then applicable to the Issuer (or if the Issuer is not then subject to the reporting requirements of the Exchange Act, then the time periods for filing applicable to a filer that is not an "accelerated filer" as defined in such rules and regulations) (in either case, including any extension as would be permitted by Rule 12b-25 under the Exchange Act or any special order of the SEC):

(i) all financial information that would be required to be contained in an annual report on Form 10-K, or any successor or comparable form, filed with the SEC, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" section and a report on the annual financial statements by the Issuer's independent registered public accounting firm;

(ii) all financial information that would be required to be contained in a quarterly report on Form 10-Q, or any successor or comparable form, filed with the SEC, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" section; and

(iii) all current reports that would be required to be filed with the Commission on Form 8-K, or any successor or comparable form, if the Issuer were required to file such reports,

in each case in a manner that complies in all material respects with the requirements specified in such form *provided, however*, that the Trustee shall have no responsibility whatsoever to determine if such filing has occurred.

(b) The requirements set forth in the preceding paragraph may be satisfied by delivering such information to the Trustee and posting copies of such information on a website or on IntraLinks or any comparable online data system or website.

(c) Not later than ten Business Days after the furnishing of each such report discussed in Section 4.19(a)(i) or (ii), the Issuer will hold a conference call related to the report. Details regarding access to such conference call will be posted at least 24 hours prior to the commencement of such call on the website, IntraLinks or other online data system or website on which the report is posted.

(d) The reports set forth in Section 4.19(a)(i) or (ii) shall include disclosure with respect to the non-Guarantor Subsidiaries similar to what was included in the offering memoranda for the Existing Notes.

(e) The Issuer will make the information described in Section 4.19(a) available electronically to prospective investors upon request. For so long as any Notes remain outstanding during any period when it is not or the Issuer is not subject to Section 13 or 15(d) of the Exchange Act, or otherwise permitted to furnish the Commission with certain information pursuant to Rule 12g3-2(b) of the Exchange Act, it will furnish to the holders of the Notes and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the U.S. Securities Act.

(f) Notwithstanding the foregoing clauses (a) through (e) of this Section 4.19, the Issuer will be deemed to have delivered such reports and information referred to above to the holders, prospective investors, market makers, securities analysts and the Trustee for all purposes of this Indenture if the Issuer

or the Issuer has filed such reports with the Commission via the EDGAR filing system (or any successor system) and such reports are publicly available.

(g) Delivery of reports, information and documents to the Trustee is for informational purposes only, and its receipt of such reports, information and documents shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's, any Guarantor's or any other Person's compliance with any of its covenants under this Indenture or the Notes (as to which the Trustee is entitled to rely exclusively on the Officer's Certificates delivered pursuant to this Indenture). The Trustee shall have no liability or responsibility for the content, filing or timeliness of any report delivered or filed under or in connection with this Indenture or the transactions contemplated thereunder.

ARTICLE FIVE  
MERGER, AMALGAMATION, CONSOLIDATION OR SALE OF ASSETS

Section 5.01 *Merger, Amalgamation, Consolidation or Sale of Assets.*

(a) The Issuer will not, directly or indirectly: (1) consolidate, amalgamate or merge with or into another Person (whether or not the Issuer is the surviving company corporation), or (2) sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(i) either: (A) the Issuer is the surviving company or corporation; or (B) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition has been made is an entity incorporated, organized or existing under the laws of any Permitted Jurisdiction;

(ii) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Issuer) or the Person to which such sale, assignment, transfer, lease, conveyance or other disposition has been made assumes, by a Supplemental Indenture entered into with the Trustee, all the obligations of Issuer under the Notes and this Indenture;

(iii) immediately after such transaction, no Default or Event of Default is continuing;

(iv) the Issuer or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than the Issuer), or to which such sale, assignment, transfer, lease, conveyance or other disposition has been made would, on the date of such transaction after giving *pro forma* effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.06(a); and

(v) the Issuer delivers to the Trustee an Officer's Certificate and Opinion of Counsel, in each case, stating that such consolidation, amalgamation, merger or transfer and, in the case in which a Supplemental Indenture is entered into, such Supplemental Indenture, comply with this Section 5.01 and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

Clauses (iii) and (iv) of this Section 5.01(a) shall not apply to any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets to or merger, amalgamation or consolidation of the Issuer with or into a Guarantor and clause (iv) of this Section 5.01(a) will not apply to

any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets to or merger, amalgamation or consolidation of the Issuer with or into an Affiliate solely for the purpose of reincorporating or continuing the Issuer in another jurisdiction for tax reasons.

(b) A Guarantor (other than a Guarantor whose Note Guarantee is to be released in accordance with the terms of the Note Guarantee and this Indenture as provided in Section 10.03) will not, directly or indirectly: (1) consolidate, amalgamate or merge with or into another Person (whether or not such Guarantor is the surviving company or corporation), or (2) sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of such Guarantor and its Subsidiaries which are Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(i) immediately after giving effect to that transaction, no Default or Event of Default is continuing;

(ii) either:

(A) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation, amalgamation or merger assumes all the obligations of that Guarantor under its Note Guarantee and this Indenture, pursuant to a Supplemental Indenture; or

(B) such sale, assignment, transfer, lease, conveyance or other disposition of assets does not violate the provisions of this Indenture (including Section 4.09); and

(iii) the Issuer delivers to the Trustee an Officer's Certificate and Opinion of Counsel, in each case, stating that such consolidation, amalgamation, merger or transfer and, in the case in which a Supplemental Indenture is entered into, such Supplemental Indenture, comply with this Section 5.01 and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

(c) Notwithstanding the provisions of paragraph (b) above, (x) (a) any Restricted Subsidiary may consolidate, amalgamate or merge with or into or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties and assets to any Guarantor and (b) any Guarantor may consolidate, amalgamate or merge with or into or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties and assets of such Guarantor and its Subsidiaries which are Restricted Subsidiaries to another Guarantor and (y) any Guarantor may consolidate, amalgamate or merge with or into an Affiliate incorporated or organized for the purpose of changing the legal domicile of such Guarantor, reincorporating or continuing such Guarantor in another jurisdiction or changing the legal form of such Guarantor.

Section 5.02 *Successor Substituted.* Upon any consolidation, amalgamation or merger, or any sale, conveyance, transfer, lease or other disposition of all or substantially all of the property and assets of the Issuer in accordance with Section 5.01 of this Indenture, any surviving entity formed by such consolidation or amalgamation or into which the Issuer is merged or to which such sale, conveyance, transfer, lease or other disposition is made, shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture with the same effect as if such surviving entity had been named as the Issuer herein; *provided* that the Issuer shall not be released from its obligation to pay the principal of, premium, if any, or interest and Additional Amounts, if any, on the Notes in the case of a lease of all or substantially all of its property and assets.

ARTICLE SIX  
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

(a) Each of the following shall be an “**Event of Default**”:

- (i) default for 30 days in the payment when due of interest or Additional Amounts, if any, with respect to the Notes;
- (ii) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes;
- (iii) failure by the Issuer or relevant Guarantor to comply with Sections 4.09(c), 4.11 or 5.01;
- (iv) failure by the Issuer or relevant Guarantor for 60 days after written notice to the Issuer by the Trustee or the Holders of at least 30% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the agreements in this Indenture (other than a default in performance, or breach, or a covenant or agreement which is specifically dealt with in clause (i), (ii) or (iii) above);
- (v) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Restricted Subsidiaries), other than Indebtedness owed to the Issuer or any of its Restricted Subsidiaries, whether such Indebtedness or Guarantee now exists, or is created after the Issue Date, if that default:

(A) is caused by a failure to pay principal of such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default; or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness that is due and has not been paid, together with the principal amount of any other such Indebtedness that is due and has not been paid or the maturity of which has been so accelerated, equals or exceeds \$125.0 million in aggregate;

(vi) failure by the Issuer or any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$125.0 million (exclusive of any amounts for which a solvent insurance company has acknowledged liability), which judgments shall not have been discharged or waived and there shall have been a period of 60 consecutive days during which a stay of enforcement of such judgment or order, by reason of an appeal, waiver or otherwise, shall not have been in effect;

(vii) [reserved];

(viii) except as permitted by this Indenture (including with respect to any limitations), any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor or any Person acting on behalf of any such Guarantor, denies or disaffirms its obligations under its Note Guarantee and such Default continues for 30 days; or

(ix) (A) a court having jurisdiction over the Issuer, a Guarantor or a Significant Subsidiary enters (x) a decree or order for relief in respect of the Issuer, any Guarantor or any of the Issuer's Restricted Subsidiaries that is a Significant Subsidiary or any group of its Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary in an involuntary case or proceeding under any Bankruptcy Law or (y) a decree or order adjudging the Issuer, any Guarantor or any of the Issuer's Restricted Subsidiaries that is a Significant Subsidiary, or any group of its Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Issuer, any such Guarantor or any such Subsidiary or group of Restricted Subsidiaries under any Bankruptcy Law, or appointing a Custodian of the Issuer, any such Guarantor or any such Subsidiary or group of Restricted Subsidiaries or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days or (B) the Issuer, any Guarantor or any of the Issuer's Restricted Subsidiaries that is a Significant Subsidiary or any group of its Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary (i) commences a voluntary case under any Bankruptcy Law or consents to the entry of an order for relief in an involuntary case under any Bankruptcy Law, (ii) consents to the appointment of or taking possession by a Custodian of the Issuer or any such Subsidiary or group of Restricted Subsidiaries or for all or substantially all the property and assets of the Issuer, any such Guarantor or any such Subsidiary or group of Restricted Subsidiaries, (iii) effects any general assignment for the benefit of creditors or (iv) admits in writing that it generally is not paying its debts as they become due or is found by a court of competent jurisdiction not to be so paying such debts.

(b) If a Default or an Event of Default occurs and is continuing and is actually known to a Trust Officer of the Trustee, the Trustee shall deliver to each Holder notice of the Default or Event of Default within the earlier of 90 days after its occurrence or 30 days after it received actual knowledge thereof by registered or certified mail or facsimile transmission of an Officer's Certificate specifying such event, notice or other action, its status and what action the Issuer is taking or proposes to take with respect thereto. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, and Additional Amounts or interest on any Notes, the Trustee may withhold the notice to the Holders of such Notes if a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of the Holders. The Trustee shall not be deemed to have knowledge of a Default unless a Trust Officer has actual knowledge of such Default or a Trust Officer receives a notice of default at its corporate trust officer and such notice specifies the Default or Event of Default and the applicable section(s) of this Indenture subject to such Default or Event of Default. The Issuer shall also notify the Trustee within 30 days of the occurrence of any Default stating what action, if any, they are taking with respect to that Default.

(c) If any report or conference call required by Section 4.19 is provided after the deadlines indicated for such report or conference call, the provision of such report or conference call shall cure a Default caused by the failure to provide such report or conference call prior to the deadlines indicated, so long as no Event of Default shall have occurred and be continuing as a result of such failure.

Section 6.02 *Acceleration.*

(a) If an Event of Default (other than an Event of Default specified in Section 6.01(a)(ix)) occurs and is continuing, the Trustee may, or the Holders of at least 30% in aggregate principal amount of the then outstanding Notes by written notice to the Issuer (and to the Trustee if such notice is given by the Holders) may and the Trustee shall, if so directed by the Holders of at least 30% in aggregate principal amount of the then outstanding Notes, declare all the Notes to be due and payable immediately. In the event a declaration of acceleration of the Notes pursuant to Section 6.01(a)(v) has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the event of default or payment default triggering such Event of Default pursuant to Section 6.01(a)(v) shall be remedied or cured, or waived by the Holders of the relevant Indebtedness, or the Indebtedness that gave rise to such Event of Default shall have been discharged in full, within 30 days after the declaration of acceleration with respect thereto and if the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction.

(b) In the case of an Event of Default arising under Section 6.01(a)(ix), with respect to the Issuer, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, all outstanding Notes will become due and payable immediately without further action or notice.

(c) Upon the Notes becoming due and payable upon an Event of Default, whether automatically or by declaration, such Notes will immediately become due and payable and (i) if prior to the Par Call Date, the entire unpaid principal amount of such Notes *plus* the Applicable Premium as of the date of such acceleration or (ii) if on or after the Par Call Date, the applicable Redemption Price as set forth in Section 6 of the Notes, *plus* in each case accrued and unpaid interest thereon shall all be immediately due and payable.

(d) Without limiting the generality of the foregoing, it is understood and agreed that if the Notes are accelerated or otherwise become due prior to their maturity date, in each case, in respect of any Event of Default (including an Event of Default relating to certain events of bankruptcy, insolvency or reorganization (including the acceleration of claims by operation of law)), the premium applicable with respect to an optional redemption of the Notes will also be due and payable as though the Notes were optionally redeemed and shall constitute part of the Obligations on the Notes, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Holder's lost profits as a result thereof. Any premium payable above shall be presumed to be the liquidated damages sustained by each holder as the result of the early redemption and the Issuer and each Guarantor agree that it is reasonable under the circumstances currently existing. The premium shall also be payable if the Notes (and/or this Indenture) are satisfied or released by foreclosure (whether by power of judicial proceeding, deed in lieu of foreclosure or by any other means). THE ISSUER AND EACH GUARANTOR EXPRESSLY WAIVE (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Issuer and each Guarantor expressly agree (to the fullest extent it may lawfully do so) that:

(i) the premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel;

(ii) the premium shall be payable notwithstanding the then prevailing market rates at the time payment is made;

(iii) there has been a course of conduct between holders and the Issuer and the Guarantors giving specific consideration in this transaction for such agreement to pay the premium; and

(iv) the Issuer and each Guarantor shall be estopped hereafter from claiming differently than as agreed to in this Section 6.02(d). The Issuer and each Guarantor expressly acknowledge that the agreement to pay the premium to holders as herein described is a material inducement to holders to purchase the Notes.

(e) The holders of not less than a majority in aggregate principal amount of the Notes outstanding by notice to the Trustee may, on behalf of the holders of all outstanding Notes, rescind acceleration or waive any existing Default or Event of Default and its consequences under this Indenture, except a continuing Default or Event of Default:

(i) in the payment of the principal of, premium, if any, any Additional Amounts or interest on any Note held by a non-consenting holder (which may only be waived with the consent of each holder of Notes affected); or

(ii) for any Note held by a non-consenting holder, in respect of a covenant or provision which under this Indenture cannot be modified or amended without the consent of the Holder of each Note affected by such modification or amendment.

Upon any such rescission or waiver, such Default shall cease to exist and any Event of Default arising therefrom shall be deemed to have been cured for every purpose under this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

(f) Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or in its exercise of any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with applicable law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other holders of the Notes (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial to such Holders) or that may involve the Trustee in personal liability. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal, interest or Additional Amounts or premium, if any.

(g) Subject to the provisions of Article Seven, in case an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any Holders unless such Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense. Except (subject to the provisions of Article Nine) to enforce the right to receive payment of principal, premium, if any, or interest or Additional Amounts when due, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

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

(ii) Holders of at least 30% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;



(iii) such Holders have offered, and if requested, provide to the Trustee reasonable security or indemnity against any loss, liability or expense;

(iv) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and

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

(h) Within 30 days of the occurrence of any Default or Event of Default, the Issuer is required to deliver to the Trustee a statement specifying such Default or Event of Default.

Section 6.03 *Other Remedies.* If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy at law or in equity to collect the payment of principal of, or interest if any, on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.* The Holders of not less than a majority in aggregate principal amount of the outstanding Notes may, by written notice to the Trustee, on behalf of the Holders of all the Notes, waive any past Default hereunder and its consequences, except a Default:

(a) in the payment of the principal of, premium, if any, Additional Amounts, if any, or interest on any Note; or

(b) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the holders of each Note affected by such modification or amendment.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.05 *Control by Majority.* The Holders of a majority in aggregate principal amount of the Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee under this Indenture; *provided that:*

(a) the Trustee may refuse to follow any direction that conflicts with law, this Indenture or that the Trustee determines, without obligation, in good faith may be unduly prejudicial to the rights of Holders not joining in the giving of such direction;

(b) the Trustee may refuse to follow any direction that the Trustee determines is unduly prejudicial to the rights of other Holders or would involve the Trustee in personal liability; and

- (c) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction.

Section 6.06 *Limitation on Suits.* A Holder may not institute any proceedings or pursue any remedy with respect to this Indenture or the Notes unless:

- (a) Such Holder has previously given the Trustee written notice that an Event of Default is continuing;
- (b) the Holders of at least 30% in aggregate principal amount of outstanding Notes shall have made a written request to the Trustee to pursue such remedy;
- (c) such Holder or Holders offer the Trustee indemnity and/or security (including by way of pre-funding) reasonably satisfactory to the Trustee against any costs, liability or expense;
- (d) the Trustee does not comply with the request within 30 days after receipt of the request and the offer of indemnity and/or security (including by way of pre-funding); and
- (e) during such 30-day period, the Holders of a majority in aggregate principal amount of the outstanding Notes do not give the Trustee a direction that is inconsistent with the request.

The limitations in the foregoing provisions of this Section 6.06, however, do not apply to a suit instituted by a Holder for the enforcement of the payment of the principal of, premium, if any, Additional Amounts, if any, or interest, if any, on such Note on or after the respective due dates expressed in such Note.

A Holder may not use this Indenture to prejudice the rights of any other Holder or to obtain a preference or priority over another Holder.

Section 6.07 *Unconditional Right of Holders to Bring Suit for Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder to bring suit for the enforcement of payment of principal, premium, if any, Additional Amounts, if any, and interest, if any, on the Notes held by such Holder, on or after the respective due dates expressed in the Notes shall not be impaired or affected without the consent of such Holder.

Section 6.08 *Collection Suit by Trustee.* The Issuer covenants that if default is made in the payment of:

- (a) any installment of interest on any Note when such interest becomes due and payable and such default continues for a period of 30 days,
- or
- (b) the principal of (or premium, if any, on) any Note at the Stated Maturity thereof,

the Issuer shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of such Notes, the whole amount then due and payable on such Notes for principal (and premium, if any), Additional Amounts, if any and interest, and interest on any overdue principal (and premium, if any) and Additional Amounts, if any and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installment of interest, at the rate borne by the Notes, and, in addition thereto, such further amount as shall be sufficient to cover the amounts provided for in Section 7.05 and such further amount as

shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Issuer fails to pay such amounts forthwith upon such demand, the Trustee, in its own name as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Issuer or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer or any other obligor upon the Notes, wherever situated.

Section 6.09 *Trustee May File Proofs of Claim.* The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the properly incurred compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.05) and the Holders allowed in any judicial proceedings relative to any of the Issuer or Guarantors, their creditors or their property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders at their direction in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the properly incurred compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.05. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due to the Trustee under Section 7.05 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money securities and other properties which the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to empower the Trustee to authorize or consent to, or accept or adopt on behalf of any Holder, any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Application of Money Collected.* If the Trustee collects any money or property pursuant to this Article Six, it shall pay out the money or property in the following order:

FIRST: to the Trustee and any Agent for amounts due under Section 7.05;

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

THIRD: to the Issuer, any Guarantor or any other obligors of the Notes, as their interests may appear, or as a court of competent jurisdiction may direct.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10. At least 30 days before such record date, the Issuer shall deliver to each Holder and the Trustee a notice that states the record date, the payment date and amount to be paid.

Section 6.11 *Undertaking for Costs.* A court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in the suit of an undertaking to pay the costs of such suit, and such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by Holders of more than 10% in aggregate principal amount of the outstanding Notes or to any suit by any Holder pursuant to Section 6.07.

Section 6.12 *Restoration of Rights and Remedies.* If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Issuer, any Guarantor, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.13 *Rights and Remedies Cumulative.* Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.14 *Delay or Omission Not Waiver.* No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article Six or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 6.15 *Record Date.* The Issuer may set a record date for purposes of determining the identity of Holders entitled to vote or to consent to any action by vote or consent authorized or permitted by Sections 6.04 and 6.05. Unless this Indenture provides otherwise, such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders furnished to the Trustee pursuant to Section 2.05 prior to such solicitation.

Section 6.16 *Waiver of Stay or Extension Laws.* Each Issuer covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE SEVEN  
TRUSTEE

Section 7.01 *Duties of Trustee.*

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

(b) Subject to the provisions of Section 7.01(a), (i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no others and no implied covenants or obligations shall be read into this Indenture against the Trustee; and (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. In the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine same to determine whether they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) [Reserved].

(d) The Trustee shall not be relieved from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer of the Trustee unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.02 or 6.05.

(e) The Trustee and any Paying Agent shall not be liable for interest on any money received by it except as the Trustee and any Paying Agent may agree in writing with the Issuer or the Subsidiary Guarantors. Money held by the Trustee or the Principal Paying Agent need not be segregated from other funds except to the extent required by law and, for the avoidance of doubt, shall not be held in accordance with the UK client money rules.

(f) No provision of this Indenture shall require the Trustee, each Agent or the Principal Paying Agent to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not assured to it.

(g) Any provisions hereof relating to the conduct or affecting the liability of or affording protection to the Trustee or each Agent, as the case may be, shall be subject to the provisions of this Section 7.01.

Section 7.02 *Certain Rights of Trustee.*

(a) Subject to Section 7.01:

(i) following the occurrence of a Default or an Event of Default, the Trustee is entitled to require all Agents to act under its direction;

(ii) the Trustee may rely conclusively, and shall be protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper person;

(iii) before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both, which shall conform to Section 12.04. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or opinion and such certificate or opinion will be equal to complete authorization;

(iv) the Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care by them hereunder;

(v) the Trustee shall not be under any obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders, unless such Holders shall have offered to the Trustee an indemnity (including by way of pre-funding) satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction;

(vi) unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer will be sufficient if signed by an officer of such Issuer;

(vii) the Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within its rights or powers;

(viii) whenever, in the administration of this Indenture, the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate;

(ix) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee may (without a corresponding duty to do so) make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer personally or by agent or attorney;

(x) the Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture;

(xi) in the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders, each representing less than a majority in aggregate principal

amount of the Notes then outstanding, pursuant to the provisions of this Indenture, the Trustee may determine what action, if any, will be taken and shall incur no liability for its failure to act until such inconsistency or conflict is, in its reasonable opinion, resolved;

(xii) the permissive rights of the Trustee to take the actions permitted by this Indenture will not be construed as an obligation or duty to do so;

(xiii) delivery of reports, information and documents to the Trustee under Section 4.19 is for informational purposes only and the Trustee's receipt of the foregoing will not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's or any of its Restricted Subsidiary's compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates);

(xiv) the rights, privileges, protections, immunities and benefits given to the Trustee in this Indenture, including, without limitation, its rights to be indemnified and compensated, are extended to, and will be enforceable by the Trustee in each of its capacities hereunder, the Registrar, the Agents, and each agent, custodian and other Person employed to act hereunder;

(xv) the Trustee may consult with counsel or other professional advisors and the advice of such counsel or professional advisor or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(xvi) the Trustee shall have no duty to inquire as to the performance of the covenants of the Issuer and/or its Restricted Subsidiaries in Article Four hereof;

(xvii) the Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance, and shall not be responsible or liable for compliance with restrictions on transfer, exchange, redemption, purchase or repurchase, as applicable, of minimum denominations imposed under this Indenture or under applicable law or regulation with respect to any transfer, exchange, redemption, purchase or repurchase, as applicable, of any interest in any Notes, but may at its sole discretion, choose to do so;

(xviii) in no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of, or caused by, directly or indirectly, forces beyond its control, including, without limitation, acts of war or terrorism, civil or military disturbances, public health emergencies, nuclear or natural catastrophes, pandemics or acts of God; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances; and

(xix) the Trustee shall not under any circumstance be liable for any indirect or consequential loss, special or punitive damages (including loss of business, goodwill or reputation, opportunity or profit of any kind) of the Issuer, any Guarantor or any Restricted Subsidiary even if advised of it in advance and even if foreseeable.

(b) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of the individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any person authorized to sign an Officer's

Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

(c) [Reserved].

(d) [Reserved].

(e) [Reserved].

(f) [Reserved].

(g) The Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture or the Notes.

(h) The Trustee will not be liable to any person if prevented or delayed in performing any of its obligations or discretionary functions under this Indenture by reason of any present or future law applicable to it, by any governmental or regulatory authority or by any circumstances beyond its control.

(i) No provision of this Indenture shall require the Trustee to do anything which, in its opinion, may be illegal or contrary to applicable law or regulation.

(j) The Trustee may refrain from taking any action in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion, based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction or, to the extent applicable, the State of New York and may without liability (other than in respect of actions constituting willful misconduct or gross negligence) do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

(k) The Trustee may assume without inquiry in the absence of actual knowledge that the Issuer is duly complying with its obligations contained in this Indenture required to be performed and observed by it, and that no Default or Event of Default or other event which would require repayment of the Notes has occurred.

(l) [Reserved].

(m) In addition to the foregoing, the Trustee agrees to accept and act upon notice, instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods, *provided* that any communication sent to the Trustee hereunder must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign (or such other digital signature provider as specified in writing to Trustee by the authorized representative). If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee, acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 7.03 *Individual Rights of Trustee.* The Trustee, any Transfer Agent, any Paying Agent, any Registrar or any other agent of the Issuer or of the Trustee, in its individual or any other capacity, may



become the owner or pledgee of Notes and, may otherwise deal with the Issuer with the same rights it would have if it were not Trustee, Paying Agent, Transfer Agent, Registrar or such other agent. The Trustee may accept deposits from, lend money to, and generally engage in any kind of banking, trust or other business with the Issuer or any of its Affiliates or Subsidiaries as if it were not performing the duties specified herein, and may accept fees and other consideration from the Issuer for services in connection with this Indenture and otherwise without having to account for the same to the Trustee or to the Holders from time to time.

Section 7.04 *Disclaimer of Trustee.* The recitals contained herein and in the Notes, except for the Trustee's certificates of authentication, shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or the Notes. The Trustee shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture nor shall it be responsible for the use or application of any money received by any Paying Agent other than the Trustee and it will not be responsible for any statement or recital herein or any statement on the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than the Trustee's certificate of authentication.

Section 7.05 *Compensation and Indemnity.* The Issuer and the Guarantors, jointly and severally, shall pay to the Trustee (acting in any capacity hereunder) such compensation as shall be agreed in writing for their services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer and the Guarantors, jointly and severally, shall reimburse the Trustee promptly upon request for all properly incurred disbursements, advances or expenses incurred or made by them, including costs of collection, in addition to the compensation for their services. Such expenses shall include the properly incurred compensation, disbursements, charges, advances and expenses of the Trustee's agents and counsel.

The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee (acting in any capacity hereunder) and each of its officers, directors, employees and agents against any and all loss, liability or expense (including attorneys' fees and expenses) incurred by either of them without willful misconduct or gross negligence on their part arising out of or in connection with the administration of this trust and the performance of their duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer and the Guarantors (including this Section 7.05) and defending themselves against any claim, whether asserted by the Issuer, the Guarantors, any Holder or any other Person, or liability in connection with the execution and performance of any of their powers and duties hereunder). The Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer or any Guarantor of its obligations hereunder. The Issuer shall, at the sole discretion of the Trustee, defend the claim and the Trustee may cooperate and may participate at the Issuer's expense in such defense. Alternatively, the Trustee may at its option have separate counsel of their own choosing and the Issuer shall pay the properly incurred fees and expenses of such counsel. The Issuer need not pay for any settlement made without its consent, which consent may not be unreasonably withheld. The Issuer shall not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct or gross negligence (as determined by a final, non-appealable judgment of a court of competent jurisdiction).

To secure the Issuer's payment obligations in this Section 7.05, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, in its capacity as Trustee, except money or property, held in trust to pay principal of, premium, if any, Additional Amounts, if any, and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of all Notes under this Indenture.

When the Trustee incurs expenses after the occurrence of a Default specified in Section 6.01(a)(ix) with respect to the Issuer, the Guarantors, or any Restricted Subsidiary, the expenses are intended to constitute expenses of administration under Bankruptcy Law.

The Issuer's obligations under this Section 7.05 and any claim or Lien arising hereunder shall survive the resignation or removal of any Trustee, the satisfaction and discharge of the Issuer's obligations pursuant to Article Eight and any rejection or termination under any Bankruptcy Law, and the termination of this Indenture.

Section 7.06 *Replacement of Trustee.* A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.06.

The Trustee may resign at any time without giving any reason by so notifying the Issuer. The Holders of a majority in outstanding principal amount of the outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing at least 30 days prior to such removal. The Issuer shall remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.09;
- (b) the Trustee is adjudged bankrupt or insolvent;
- (c) a receiver or other public officer takes charge of the Trustee or its property; or
- (d) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed, or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer. If the successor Trustee does not deliver its written acceptance required by the next succeeding paragraph of this Section 7.06 within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of a majority in principal amount of the outstanding Notes may, at the expense of the Issuer, petition any court of competent jurisdiction for the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee, as the case may be, and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall deliver a notice of its succession to Holders. The retiring Trustee shall, at the expense of the Issuer, promptly transfer all property held by it as Trustee to the successor Trustee; *provided* that all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.05.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of at least 30% in outstanding principal amount of the Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee at the expense of the Issuer. Without prejudice to the right of the Issuer to appoint a successor Trustee in accordance with the provisions of this Indenture, the retiring Trustee may appoint a successor Trustee at any time prior to the date on which a successor Trustee takes office.

If the Trustee fails to comply with Section 7.09, any Holder who has been a bona fide Holder of a Note for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section 7.06, the Issuer's and the Guarantors' obligations under Section 7.05 shall continue for the benefit of the retiring Trustee.

Section 7.07 *Successor Trustee by Merger.* Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder; *provided* such corporation shall be otherwise qualified and eligible under this Article Seven, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes. In case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of the Trustee shall have; *provided* that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.08 *[Reserved]*.

Section 7.09 *Eligibility; Disqualification.* There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of England and Wales or the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power and which is generally recognized as a corporation which customarily performs such corporate trustee roles and provides such corporate trustee services in customary transactions involving an offering of senior unsecured notes. The Trustee shall have a combined capital and surplus of at least \$50,000,000, as set forth in its most recent published annual report of condition.

Section 7.10 *Appointment of Co-Trustee.*

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, and in particular in case of the enforcement thereof on Default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted or take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or institution as a separate or co-trustee. The following provisions of this Section 7.10 are adopted to these ends.

(b) In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and Lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and only to the extent that the Trustee by the laws of any jurisdiction is incapable of exercising such powers,

rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

(c) Should any instrument in writing from the Issuer be required by the separate or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall to the extent permitted by the laws of the State of New York and the jurisdictions of organization of the Issuer, on request, be executed, acknowledged and delivered by the Issuer; *provided* that if an Event of Default shall have occurred and be continuing, if the Issuer do not execute any such instrument within 15 days after request therefor, the Trustee shall be empowered as an attorney-in-fact for the Issuer to execute any such instrument in the Issuer's name and stead. In case any separate or co-trustee or a successor to either shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate or co-trustee.

(d) Each separate trustee and co-trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

(i) all rights and powers, conferred or imposed upon the Trustee shall be conferred or imposed upon and may be exercised or performed by such separate trustee or co-trustee; and

(ii) no trustee hereunder shall be liable by reason of any act or omission of any other trustee hereunder.

(e) Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article Seven.

(f) Any separate trustee or co-trustee may at any time appoint the Trustee as its agent or attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successors trustee.

Section 7.11 *Resignation of Agents.*

(a) Any Agent may resign its appointment hereunder at any time without the need to give any reason and without being responsible for any costs associated therewith by giving to the Issuer and the Trustee and (except in the case of resignation of the Principal Paying Agent) the Principal Paying Agent 30 days' written notice to that effect (waivable by the Issuer and the Trustee); *provided* that in the case of resignation of the Principal Paying Agent no such resignation shall take effect until a new Principal Paying Agent (approved in advance in writing by the Trustee) shall have been appointed by the Issuer to exercise the powers and undertake the duties hereby conferred and imposed upon the Principal Paying Agent. Following receipt of a notice of resignation from any Agent, the Issuer shall promptly give notice thereof to the Holders in accordance with Section 12.01. Such notice shall expire at least 30 days before or after any due date for payment in respect of the Notes.

(b) If any Agent gives notice of its resignation in accordance with this Section 7.11 and a replacement Agent is required and by the tenth day before the expiration of such notice such replacement

has not been duly appointed, such Agent may itself appoint as its replacement any reputable and experienced financial institution. Immediately following such appointment, the Issuer shall give notice of such appointment to the Trustee, the remaining Agents and the Holders whereupon the Issuer, the Trustee, the remaining Agents and the replacement Agent shall acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form *mutatis mutandis* of this Indenture.

(c) Upon its resignation becoming effective the Principal Paying Agent shall forthwith transfer all moneys held by it hereunder hereof to the successor Principal Paying Agent or, if none, the Trustee or to the Trustee's order, but shall have no other duties or responsibilities hereunder, and shall be entitled to the payment by the Issuer of its remuneration for the services previously rendered hereunder and to the reimbursement of all reasonable expenses (including legal fees) incurred in connection therewith.

Section 7.12 *Agents General Provisions.*

(a) **Actions of Agents.** The rights, powers, duties and obligations and actions of each Agent under this Indenture are several and not joint or joint and several.

(b) **Agents of Trustee.** The Issuer and the Agents acknowledge and agree that in the event of a Default or Event of Default, the Trustee may, by notice in writing to the Issuer and the Agents, require that the Agents act as agents of, and take instructions exclusively from, the Trustee. Prior to receiving such written notification from the Trustee, the Agents shall be the agents of the Issuer and need have no concern for the interests of the Holders.

(c) **Funds held by Agents.** The Agents will hold all funds subject to the terms of this Indenture.

(d) **Publication of Notices.** Any obligation the Agents may have to publish a notice to Holders of Global Notes on behalf of the Issuer will be met upon delivery of the notice to DTC.

(e) **Instructions.** In the event that instructions given to any Agent are not reasonably clear, then such Agent shall be entitled to seek clarification from the Issuer or other party entitled to give the Agents instructions under this Indenture by written request promptly, and in any event within one Business Day of receipt by such Agent of such instructions. If an Agent has sought clarification in accordance with this Section 7.12, then such Agent shall be entitled to take no action until such clarification is provided, and shall not incur any liability for not taking any action pending receipt of such clarification.

(f) **No Fiduciary Duty.** No Agent shall be under any fiduciary duty or other obligation towards, or have any relationship of agency or trust, for or with any person.

(g) **Mutual Undertaking.** Each party shall, within ten Business Days of a written request by another party, supply to that other party such forms, documentation and other information relating to it, its operations, or the Notes as that other party reasonably requests for the purposes of that other party's compliance with applicable law and shall notify the relevant other party reasonably promptly in the event that it becomes aware that any of the forms, documentation or other information provided by such party is (or becomes) inaccurate in any material respect; *provided, however*, that no party shall be required to provide any forms, documentation or other information pursuant to this Section 7.12(g) to the extent that: (i) any such form, documentation or other information (or the information required to be provided on such form or documentation) is not reasonably available to such party and cannot be obtained by such party using reasonable efforts; or (ii) doing so would or might in the reasonable opinion of such party constitute a breach of any: (A) applicable law or (B) duty of confidentiality. For purposes of this Section 7.12(g), "applicable law" shall be deemed to include (iii) any rule or practice of any regulatory or governmental

authority by which any party is bound or with which it is accustomed to comply; (iv) any agreement between any Authorities; and (v) any agreement between any regulatory or governmental authority and any party that is customarily entered into by institutions of a similar nature.

(h) Tax Withholding.

(i) In order to enable the Issuer and the Agents to comply with any of their obligations with respect to this Indenture and the Notes under FATCA, each of the Issuer and each Agent shall provide each other such reasonable information that is within its possession and is reasonably requested by the other to assist the other in determining whether it has tax related obligations under FATCA.

(ii) Notwithstanding any other provision of this Indenture, each Agent shall be entitled to make a deduction or withholding from any payment which it makes under the Notes for or on account of any Tax, if and only to the extent so required by an Authority, in which event the Agent shall make such payment after such deduction or withholding has been made and shall account to the relevant Authority within the time allowed for the amount so deducted or withheld or, at its option, shall reasonably promptly after making such payment return to the Issuer the amount so deducted or withheld and provide the Issuer with the reason for such deduction or withholding, in which case, the Issuer shall so account to the relevant Authority for such amount. For the avoidance of doubt, FATCA Withholding is a deduction or withholding which is deemed to be required by an Authority for the purposes of this Section 7.12(h)(ii).

#### ARTICLE EIGHT DEFEASANCE; SATISFACTION AND DISCHARGE

Section 8.01 *Issuer's Option to Effect Defeasance or Covenant Defeasance.* The Issuer may, at its option and at any time prior to the Stated Maturity of the Notes, by a resolution of its Board of Directors, elect to have either Section 8.02 or Section 8.03 be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article Eight.

Section 8.02 *Defeasance and Discharge.* Upon the Issuer's exercise under Section 8.01 of the option applicable to this Section 8.02, the Issuer and the Guarantors shall be deemed to have been discharged from their obligations with respect to the Notes on the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "**Legal Defeasance**"). For this purpose, such Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes and to have satisfied all of its other obligations under the Notes and this Indenture (and the Trustee, at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive, solely from the trust fund described in Section 8.08 and as more fully set forth in such Section, payments in respect of the principal of (and premium, if any, on) and interest (including Additional Amounts) on such Notes when such payments are due, (b) the Issuer's obligations with respect to the Notes concerning issuing temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Issuer's and the Guarantors' obligations in connection therewith and (d) the provisions of this Article Eight. Subject to compliance with this Article Eight, the Issuer may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 below with respect to the Notes. If the Issuer exercises its Legal Defeasance option, payment of the Notes may not be accelerated because of an Event of Default.

Section 8.03 *Covenant Defeasance.* Upon the Issuer's exercise under Section 8.01 of the option applicable to this Section 8.03, the Issuer and the Guarantors shall be released from their obligations under any covenant contained in Sections 4.04 through 4.11, 4.15 through 4.17, 4.19 and 5.01 with respect to the Notes on and after the date the conditions set forth below are satisfied (hereinafter, "**Covenant Defeasance**"). For this purpose, such Covenant Defeasance means that, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 8.04 *Conditions to Defeasance.* In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the holders of the Notes, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest (including Additional Amounts and premium, if any) on the outstanding Notes on the stated date for payment thereof or on the applicable Redemption Date, as the case may be, and the Issuer must specify whether the Notes are being defeased to such stated date for payment or to a particular Redemption Date;

(b) in the case of Legal Defeasance, the Issuer must deliver to the Trustee:

(i) an opinion of United States counsel, which counsel is reasonably acceptable to the Trustee, confirming that (i) the Issuer has received from, or there has been published by, the U.S. Internal Revenue Service a ruling or (ii) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel will confirm that, the beneficial owners of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred; and

(ii) an Opinion of Counsel in the jurisdiction of incorporation of the Issuer, which counsel is reasonably acceptable to the Trustee, to the effect that the holders of the Notes will not recognize income, gain or loss for tax purposes of such jurisdiction as a result of such deposit and defeasance and will be subject to tax in such jurisdiction on the same amounts and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer must deliver to the Trustee:

(i) an opinion of United States counsel, which counsel is reasonably acceptable to the Trustee, confirming that the beneficial owners of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred; and

(ii) an Opinion of Counsel in the jurisdiction of incorporation of the Issuer, which counsel is reasonably acceptable to the Trustee, to the effect that the beneficial owners of the Notes

will not recognize income, gain or loss for tax purposes of such jurisdiction as a result of such deposit and defeasance and will be subject to tax in such jurisdiction on the same amounts and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred;

(d) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings);

(e) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, the Exchangeable Notes or any other material agreement or instrument (other than this Indenture and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which the Issuer or any of the Guarantors is a party or by which the Issuer or any of the Guarantors is bound;

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

(g) the Issuer must deliver to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

If the funds deposited with the Trustee to effect Covenant Defeasance are insufficient to pay the principal of, premium, if any, and interest on the Notes when due because of any acceleration occurring after an Event of Default, then the Issuer and the Guarantors shall remain liable for such payments.

Section 8.05 *Satisfaction and Discharge of Indenture.* This Indenture, and the rights of the Trustee and the Holders of the Notes thereunder, shall be discharged and shall cease to be of further effect as to all Notes issued thereunder, when:

(a) either:

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

(ii) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the delivery of a notice of redemption or otherwise or will become due and payable within one year and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and Additional Amounts, if any, and accrued interest to the date of maturity or redemption;



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

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

(d) the Issuer has delivered an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied; *provided* that any such counsel may rely on any Officer's Certificate as to matters of fact (including as to compliance with the foregoing clauses (a), (b) and (c)).

Section 8.06 *Survival of Certain Obligations.* Notwithstanding Sections 8.01 and 8.03, any obligations of the Issuer and the Guarantors in Sections 2.02 through 2.14, 6.07, 7.05 and 7.06 shall survive until the Notes have been paid in full. Thereafter, any obligations of the Issuer or the Guarantors in Section 7.05 shall survive such satisfaction and discharge. Nothing contained in this Article Eight shall abrogate any of the obligations or duties of the Trustee under this Indenture.

Section 8.07 *Acknowledgment of Discharge by Trustee.* Subject to Section 8.09, after the conditions of Section 8.02 or 8.03 have been satisfied, the Trustee upon written request shall acknowledge in writing the discharge of all of the Issuer's and Guarantor's obligations under this Indenture except for those surviving obligations specified in this Article Eight.

Section 8.08 *Application of Trust Money.* Subject to Section 8.09, the Trustee shall hold in trust cash in U.S. dollars or U.S. Government Obligations deposited with it pursuant to this Article Eight. It shall apply the deposited cash or Government Securities through the Paying Agent and in accordance with this Indenture to the payment of principal of, premium, if any, interest, and Additional Amounts, if any, on the Notes; but such money need not be segregated from other funds except to the extent required by law.

Section 8.09 *Repayment to Issuer.* Subject to Sections 7.05, and 8.01 through 8.04, the Trustee and the Paying Agent shall promptly pay to the Issuer upon request set forth in an Officer's Certificate any excess money held by them at any time and thereupon shall be relieved from all liability with respect to such money. The Trustee and the Paying Agent shall pay to the Issuer upon request any money held by them for the payment of principal, premium, if any, interest or Additional Amounts, if any, that remains unclaimed for two years; *provided* that the Trustee or Paying Agent before being required to make any payment may cause to be published through the newswire service of Bloomberg or, if Bloomberg does not then operate, any similar agency or deliver to each Holder entitled to such money at such Holder's address (as set forth in the Security Register) notice that such money remains unclaimed and that after a date specified therein (which shall be at least 30 days from the date of such publication or delivery) any unclaimed balance of such money then remaining will be repaid to the Issuer. After payment to the Issuer, Holders entitled to such money must look to the Issuer for payment as general creditors unless an applicable law designates another Person, and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

Section 8.10 *Indemnity for Government Securities.* The Issuer shall pay and shall indemnify the Trustee and the Paying Agent against any tax, fee or other charge imposed on or assessed against deposited Government Securities or the principal, premium, if any, interest, if any, and Additional Amounts, if any, received on such Government Securities.

Section 8.11 *Reinstatement.* If the Trustee or Paying Agent is unable to apply cash in dollars or Government Securities in accordance with this Article Eight by reason of any legal proceeding or by reason

of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and the Guarantors' obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article Eight until such time as the Trustee or any such Paying Agent is permitted to apply all such cash or Government Securities in accordance with this Article Eight; *provided* that, if the Issuer has made any payment of principal of, premium, if any, interest, if any, and Additional Amounts, if any, on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the cash in dollars or Government Securities held by the Trustee or Paying Agent.

ARTICLE NINE  
AMENDMENTS AND WAIVERS

Section 9.01 *Without Consent of Holders.*

(a) The Issuer, the Guarantors and the Trustee may modify, amend or supplement this Indenture, the Notes and the Note Guarantees without notice to or consent of any Holder:

(i) to cure any ambiguity, omission, error, defect or inconsistency;

(ii) to provide for the assumption of the Issuer's or a Guarantor's obligations to Holders of Notes and Note Guarantees in the case of a consolidation, amalgamation or merger or sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the Issuer's or such Guarantor's assets, as applicable;

(iii) to make any change that would provide any additional rights or benefits to the Holders of Notes or that, in the good faith judgment of the Board of Directors of the Issuer, does not adversely affect the legal rights under this Indenture of any such holder in any material respect;

(iv) to provide for any Restricted Subsidiary to provide a Note Guarantee in accordance with Section 4.06, to add security to or for the benefit of the Notes or to confirm and evidence the release, termination, discharge or retaking of any Note Guarantee or Lien or any amendment in respect thereof with respect to or securing the Notes when such release, termination, discharge or retaking or amendment is permitted under this Indenture;

(v) to mortgage, charge, pledge, hypothecate or grant a security interest in favor or the benefit of holders of Note Obligations;

(vi) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the Issue Date;

(vii) to allow any Guarantor to execute a Supplemental Indenture and a Note Guarantee with respect to the Notes;

(viii) to provide for uncertificated Notes in addition to or in place of Definitive Registered Notes (*provided* that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code); or

(ix) to evidence and provide the acceptance of the appointment of a successor Trustee under this Indenture.

(b) In connection with any proposed amendment or supplement in respect of such matters, the Trustee will be entitled to receive, and rely conclusively on, an Opinion of Counsel and/or an Officer's Certificate.

For the avoidance of doubt (and without limiting the generality of any other statements in this Indenture), the provisions of the Trust Indenture Act of 1939, as amended, shall not apply to any amendments to or waivers or consents under this Indenture.

Section 9.02 *With Consent of Holders.*

(a) Except as provided in Section 9.02(b) below and Section 6.04 and without prejudice to Section 9.01, the Note Documents may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), and any existing Default or Event of Default or compliance with any provision of this Indenture, the Notes or the Note Guarantees may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes).

(b) Without the consent of each Holder affected, an amendment, supplement or waiver may not (with respect to any Notes held by a non-consenting Holder):

- (i) reduce the principal amount of Notes whose holders must consent to an amendment, supplement or waiver;
- (ii) reduce the principal of or change the fixed maturity of any Note or reduce the premium payable upon the redemption of any such Note or change the time at which such Note may be redeemed;
- (iii) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (iv) impair the right of any Holder to institute suit for the enforcement of any payment on or with respect to such Holder's Notes or any Note Guarantee in respect thereof;
- (v) waive a Default or Event of Default in the payment of principal of, or interest, Additional Amounts or premium, if any, on, the Notes (except a rescission of acceleration of the Notes by the holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);
- (vi) make any Note payable in money other than that stated in the Notes;
- (vii) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of holders of Notes to receive payments of principal of, or interest, Additional Amounts or premium, if any, on, the Notes;
- (viii) waive a redemption payment with respect to any Note (other than a payment required by Section 4.09 or Section 4.11);
- (ix) make any change to or modify the ranking of the Notes as to contractual right of payment in a manner that would adversely affect the holders thereof;

(x) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture, except in accordance with the terms of this Indenture; or

(xi) make any change in the preceding amendment and waiver provisions.

(c) The consent of the Holders shall not be necessary under this Indenture to approve the particular form of any proposed amendment, modification, supplement, waiver or consent. It is sufficient if such consent approves the substance of the proposed amendment, modification, supplement, waiver or consent. A consent to any amendment or waiver under this Indenture by any Holder given in connection with a tender of such Holder's Notes will not be rendered invalid by such tender.

Section 9.03 *Effect of Supplemental Indentures.* Upon the execution of any Supplemental Indenture under this Article Nine, this Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Indenture for all purposes; and every Holder theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 9.04 *Notation on or Exchange of Notes.* If an amendment, modification or supplement changes the terms of a Note, the Issuer or the Trustee may require the Holder to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note and on any Note subsequently authenticated regarding the changed terms and return it to the Holder.

Alternatively, if the Issuer so determines, the Issuer in exchange for the Note shall issue, and the Trustee shall authenticate, a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment, modification or supplement.

Section 9.05 *[Reserved].*

Section 9.06 *Notice of Amendment or Waiver.* Promptly after the execution by the Issuer and the Trustee of any Supplemental Indenture or waiver pursuant to the provisions of Section 9.02, the Issuer shall give notice thereof to the Holders of each outstanding Note affected, in the manner provided for in Section 12.01(b), setting forth in general terms the substance of such Supplemental Indenture or waiver.

Section 9.07 *Trustee to Sign Amendments, Etc.* The Trustee, shall execute any amendment, supplement or waiver authorized pursuant and adopted in accordance with this Article Nine; provided that the Trustee may, but shall not be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's own rights, duties or immunities under this Indenture. The Trustee shall receive, if requested, an indemnity (including by way of pre-funding) satisfactory to it and to receive, and shall be fully protected in relying upon, an Opinion of Counsel and an Officer's Certificate each stating that the execution of any amendment, supplement or waiver authorized pursuant to this Article Nine is authorized or permitted by this Indenture and that such amendment has been duly authorized, executed and delivered and is the legally valid and binding obligation of the Issuer enforceable against them in accordance with its terms (for the avoidance of doubt, such Opinion of Counsel is not required with respect to any Guarantor). Such Opinion of Counsel shall be an expense of the Issuer.

Section 9.08 *Additional Voting Terms; Calculation of Principal Amount.*

(a) All Notes issued under this Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class and no series of Notes will have the right to vote or consent as a separate series on any matter; *provided, however,* that if any amendment, waiver or other modification will only affect one series of Notes, only the consent of the Holders of not less than a majority in principal amount of the affected series of Notes then outstanding (and not the consent of the Holders of at least a

majority of all Notes), shall be required. Determinations as to whether Holders of the requisite aggregate principal amount of Notes have concurred in any direction, waiver or consent shall be made in accordance with this Article Nine.

(b) The aggregate principal amount of the Notes, at any date of determination, shall be the principal amount of the Notes at such date of determination. With respect to any matter requiring consent, waiver, approval or other action of the Holders of a specified percentage of the principal amount of all the Notes, such percentage shall be calculated, on the relevant date of determination, by dividing (i) the principal amount, as of such date of determination, of Notes, the Holders of which have so consented by (ii) the aggregate principal amount, as of such date of determination, of the Notes then outstanding, in each case, as determined in accordance with the preceding sentence, Section 2.08 and Section 2.09 of this Indenture. Any such calculation made pursuant to this Section 9.08(b) shall be made by the Issuer and delivered to the Trustee pursuant to an Officer's Certificate.

## ARTICLE TEN GUARANTEE

### Section 10.01 *Note Guarantees.*

(a) The Guarantors, either by execution of this Indenture or a Supplemental Indenture, fully and, subject to the limitations on the effectiveness and enforceability set forth in this Indenture or such Supplemental Indenture, as applicable, unconditionally guarantee, on a joint and several basis to each Holder and to the Trustee (acting in any capacity hereunder) and its successors and assigns on behalf of each Holder, the full payment of principal of, premium, if any, interest, if any, and Additional Amounts, if any, on, and all other monetary obligations of the Issuer under this Indenture and the Notes (including obligations to the Trustee (acting in any capacity hereunder) and the obligations to pay Additional Amounts, if any) with respect to, each Note authenticated and delivered by the Trustee or its agent pursuant to and in accordance with this Indenture, in accordance with the terms of this Indenture (all the foregoing being hereinafter collectively called the "**Note Obligations**"). The Guarantors further agree that the Note Obligations may be extended or renewed, in whole or in part, without notice or further assent from the Guarantors and that the Guarantors shall remain bound under this Article Ten notwithstanding any extension or renewal of any Note Obligation. All payments under each Note Guarantee will be made in U.S. dollars.

(b) The Guarantors hereby agree that their obligations hereunder shall be as if they were each principal debtor and not merely surety, unaffected by, and irrespective of, any invalidity, irregularity or unenforceability of any Note or this Indenture, any failure to enforce the provisions of any Note or this Indenture, any waiver, modification or indulgence granted to the Issuer with respect thereto by the Holders or the Trustee, or any other circumstance which may otherwise constitute a legal or equitable discharge of a surety or guarantor (except payment in full); *provided* that notwithstanding the foregoing, no such waiver, modification, indulgence or circumstance shall without the written consent of the Guarantors increase the principal amount of a Note or the interest rate thereon or change the currency of payment with respect to any Note, or alter the Stated Maturity thereof. The Guarantors hereby waive diligence, presentment, demand of payment, filing of claims with a court in the event of merger or bankruptcy of the Issuer, any right to require that the Trustee pursue or exhaust its legal or equitable remedies against the Issuer prior to exercising its rights under a Note Guarantee (including, for the avoidance of doubt, any right which a Guarantor may have to require the seizure and sale of the assets of the Issuer to satisfy the outstanding principal of, interest on or any other amount payable under each Note prior to recourse against such Guarantor or its assets), protest or notice with respect to any Note or the Indebtedness evidenced thereby and all demands whatsoever, and each covenant that their Note Guarantee will not be discharged with respect to any Note except by payment in full of the principal thereof and interest thereon or as otherwise

provided in this Indenture, including Section 10.04. If at any time any payment of principal of, premium, if any, interest, if any, or Additional Amounts, if any, on such Note is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Issuer, the Guarantors' obligations hereunder with respect to such payment shall be reinstated as of the date of such rescission, restoration or returns as though such payment had become due but had not been made at such times.

(c) The Guarantors also agree to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee (acting in any capacity hereunder) or any Holder in enforcing any rights under this Section 10.01.

Section 10.02 *Subrogation.*

(a) Each Guarantor shall be subrogated to all rights of the Holders against the Issuer in respect of any amounts paid to such Holders by such Guarantor pursuant to the provisions of its Note Guarantee.

(b) The Guarantors agree that they shall not be entitled to any right of subrogation in relation to the Holders in respect of any Obligations guaranteed hereby until payment in full of all Obligations. The Guarantors further agree that, as between them, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Section 6.02 for the purposes of the Note Guarantees herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such Obligations as provided in Section 6.02, such Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purposes of this Section 10.02.

Section 10.03 *Release of Note Guarantees.* The Note Guarantee of a Guarantor shall automatically be released:

(a) in connection with any sale or other disposition of all or substantially all of the assets of such Guarantor (including by way of merger, consolidation, amalgamation or combination) to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary, if the sale or other disposition does not violate Section 4.09;

(b) in connection with any sale or other disposition of Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary, if the sale or other disposition does not violate Section 4.09 and the Guarantor ceases to be a Restricted Subsidiary as a result of such sale or other disposition;

(c) if the Issuer designates such Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of this Indenture;

(d) upon the full and final payment of the Notes and performance of all Obligations (in each case, other than contingent or unliquidated obligations or liabilities) of the Issuer and the Guarantors under this Indenture, the Notes and the Note Guarantees;

(e) upon Legal Defeasance, Covenant Defeasance or satisfaction and discharge of the Notes, the Note Guarantees and this Indenture as provided under Article Eight;

(f) as described under Article Nine; and

(g) upon such Guarantor being released from all of its obligations in respect of the Issuer's 12.25% senior secured notes due 2024, as applicable;

*provided* that, in each case, such Guarantor has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent provided for in this Indenture relating to such release have been complied with.

The Trustee shall take all necessary actions at the request of the Issuer to effectuate any release of a Note Guarantee in accordance with these provisions.

Each of the releases set forth above shall be effected by the Trustee without the consent of the Holders and will not require any other action or consent on the part of the Trustee.

Section 10.04 *Limitation and Effectiveness of Note Guarantees.* Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor does not constitute a fraudulent conveyance or a fraudulent transfer for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor under its Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally. Each Guarantor that makes a payment under its Guarantee shall be entitled upon payment in full of all guaranteed obligations under this Indenture to a contribution from each other Guarantor in an amount equal to such other Guarantor's *pro rata* portion of such payment based on the respective net assets of all the Guarantors at the time of such payment determined in accordance with accounting principles generally accepted in the United States.

Section 10.05 *Notation Not Required.* Neither the Issuer nor any Guarantor shall be required to make a notation on the Notes to reflect any Note Guarantee or any release, termination or discharge thereof.

Section 10.06 *Successors and Assigns.* This Article Ten shall be binding upon the Guarantors and each of their successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Notes shall automatically extend to and be vested in such transferee or assigns, all subject to the terms and conditions of this Indenture.

Section 10.07 *No Waiver.* Neither a failure nor a delay on the part of the Trustee or the Holders in exercising any right, power or privilege under this Article Ten shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and are not exclusive of any other rights, remedies or benefits which either may have under this Article Ten at law, in equity, by statute or otherwise.

Section 10.08 *Modification.* No modification, amendment or waiver of any provision of this Article Ten, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any

Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in the same, similar or other circumstance.

ARTICLE ELEVEN  
[RESERVED]

ARTICLE TWELVE  
MISCELLANEOUS

Section 12.01 *Notices.*

(a) Any notice or communication shall be in writing and delivered in person or mailed by first class mail or sent by facsimile transmission addressed as follows:

if to the Issuer or the Guarantors:

NCL Corporation Ltd.  
7665 Corporate Center Drive  
Miami, Florida 33126-1201  
Attention: General Counsel

if to the Trustee, Principal Paying Agent or Transfer Agent:

U.S. Bank National Association  
Global Corporate Trust  
West Side Flats  
60 Livingston Avenue  
St. Paul, Minnesota 55107-1419  
Attention: Norwegian Cruise Lines (“NCL”) Corporate Trust Administrator

The Issuer, the Guarantors or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

(b) Notices regarding the Notes shall be:

(i) delivered to Holders electronically or mailed by first-class mail, postage paid; and

(ii) in the case of Definitive Registered Notes, delivered to each Holder by first-class mail at such Holder’s respective address as it appears on the registration books of the Registrar.

Notices given by first-class mail shall be deemed given five calendar days after mailing and notices given by publication shall be deemed given on the first date on which publication is made. Failure to deliver a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is delivered in the manner provided above, it is duly given, whether or not the addressee receives it.



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

(c) If and so long as the Notes are represented by Global Notes, notice to Holders, in lieu of being given in accordance with Section 12.01(b) above, may be given by delivery of the relevant notice to DTC for communication.

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

(e) All notices, approvals, consents, requests and any communications hereunder must be in writing (*provided* that any communication sent to Trustee hereunder must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign (or such other digital signature provider as specified in writing to Trustee by the authorized representative), in English). The Issuer and Guarantors agree to assume all risks arising out of the use of using digital signatures and electronic methods to submit communications to Trustee, including without limitation the risk of Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 12.02 *Certificate and Opinion as to Conditions Precedent.* Upon any request or application by the Issuer or any Guarantor to the Trustee to take or refrain from taking any action under this Indenture (except in connection with the original issuance of the Original Notes on the date hereof), the Issuer or any Guarantor, as the case may be, shall furnish upon request to the Trustee:

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

(b) an Opinion of Counsel in form reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Any Officer's Certificate may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, unless the Officer signing such certificate knows, or in the exercise of reasonable care should know, that such Opinion of Counsel with respect to the matters upon which such Officer's Certificate is based are erroneous. Any Opinion of Counsel may be based and may state that it is so based, insofar as it relates to factual matters, upon certificates of public officials or an Officer's Certificate stating that the information with respect to such factual matters is in the possession of the Issuer, unless the counsel signing such Opinion of Counsel knows, or in the exercise of reasonable care should know, that the Officer's Certificate with respect to the matters upon which such Opinion of Counsel is based are erroneous.

Section 12.03 *Statements Required in Certificate or Opinion.* Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(a) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

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

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

(d) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

Section 12.04 *Rules by Trustee, Paying Agent and Registrar.* The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar and the Paying Agent may make reasonable rules for their functions.

Section 12.05 *No Personal Liability of Directors, Officers, Employees and Shareholders.* No director, officer, employee, incorporator, shareholder or stockholder of the Issuer or any Guarantor, as such, shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, this Indenture and the Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of Notes by accepting a Note waives and releases all such liability.

Section 12.06 *Legal Holidays.* If an Interest Payment Date or other payment date is not a Business Day, payment shall be made on the next succeeding day that is a Business Day, and no interest shall accrue for the intervening period. If a Record Date is not a Business Day, the Record Date shall not be affected.

Section 12.07 *Governing Law.* THIS INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 12.08 *Jurisdiction.* The Issuer and each Guarantor agree that any suit, action or proceeding against the Issuer or any Guarantor brought by any Holder or the Trustee arising out of or based upon this Indenture, the Notes or the Note Guarantees may be instituted in any state or Federal court in the Borough of Manhattan, New York, New York, and any appellate court from any thereof, and each of them irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding. Each of the Issuer and the Guarantors irrevocably waives, to the fullest extent permitted by law, any objection to any suit, action, or proceeding that may be brought in connection with this Indenture, the Notes or the Note Guarantees, including such actions, suits or proceedings relating to securities laws of the United States of America or any state thereof, in such courts whether on the grounds of venue, residence or domicile or on the ground that any such suit, action or proceeding has been brought in an inconvenient forum. The Issuer and the Guarantors agree that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Issuer or any Guarantor, as the case may be, and may be enforced in any court to the jurisdiction of which the Issuer or any Guarantor, as the case may be, are subject by a suit upon such judgment; *provided* that service of process is effected upon the Issuer or any Guarantor, as the case may be, in the manner provided by this Indenture. Each of the Issuer and the Guarantors not resident in the United States has appointed Corporate Creations International, Inc., located at 801 US Highway 1, North Palm Beach, Florida 33408, or any successor so long as such successor is resident in the United States and can act for this purpose, as its authorized agent (the “**Authorized Agent**”), upon whom process may be served in any suit, action or proceeding arising out of or based upon this Indenture, the Notes or the Note Guarantees or the transactions contemplated herein which may be instituted in any state or Federal court in the Borough of Manhattan, New York, New York, by any Holder or the Trustee, and expressly accepts the non- exclusive jurisdiction of any such court in respect of any such suit, action or proceeding. National Registered Agents, Inc. has hereby accepted such appointment and has agreed to act as said agent for service of process, and the Issuer agrees to take any and all action, including the filing of any and all documents that may be necessary to continue such respective appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Issuer. Notwithstanding the foregoing, any action involving the Issuer arising out of or

based upon this Indenture, the Notes or the Note Guarantees may be instituted by any Holder or the Trustee in any other court of competent jurisdiction. The Issuer expressly consents to the jurisdiction of any such court in respect of any such action and waives any other requirements of or objections to personal jurisdiction with respect thereto.

**EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE, AND EACH HOLDER OF A NOTE BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.**

Section 12.09 *No Recourse Against Others.* A director, officer, employee, incorporator, member or shareholder, as such, of the Issuer or any Guarantor shall not have any liability for any obligations of the Issuer or any Guarantor under this Indenture, the Notes or any Note Guarantee or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes. Such waiver and release may not be effective to waive liabilities under the U.S. federal securities laws.

Section 12.10 *Successors.* All agreements of the Issuer and any Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.11 *Counterparts.* The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto. Signatures of the parties hereto transmitted by facsimile or other electronic transmission shall be deemed to be their original signatures for all purposes. For the avoidance of doubt, the words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to this Indenture or any document to be signed in connection with this Indenture shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

Section 12.12 *Table of Contents and Headings.* The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 12.13 *Severability.* In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.14 *Currency Indemnity.* Any payment on account of an amount that is payable in U.S. dollars (the “**Required Currency**”) which is made to or for the account of any holder or the Trustee in lawful currency of any other jurisdiction (the “**Judgment Currency**”), whether as a result of any judgment or order or the enforcement thereof or the liquidation of the Issuer or any Guarantor, shall constitute a discharge of the Issuer or the Guarantor’s obligation under this Indenture and the Notes or Note Guarantee, as the case may be, only to the extent of the amount of the Required Currency with such holder or the

Trustee, as the case may be, could purchase in the London foreign exchange markets with the amount of the Judgment Currency in accordance with normal banking procedures at the rate of exchange prevailing on the first Business Day following receipt of the payment in the Judgment Currency. If the amount of the Required Currency that could be so purchased is less than the amount of the Required Currency originally due to such holder or the Trustee, as the case may be, the Issuer and the Guarantors shall indemnify and hold harmless the holder or the Trustee, as the case may be, from and against all loss or damage arising out of, or as a result of, such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Indenture or the Notes, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any holder or the Trustee from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due hereunder or under any judgment or order.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

NCL CORPORATION LTD.  
as Issuer

By: \_\_\_\_\_

Name:  
Title:

[Signature Page to Indenture]

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

NCL (BAHAMAS) LTD.  
as Guarantor

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Indenture]

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

KRYSTALSEA LIMITED  
as Guarantor

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Indenture]

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

GREAT STIRRUP CAY LIMITED  
as Guarantor

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Indenture]

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

NCL UK IP CO LTD  
as Guarantor

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Indenture]

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IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

NCL US IP CO 2, LLC  
as Guarantor

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Indenture]

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U.S. BANK NATIONAL ASSOCIATION  
as Trustee, Principal Paying Agent, Transfer  
Agent and Registrar

By: \_\_\_\_\_

Name:

Title:

[Signature Page to Indenture]

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## SUBSIDIARY GUARANTORS

<b>Entity</b>	<b>Jurisdiction</b>
NCL (Bahamas) Ltd.	Bermuda
KRYSTALSEA LIMITED	British Virgin Islands
Great Stirrup Cay Limited	Bahamas
NCL US IP Co 2, LLC	Delaware
NCL UK IP Co Ltd	England and Wales

[FORM OF FACE OF NOTE]

NCL CORPORATION LTD.

[If Regulation S Global Note – CUSIP Number [-]<sup>1</sup> / ISIN [-]<sup>2</sup>][If Restricted Global Note – CUSIP Number [-]<sup>3</sup> / ISIN [-]<sup>4</sup>]

No. [-]

[Include if Global Note — UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE AND IS REGISTERED IN THE NAME OF DTC OR A NOMINEE OF DTC OR A SUCCESSOR DEPOSITARY. THIS NOTE IS NOT EXCHANGEABLE FOR SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN DTC OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY DTC TO A NOMINEE OF DTC OR BY A NOMINEE OF DTC TO DTC OR ANOTHER NOMINEE OF DTC OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.]

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”) AND, ACCORDINGLY, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS, EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE HOLDER: REPRESENTS THAT (A) IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) (A “QIB”) OR (B) IT IS NOT A U.S. PERSON, IS NOT ACQUIRING THIS NOTE FOR THE ACCOUNT OR FOR THE BENEFIT OF A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, AND AGREES THAT IT WILL NOT WITHIN [IN THE CASE OF RULE 144A NOTES: ONE YEAR AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUER OR ANY

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1 Issue Date Regulation S CUSIP: [-]

2 Issue Date Regulation S ISIN: [-]

3 Issue Date Rule 144A CUSIP: [-]

4 Issue Date Rule 144A ISIN: [-]

AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) IN THE CASE OF REGULATION S NOTES: 40 DAYS AFTER THE LATER OF THE DATE WHEN THE NOTES WERE FIRST OFFERED TO PERSONS OTHER THAN DISTRIBUTORS IN RELIANCE ON REGULATION S AND THE DATE OF THE COMPLETION OF THE DISTRIBUTION RESELL OR OTHERWISE TRANSFER THIS NOTE EXCEPT (A) TO THE ISSUER OR ANY RESPECTIVE SUBSIDIARY THEREOF, (B) IN THE UNITED STATES TO A PERSON WHOM THE HOLDER REASONABLY BELIEVES IS A QIB IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 904 UNDER THE SECURITIES ACT, (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (E) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT (*PROVIDED* THAT PRIOR TO A TRANSFER PURSUANT TO CLAUSE (D) OR (E), THE TRUSTEE IS FURNISHED WITH AN OPINION OF COUNSEL ACCEPTABLE TO THE ISSUER THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT) OR (F) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND, IN EACH CASE, IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, AND AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS NOTE OR AN INTEREST HEREIN IS TRANSFERRED (OTHER THAN A TRANSFER PURSUANT TO CLAUSE (D) OR (F) ABOVE) A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

THE HOLDER OF THIS NOTE, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES THAT IT SHALL NOT TRANSFER THE SECURITIES IN AN AMOUNT LESS THAN \$2,000.

8.00% SENIOR NOTES DUE 2024

NCL Corporation Ltd., a Bermuda exempted company, for value received, promises to pay to [·] or registered assigns the principal sum of \$[-] (as such amount may be increased or decreased as indicated in Schedule A (Schedule of Principal Amount in the Global Note) of this Note) on April 2, 2024.

From [·], 202[1][2] or from the most recent Interest Payment Date to which interest has been paid or provided for, cash interest on this Note will accrue at 8.00%, payable semi-annually on [·] and [·] of each year, beginning on [·], 202[1][2], to the Person in whose name this Note (or any predecessor Note) is registered at the close of business on the preceding [·] or [·], as the case may be. Interest on overdue principal and interest, including Additional Amounts, if any, will accrue at a rate that is 1.0% higher than the interest rate on the Notes.

**THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF.**

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature of an authorized signatory, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof and to the provisions of the Indenture, which provisions shall for all purposes have the same effect as if set forth at this place.

IN WITNESS WHEREOF, NCL Corporation Ltd. has caused this Note to be signed manually or by facsimile by its duly authorized signatory.

Dated: [-], 20[-]

NCL CORPORATION LTD.

By:

\_\_\_\_\_  
Name:

Title:

A-4

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CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the Indenture.

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

[FORM OF REVERSE SIDE OF NOTE]  
8.00% Senior Notes due 2024

1. *Interest*

NCL Corporation Ltd., a Bermuda exempted company (together with its successors and assigns under the Indenture, the “**Issuer**”), for value received, promises to pay interest on the principal amount of this Note from [·], 202[1][2] or from the most recent Interest Payment Date to which interest has been paid or provided for at the rate per annum shown above. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The Issuer shall pay interest on overdue principal at the interest rate borne by the Notes compounded semi-annually, and it shall pay interest on other overdue amounts at the same rate to the extent lawful. Any interest paid on this Note shall be increased to the extent necessary to pay Additional Amounts as set forth in this Note.

2. *Additional Amounts*

(a) All payments made by or on behalf of the Issuer or any of the Guarantors (including, in each case, any successor entity) under or with respect to the Notes or any Note Guarantee shall be made free and clear of and without withholding or deduction for, or on account of, any present or future Taxes unless the withholding or deduction of such Taxes is then required by law. If the Issuer, any Guarantor or any other applicable withholding agent is required by law to withhold or deduct any amount for, or on account of, any Taxes imposed or levied by or on behalf of (1) any jurisdiction in which the Issuer or any Guarantor is or was incorporated, engaged in business, organized or resident for tax purposes or any political subdivision thereof or therein or (2) any jurisdiction from or through which any payment is made by or on behalf of the Issuer or any Guarantor (including, without limitation, the jurisdiction of any Paying Agent) or any political subdivision thereof or therein (each of (1) and (2), a “**Tax Jurisdiction**”) in respect of any payments under or with respect to the Notes or any Note Guarantee, including, without limitation, payments of principal, Redemption Price, purchase price, interest or premium, the Issuer or the relevant Guarantor, as applicable, shall pay such additional amounts (the “**Additional Amounts**”) as may be necessary in order that the net amounts received in respect of such payments by each Holder after such withholding or deduction will equal the respective amounts that would have been received by each Holder in respect of such payments in the absence of such withholding or deduction; *provided, however*, that no Additional Amounts shall be payable with respect to:

(1) any Taxes, to the extent such Taxes would not have been imposed but for the holder or the beneficial owner of the Notes (or a fiduciary, settlor, beneficiary, partner of, member or shareholder of, or possessor of a power over, the relevant Holder or beneficial owner, if the relevant Holder or beneficial owner is an estate, trust, nominee, partnership, limited liability company or corporation) being or having been a citizen or resident or national of, or incorporated, engaged in a trade or business in, being or having been physically present in or having a permanent establishment in, the relevant Tax Jurisdiction or having or having had any other present or former connection with the relevant Tax Jurisdiction, other than any connection arising solely from the acquisition, ownership or disposition of Notes, the exercise or enforcement of rights under such Note, the Indenture or a Note Guarantee, or the receipt of payments in respect of such Note or a Note Guarantee;

(2) any Taxes, to the extent such Taxes were imposed as a result of the presentation of a Note for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the Holder (except to the extent that the Holder would have been entitled to Additional Amounts had the Note been presented on the last day of such 30 day period);

- (3) any estate, inheritance, gift, sale, transfer, personal property or similar Taxes;
- (4) any Taxes payable other than by deduction or withholding from payments under, or with respect to, the Notes or any Note Guarantee;
- (5) any Taxes to the extent such Taxes would not have been imposed or withheld but for the failure of the Holder or beneficial owner of the Notes, following the Issuer's reasonable written request addressed to the Holder at least 30 days before any such withholding or deduction would be imposed, to comply with any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a Tax Jurisdiction, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Taxes imposed by the Tax Jurisdiction (including, without limitation, a certification that the Holder or beneficial owner is not resident in the Tax Jurisdiction), but in each case, only to the extent the Holder or beneficial owner is legally eligible to provide such certification or documentation;
- (6) any Taxes imposed in connection with a Note presented for payment (where presentation is permitted or required for payment) by or on behalf of a Holder or beneficial owner of the Notes to the extent such Taxes could have been avoided by presenting the relevant Note to, or otherwise accepting payment from, another Paying Agent;
- (7) any Taxes imposed on or with respect to any payment by the Issuer or any of the Guarantors to the Holder of the Notes if such Holder is a fiduciary or partnership or any person other than the sole beneficial owner of such payment to the extent that such Taxes would not have been imposed on such payments had such Holder been the sole beneficial owner of such Note;
- (8) any Taxes imposed by the United States, any state thereof or the District of Columbia, or any subdivision thereof or territory thereof, including any U.S. federal withholding taxes and any Taxes that are imposed pursuant to current Section 1471 through 1474 of the Internal Revenue Code of 1986, as amended (the "Code") or any amended or successor version that is substantively comparable and not materially more onerous to comply with, any regulations promulgated thereunder, any official interpretations thereof, any intergovernmental agreement between a non-U.S. jurisdiction and the United States (or any related law or administrative practices or procedures) implementing the foregoing or any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above); or
- (9) any combination of clauses (1) through (8) above.

In addition to the foregoing, the Issuer and the Guarantors will also pay and indemnify the holder for any present or future stamp, issue, registration, value added, transfer, court or documentary Taxes, or any other excise or property taxes, charges or similar levies (including penalties, interest and additions to tax related thereto) which are levied by any relevant Tax Jurisdiction on the execution, delivery, issuance, or registration of any of the Notes, the Indenture, any Note Guarantee or any other document referred to therein, or the receipt of any payments with respect thereto, or enforcement of, any of the Notes or any Note Guarantee (limited, solely in the case of Taxes attributable to the receipt of any payments or that are imposed on or result from a sale or other transfer or disposition of a Note by a Holder or a beneficial owner, to any such Taxes imposed in a Tax Jurisdiction that are not excluded under clauses (1) through (3) or (5) through (9) above or any combination thereof), save in each case for any such taxes, charges or levies which arise or are increased as a result of any document effecting the registration, issue or delivery of any of the notes either being signed or executed in the United Kingdom or being brought into the United Kingdom.

(b) If the Issuer or any Guarantor, as the case may be, becomes aware that it will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Notes or any Note Guarantee, the Issuer or the relevant Guarantor, as the case may be, shall deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises after the 30th day prior to that payment date, in which case the Issuer or the relevant Guarantor shall notify the Trustee promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificates must also set forth any other information reasonably necessary to enable the Paying Agents to pay Additional Amounts to Holders on the relevant payment date. The Issuer or the relevant Guarantor will provide the Trustee with documentation reasonably satisfactory to the Trustee evidencing the payment of Additional Amounts. The Trustee shall be entitled to rely absolutely on an Officer's Certificate as conclusive proof that such payments are necessary.

(c) The Issuer or the relevant Guarantor, if it is the applicable withholding agent, will make all withholdings and deductions (within the time period) required by law and will remit the full amount deducted or withheld to the relevant Tax authority in accordance with applicable law. The Issuer or the relevant Guarantor will use its reasonable efforts to obtain Tax receipts from each Tax authority evidencing the payment of any Taxes so deducted or withheld. The Issuer or the relevant Guarantor will furnish to the Trustee (or to a Holder of this Note upon request), within 60 days after the date the payment of any Taxes so deducted or withheld is made, certified copies of Tax receipts evidencing payment by the Issuer or a Guarantor, as the case may be, or if, notwithstanding such entity's efforts to obtain receipts, receipts are not obtained, other evidence of payments (reasonably satisfactory to the Trustee) by such entity.

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

(e) The preceding obligations will survive any termination, defeasance or discharge of the Indenture, any transfer by a Holder or beneficial owner of its Notes, and will apply, *mutatis mutandis*, to any jurisdiction in which any successor Person to the Issuer (or any Guarantor) is incorporated, engaged in business, organized or resident for tax purposes, or any jurisdiction from or through which payment is made under or with respect to the Notes (or any Note Guarantee) by or on behalf of such Person and, in each case, any political subdivision thereof or therein.

### 3. *Method of Payment*

The Issuer shall pay interest on this Note (except Defaulted Interest) to the Holder at the close of business on the Record Date for the next Interest Payment Date even if this Note is cancelled after the Record Date and on or before the Interest Payment Date. The Issuer shall pay principal and interest in dollars in immediately available funds that at the time of payment is legal tender for payment of public and private debts; *provided* that payment of interest may be made at the option of the Issuer by check mailed to the Holder.

The amount of payments in respect of interest on each Interest Payment Date shall correspond to the aggregate principal amount of Notes represented by this Note, as established by the Registrar at the close of business on the relevant Record Date. Payments of principal shall be made upon surrender of this Note to the Paying Agent.

4. *Paying Agent and Registrar*

Initially, U.S. Bank National Association or one of its Affiliates will act as Principal Paying Agent and Registrar. The Issuer or any of its Affiliates may act as Paying Agent, Registrar or co-Registrar.

5. *Indenture*

The Issuer issued this Note under an indenture dated as of [·], 202[1][2] (as amended, supplemented or otherwise modified from time to time, the “**Indenture**”), among, *inter alios*, the Issuer and U.S. Bank National Association, as trustee (the “**Trustee**”). The terms of this Note include those stated in the Indenture. Terms defined in the Indenture and not defined herein have the meanings ascribed thereto in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

6. *Optional Redemption*

(a) At any time and from time to time prior to [·] (the date that is [·] months prior to the maturity date) (the “**Par Call Date**”), the Issuer may on any one or more occasions redeem all or a part of the Notes, upon giving not less than 10 nor more than 60 days’ notice, at a Redemption Price equal to 100.0% of the principal amount of the Notes to be redeemed, *plus* the Applicable Premium (as calculated by the Issuer) as of, and accrued and unpaid interest and Additional Amounts, if any, to, but excluding, the date of redemption, subject to the rights of Holders of the Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

At any time and from time to time on or after [·], the Issuer may on any one or more occasions redeem all or a part of the Notes, at its option, upon giving not less than 10 nor more than 60 days’ notice, at a Redemption Price (expressed as percentages of the principal amount to be redeemed) set forth below, plus accrued and unpaid interest and Additional Amounts, if any, to, but excluding, the date of redemption, subject to the rights of Holders of the Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the six-month or twelve-month, as applicable, period beginning on:

<b>Date</b>	<b>Percentage</b>
[·]	102%
[·]	101%
[·] and thereafter	100%

(b) At any time and from time to time prior to [·], the Issuer may redeem Notes with the net cash proceeds received by the Issuer from any Equity Offering at a Redemption Price equal to 108% of the principal amount of such Notes, *plus* accrued and unpaid interest and Additional Amounts, if any, to, but excluding, the Redemption Date, in an aggregate principal amount for all such redemptions not to exceed 40% of the aggregate principal amount of the Notes issued under the Indenture on the Issue Date (together with Additional Notes); *provided* that

- (1) in each case the redemption takes place not later than 180 days after the closing of the related Equity Offering, and
- (2) not less than 60% of the aggregate principal amount of the then-outstanding Notes issued under the Indenture remains outstanding immediately thereafter (including Additional Notes)

but excluding Notes held by the Issuer or any of its Restricted Subsidiaries), unless all such Notes are redeemed substantially concurrently.

Notwithstanding the foregoing, in connection with any tender offer for the Notes, including a Change of Control Offer or Asset Sale Offer, if Holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in such tender offer and the Issuer, or any third party making such tender offer in lieu of the Issuer, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Issuer or such third party will have the right upon not less than 10 nor more than 60 days' prior notice, given not more than 30 days following such purchase date, to redeem all Notes that remain outstanding following such purchase at a Redemption Price equal to the price offered to each other Holder (excluding any early tender or incentive fee) in such tender offer *plus*, to the extent not included in the tender offer payment, accrued and unpaid interest and Additional Amounts, if any, thereon, to, but excluding, the date of such redemption.

#### 7. *Redemption for Changes in Taxes*

The Issuer may redeem the Notes, in whole but not in part, at its discretion at any time upon giving not less than 10 nor more than 60 days' prior written notice to the Holders of the Notes (which notice shall be irrevocable and given in accordance with the procedures set forth under Section 3.04 of the Indenture), at a Redemption Price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date fixed by the Issuer for redemption (a "**Tax Redemption Date**") and all Additional Amounts (if any) then due or which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders of the Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable in respect of the Notes or Note Guarantee, the Issuer or any Guarantor is or would be required to pay Additional Amounts (but, in the case of a Guarantor, only if the payment giving rise to such requirement cannot be made by the Issuer or another Guarantor without the obligation to pay Additional Amounts), and the Issuer or the relevant Guarantor cannot avoid any such payment obligation by taking reasonable measures available (including, for the avoidance of doubt, appointment of a new Paying Agent but excluding the reincorporation or reorganization of the Issuer or any Guarantor), and the requirement arises as a result of: (1) any change in, or amendment to, the laws (or any regulations or rulings promulgated thereunder) of the relevant Tax Jurisdiction which change or amendment is announced and becomes effective after the Issue Date (or if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, after such later date); or (2) any change in, or amendment to, the official application, administration or interpretation of such laws, regulations or rulings (including by virtue of a holding, judgment or order by a court of competent jurisdiction or a change in published practice or revenue guidance), which change or amendment is announced and becomes effective after the Issue Date (or if the applicable Tax Jurisdiction became a Tax Jurisdiction on a date after the Issue Date, after such later date) (each of the foregoing clauses (1) and (2), a "**Change in Tax Law**").

The Issuer shall not give any such notice of redemption earlier than 60 days prior to the earliest date on which the Issuer or the relevant Guarantor would be obligated to make such payment or Additional Amounts if a payment in respect of the Notes or Note Guarantee were then due and at the time such notice is given, the obligation to pay Additional Amounts must remain in effect. Prior to the publication or, where relevant, mailing of any notice of redemption of the Notes pursuant to the foregoing, the Issuer shall deliver the Trustee an opinion of independent tax counsel of recognized standing qualified under the laws of the relevant Tax Jurisdiction (which counsel shall be reasonably acceptable to the Trustee) to the effect that there has been a Change in Tax Law which would entitle the Issuer to redeem the Notes hereunder. In addition, before the Issuer mails notice of redemption of the Notes as described above, it shall deliver to the Trustee an Officer's Certificate to the effect that it cannot avoid its obligation to pay Additional Amounts by the Issuer or the relevant Guarantor taking reasonable measures available to it.

The Trustee will accept and shall be entitled to rely on such Officer's Certificate and Opinion of Counsel as sufficient evidence of the existence and satisfaction of the conditions as described above, in which event it will be conclusive and binding on all of the Holders.

The foregoing provisions of this paragraph 7 will apply, *mutatis mutandis*, to any successor of the Issuer (or any Guarantor) with respect to a Change in Tax Law occurring after the time such Person becomes successor to the Issuer (or any Guarantor).

8. *Repurchase at the Option of Holders*

(a) Upon a Change of Control Triggering Event, the Holders shall have the right to require the Issuer to offer to repurchase the Notes pursuant to Section 4.11 of the Indenture.

(b) The Notes may also be subject to Asset Sale Offers pursuant to Section 4.09 of the Indenture.

9. *Denominations*

The Notes (including this Note) are in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof of principal amount at maturity. The transfer of Notes (including this Note) may be registered, and Notes (including this Note) may be exchanged, as provided in the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture.

10. *Unclaimed Money*

All moneys paid by the Issuer or the Guarantors to the Trustee or a Paying Agent for the payment of the principal of, or premium, if any, or interest on, this Note or any other Note that remain unclaimed at the end of two years after such principal, premium or interest has become due and payable may be repaid to the Issuer or the Guarantors, subject to applicable law, and the Holder of such Note thereafter may look only to the Issuer or the Guarantors for payment thereof.

11. *Discharge and Defeasance*

The Notes shall be subject to defeasance, satisfaction and discharge as provided in Article Eight of the Indenture.

12. *Amendment, Supplement and Waiver*

The Notes, the Note Guarantees and the Indenture may be amended or modified as provided in Article Nine of the Indenture.

13. *Defaults and Remedies*

This Note and the other Notes have the Events of Default as set forth in Section 6.01 of the Indenture.

14. *[Reserved]*.

15. *Trustee Dealings with the Issuer*

The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Issuer, the Guarantors or any of their Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, co-Registrar or co-Paying Agent may do the same with like rights.

16. *No Recourse Against Others*

A director, officer, employee, incorporator, member or shareholder, as such, of the Issuer or the Guarantors shall not have any liability for any obligations of the Issuer or the Guarantors under this Note, the other Notes, the Note Guarantees or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release are part of the consideration for issuance of the Notes.

17. *Authentication*

This Note shall not be valid until an authorized officer of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

18. *Abbreviations*

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

19. *ISIN and/or CUSIP Numbers*

The Issuer may cause ISIN and/or CUSIP numbers to be printed on the Notes, and if so the Trustee shall use ISIN and/or CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed on the Notes.

20. *Governing Law*

**THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICT OF LAW RULES THEREOF.**



ASSIGNMENT FORM

To assign and transfer this Note, fill in the form below:

\_\_\_\_\_  
(I) or (the Issuer) assign and transfer this Note to

\_\_\_\_\_  
(Insert assignee's social security or tax I.D. no.)

\_\_\_\_\_  
(Print or type assignee's name, address and postal code)

and irrevocably appoint \_\_\_\_\_ agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Your Signature:

\_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Note)

Signature Guarantee:

\_\_\_\_\_  
(Participant in a recognized signature guarantee medallion program)

Date:

\_\_\_\_\_

Certifying Signature

In connection with any transfer of any Notes evidenced by this certificate occurring prior to the date that is one year after the later of the date of original issuance of such Notes and the last date, if any, on which the Notes were owned by the Issuer or any of its Affiliates, the undersigned confirms that such Notes are being transferred in accordance with the transfer restrictions set forth in such Notes and:

CHECK ONE BOX BELOW

- (1)  to the Issuer or any Subsidiary; or
- (2)  pursuant to an effective registration statement under the U.S. Securities Act of 1933; or
- (3)  pursuant to and in compliance with Rule 144A under the U.S. Securities Act of 1933; or
- (4)  pursuant to and in compliance with Regulation S under the U.S. Securities Act of 1933; or
- (5)  pursuant to another available exemption from the registration requirements of the U.S. Securities Act of 1933.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered Holder thereof; *provided, however*, that if box (3) is checked, by executing this form, the Transferor is deemed to have certified that such Notes are being transferred to a person it reasonably believes is a "qualified institutional buyer" as defined in Rule 144A under the U.S. Securities Act of 1933 who has received notice that such transfer is being made in reliance on Rule 144A; if box (4) is checked, by executing this form, the Transferor is deemed to have certified that such transfer is made pursuant to an offer and sale that occurred outside the United States in compliance with Regulation S under the U.S. Securities Act; and if box (5) is checked, the Trustee may require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Issuer reasonably requests to confirm that such transfer is being made pursuant to an exemption from or in a transaction not subject to, the registration requirements of the U.S. Securities Act of 1933.

Signature: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_  
(Participant in a recognized signature guarantee medallion program)

Certifying Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_  
(Participant in a recognized signature guarantee medallion program)

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note or a portion thereof repurchased pursuant to Section 4.09 or 4.11 of the Indenture, check the box:

If the purchase is in part, indicate the portion (in denominations of \$2,000 or any integral multiple of \$1,000 in excess thereof) to be purchased:

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the other side of this Note)

Date: \_\_\_\_\_

Certifying Signature: \_\_\_\_\_

**SCHEDULE A**

**SCHEDULE OF PRINCIPAL AMOUNT IN THE GLOBAL NOTE**

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Registered Note, or exchanges of a part of another Global Note or Definitive Registered Note for an interest in this Global Note, have been made:

<u>Date of Decrease/Increase</u>	<u>Amount of Decrease in Principal Amount</u>	<u>Amount of Increase in Principal Amount</u>	<u>Principal Amount Following such Decrease/Increase</u>	<u>Signature of Authorized Officer of Registrar</u>
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FORM OF TRANSFER CERTIFICATE FOR TRANSFER FROM RESTRICTED  
GLOBAL NOTE TO REGULATION S GLOBAL NOTE<sup>5</sup>

(Transfers pursuant to § 2.06(b)(ii) of the Indenture)  
U.S. Bank National Association  
U.S. Bank Global Corporate Trust Services  
60 Livingston Avenue  
St. Paul, Minnesota 55017  
EP-MN-WS3C  
Attention: Transfer Agent

Re: 8.00% Senior Notes due 2024 (the “Notes”)

Reference is hereby made to the Indenture dated as of [·], 202[1][2] (as amended, supplemented or otherwise modified from time to time, the “**Indenture**”) among, *inter alios*, NCL Corporation Ltd., a Bermuda exempted company, as Issuer, the guarantors party thereto, as Guarantors, and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to \$\_\_\_\_\_ aggregate principal amount of Notes that are held as a beneficial interest in the form of the Restricted Global Note (CUSIP No.: [·]<sup>6</sup>; ISIN No: [·] <sup>7</sup>) with DTC in the name of [*name of transferor*] (the “**Transferor**”). The Transferor has requested an exchange or transfer of such beneficial interest for an equivalent beneficial interest in the Regulation S Global Note (CUSIP No.: [·]<sup>8</sup>; ISIN No: [·]<sup>9</sup>).

In connection with such request, the Transferor does hereby certify that such transfer has been effected in accordance with the transfer restrictions set forth in the Notes and:

(a) with respect to transfers made in reliance on Regulation S (“**Regulation S**”) under the United States Securities Act of 1933, as amended (the “**U.S. Securities Act**”), does certify that:

(i) the offer of the Notes was not made to a person in the United States;

(ii) either (i) at the time the buy order is originated the transferee is outside the United States or the Transferor and any person acting on its behalf reasonably believe that the transferee is outside the United States; or (ii) the transaction was executed in, on or through the facilities of a designated offshore

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<sup>5</sup> If the Note is a Definitive Registered Note, appropriate changes need to be made to the form of this transfer certificate.

<sup>6</sup> Issue Date Rule 144A CUSIP: [·]

<sup>7</sup> Issue Date Rule 144A ISIN: [·]

<sup>8</sup> Issue Date Regulation S CUSIP: [·]

<sup>9</sup> Issue Date Regulation S ISIN: [·]

securities market described in paragraph (b) of Rule 902 of Regulation S and neither the Transferor nor any person acting on its behalf knows that the transaction was pre-arranged with a buyer in the United States;

(iii) no directed selling efforts have been made in the United States by the Transferor, an Affiliate thereof or any person on its behalf in contravention of the requirements of Rule 903 or 904 of Regulation S, as applicable;

(iv) the transaction is not part of a plan or scheme to evade the registration requirements of the U.S. Securities Act; and

(v) the Transferor is not the Issuer, a distributor of the Notes, an Affiliate of the Issuer or any such distributor (except any officer or director who is an affiliate solely by virtue of holding such position) or a person acting on behalf of any of the foregoing.

(b) with respect to transfers made in reliance on Rule 144 the Transferor certifies that the Notes are being transferred in a transaction permitted by Rule 144 under the U.S. Securities Act.

You, the Issuer, the Guarantors and the Trustee are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this certificate have the meanings set forth in Regulation S.

[Name of Transferor]

By: \_\_\_\_\_

Name:

Title:

Date:

cc:

Attention:

[FORM OF TRANSFER CERTIFICATE FOR TRANSFER FROM REGULATION S  
GLOBAL NOTE TO RESTRICTED GLOBAL NOTE]

(Transfers pursuant to § 2.06(b)(iii) of the Indenture)

U.S. Bank National Association  
U.S. Bank Global Corporate Trust Services  
60 Livingston Avenue  
St. Paul, Minnesota 55017  
EP-MN-WS3C  
Attention: Transfer Agent

Re: 8.00% Senior Notes due 2024 (the “Notes”)

Reference is hereby made to the Indenture dated as of [·], 202[1][2] (as amended, supplemented or otherwise modified from time to time, the “**Indenture**”) among, *inter alios*, NCL Corporation Ltd., a Bermuda exempted company, as Issuer, the guarantors party thereto, as Guarantors, and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to \$ \_\_\_\_\_ aggregate principal amount at maturity of Notes that are held in the form of the Regulation S Global Note with DTC (CUSIP No.: [·]<sup>10</sup> ISIN No.: [·]<sup>11</sup>) in the name of [name of transferor] (the “**Transferor**”) to effect the transfer of the Notes in exchange for an equivalent beneficial interest in the Restricted Global Note (CUSIP No.: [·]<sup>12</sup>; ISIN No.: [·]<sup>13</sup>).

In connection with such request, and in respect of such Notes the Transferor does hereby certify that such Notes are being transferred in accordance with the transfer restrictions set forth in the Notes and that:

CHECK ONE BOX BELOW:

- the Transferor is relying on Rule 144A under the U.S. Securities Act for exemption from the registration requirements thereunder; it is transferring such Notes to a person it reasonably believes is a QIB as defined in Rule 144A that purchases for its own account, or for the account of a qualified institutional buyer, and to whom the Transferor has given notice that the transfer is made in reliance on Rule 144A and the transfer is being made in accordance with any applicable securities laws of any state of the United States; or

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<sup>10</sup> Issue Date Regulation S CUSIP: [·]

<sup>11</sup> Issue Date Regulation S ISIN: [·]

<sup>12</sup> Issue Date Rule 144A CUSIP: [·]

<sup>13</sup> Issue Date Rule 144A ISIN: [·]

- the Transferor is relying on an exemption other than Rule 144A from the registration requirements of the U.S. Securities Act, subject to the Issuer's and the Trustee's right prior to any such offer, sale or transfer to require the delivery of an Opinion of Counsel, certification and/or other information satisfactory to each of them.

You, the Issuer, the Guarantors, and the Trustee are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Name of Transferor]

By: \_\_\_\_\_

Name:

Title:

Date:

cc:

Attention:



## FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE dated as of [·], 20[·] (this “**Supplemental Indenture**”) by and among NCL Corporation Ltd. (the “**Issuer**”), the other parties listed as New Guarantors on the signature pages hereto (each, a “**New Guarantor**” and, collectively, the “**New Guarantors**”) and U.S. Bank National Association, as trustee (in such capacity, the “**Trustee**”).

## WITNESETH

WHEREAS, the Issuer, the Trustee and the other parties thereto have heretofore executed and delivered an Indenture, dated as of [·], 202[1][2] (as amended, supplemented or otherwise modified from time to time, the “**Indenture**”), providing for the issuance of 8.00% Senior Notes due 2024 of the Issuer (the “**Notes**”), initially in the aggregate principal amount of \$[·];

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer and the Trustee are authorized to execute and deliver this Supplemental Indenture; and

WHEREAS, all necessary acts have been done to make this Supplemental Indenture a legal, valid and binding agreement of each New Guarantor in accordance with the terms of this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

ARTICLE I  
DEFINITIONS

Section 1.01 *Capitalized Terms*. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

ARTICLE II  
AGREEMENT TO BE BOUND

Section 2.01 *Agreement to Guarantee*. The New Guarantor acknowledges that it has received and reviewed a copy of the Indenture and all other documents it deems necessary to review in order to enter into this Supplemental Indenture, and acknowledges and agrees to (i) join and become a party to the Indenture as indicated by its signature below; (ii) be bound by the Indenture, as of the date hereof, as if made by, and with respect to, each signatory hereto; and (i) perform all obligations and duties required of a Guarantor pursuant to the Indenture. The New Guarantor hereby agrees to provide a Note Guarantee on the terms and subject to the conditions set forth in the Indenture, including, but not limited to, Article Ten thereof.

Section 2.02 *Execution and Delivery*. The New Guarantor agrees that the Note Guarantee shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Note Guarantee on the Notes.

ARTICLE III  
MISCELLANEOUS

Section 3.01 *Governing Law.* THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 3.02 *Severability.* In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.03 *Ratification.* Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder heretofore or hereafter shall be bound hereby. The Trustee makes no representation or warranty as to the validity or sufficiency of this Supplemental Indenture.

Section 3.04 *Counterparts.* The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Supplemental Indenture. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto. Signatures of the parties hereto transmitted by facsimile or other electronic transmission shall be deemed to be their original signatures for all purposes. For the avoidance of doubt, the words "execution," "signed," "signature," "delivery" and words of like import in or relating to this Supplemental Indenture or any document to be signed in connection with this Supplemental Indenture shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

Section 3.05 *Effect of Headings.* The headings herein are convenience of reference only and shall not affect the construction hereof.

Section 3.06 *The Trustee.* The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the New Guarantor.

Section 3.07 *Benefits Acknowledged.* The New Guarantor's Note Guarantee is subject to the terms and conditions set forth in the Indenture. The New Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to its Note Guarantee and this Supplemental Indenture are knowingly made in contemplation of such benefits.

Section 3.08 *Successors.* All agreements of the New Guarantor in this Supplemental Indenture shall bind its successors, except as otherwise provided in this Supplemental Indenture. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

**ISSUER:**

NCL CORPORATION LTD.

By: \_\_\_\_\_  
Name:  
Title:

**NEW GUARANTORS:**

[NEW GUARANTORS]

By: \_\_\_\_\_  
Name:  
Title:

**TRUSTEE:**

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name:  
Title:

Form of Notice to Purchasers

[Attached.]

Exhibit C

[Commitment Letter – Option Contract Version]

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NCL  
\$1,000,000,000 Senior Unsecured Bridge Facility  
Form of Notice to Purchasers

[PURCHASER]

[ ]

[ ]

[ ], [ ]

Ladies and Gentlemen:

Reference is made to that certain Commitment Letter, dated as of November 1, 2021 (the "Commitment Letter"), between NCL Corporation Ltd., an exempted company incorporated in Bermuda with limited liability and tax resident in the United Kingdom (the "Company") and each Purchaser listed on Annex I thereto (the "Purchasers"). Capitalized terms used herein without definition shall have the meanings provided therefor in the Commitment Letter.

This letter constitutes notice pursuant to Section 1 of the Commitment Letter that the Company hereby requests that the Purchaser execute and deliver the Note Purchase Agreement to all parties to the Commitment Letter within five Business Days after receipt of this letter.

Very truly yours,

NCL CORPORATION LTD.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## CERTIFICATION

I, Frank J. Del Rio, certify that:

1. I have reviewed this quarterly report on Form 10-Q 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: November 9, 2021

/s/ Frank J. Del Rio

\_\_\_\_\_  
Name: Frank J. Del Rio

Title: President and Chief Executive Officer

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## CERTIFICATION

I, Mark A. Kempa, certify that:

1. I have reviewed this quarterly report on Form 10-Q 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: November 9, 2021

/s/ Mark A. Kempa

Name: Mark A. Kempa

Title: Executive Vice President and Chief Financial Officer

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**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 Quarterly Report on Form 10-Q of the Company, for the quarter ended September 30, 2021 (the "Form 10-Q"), 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-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 9, 2021

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

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