

SEASPAN CORP

FORM 20-F

(Annual and Transition Report (foreign private issuer))

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 20-F

(Mark One)

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

OR

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

For the fiscal year ended December 31, 2007

OR

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

OR

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

Date of event requiring this shell company report _____

For the transition period from _____ to _____

Commission file number 1-32591

SEASPAN CORPORATION

(Exact name of Registrant as specified in its charter)

Republic of The Marshall Islands
(Jurisdiction of incorporation or organization)

Unit 2, 7th Floor, Bupa Centre
141 Connaught Road West
Hong Kong
China
(Address of principal executive offices)

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

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Class A Common Shares, par value of \$0.01 per share	New York Stock Exchange

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

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

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

50,396,833 Class A Common Shares, par value of \$0.01 per share
7,145,000 Class B Common Shares, par value of \$0.01 per share
100 Class C Common Shares, par value of \$0.01 per share

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

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934. Yes No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act

of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

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

Large accelerated filer Accelerated filer Non-accelerated filer

Indicate by check mark which financial statement item the registrant has elected to follow. Item 17 Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

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PART I

This Annual Report should be read in conjunction with the consolidated financial statements and accompanying notes included in this report.

In addition to historical information, this Annual Report contains forward-looking statements that involve risks and uncertainties. Such forward-looking statements relate to future events and our operations, objectives, expectations, performance, financial condition and intentions. When used in this Annual Report, the words “expects,” “anticipates,” “intends,” “plans,” “believes,” “estimates,” “projects,” “forecasts,” “will,” “may,” “potential,” “should” and variations of such words and similar expressions are intended to identify forward-looking statements. These risks and uncertainties include, but are not limited to:

- future operating or financial results;
- our expectations relating to dividend payments and forecasts of our ability to make such payments;
- pending acquisitions, business strategy and expected capital spending;
- operating expenses, availability of crew, number of off-hire days, drydocking requirements and insurance costs;
- general market conditions and shipping market trends, including charter rates and factors affecting supply and demand;
- our financial condition and liquidity, including our ability to obtain additional financing in the future to fund capital expenditures, acquisitions and other general corporate activities;
- estimated future capital expenditures needed to preserve our capital base;
- our expectations about the availability of ships to purchase, the time that it may take to construct new ships, or the useful lives of our ships;
- our continued ability to enter into long-term, fixed-rate time charters with our customers;
- our ability to leverage to our advantage our Manager’s relationships and reputation in the containership industry;
- changes in governmental rules and regulations or actions taken by regulatory authorities;
- potential liability from future litigation; and
- other factors detailed from time to time in our periodic reports.

Forward-looking statements in this Annual Report are estimates reflecting the judgment of senior management and involve known and unknown risks and uncertainties. These forward-looking statements are based upon a number of assumptions and estimates that are inherently subject to significant uncertainties and contingencies, many of which are beyond our control. Actual results may differ materially from those expressed or implied by such forward-looking statements. Accordingly, these forward-looking statements should be considered in light of various important factors, including those set forth in this Annual Report under the heading “Risk Factors.”

We do not intend to revise any forward-looking statements in order to reflect any change in our expectations or events or circumstances that may subsequently arise. We make no prediction or statement about the performance of our common and subordinated shares. You should carefully review and consider the various disclosures included in this Annual Report and in our other filings made with the SEC that attempt to advise interested parties of the risks and factors that may affect our business, prospects and results of operations.

Unless we otherwise specify, when used in this annual report, the terms “Seaspan,” the “Company,” “we,” “our” and “us” refer to Seaspan Corporation and its wholly-owned subsidiaries and, for periods before our

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initial public offering, our predecessor. References to our Manager are to Seaspan Management Services Limited and its wholly-owned subsidiaries that provide us with technical, administrative and strategic services. References to SCLL are to Seaspan Container Lines Limited. References to the VesselCos are to the 23 wholly-owned subsidiaries of SCLL.

We use the term “twenty foot equivalent unit,” or “TEU,” the international standard measure of containers, in describing the capacity of our containerhips, which are also commonly referred to as vessels. Our 13100 TEU class vessels, 9600 TEU class vessels, 8500 TEU class vessels built by Samsung Heavy Industries Co., Ltd., or Samsung, 8500 TEU class vessels built by Hyundai Heavy Industries Co., Ltd., or HHI, 5100 TEU class vessels, 4800 TEU class vessels, 4500 TEU class vessels, 4250 TEU class vessels built by Samsung, 4250 TEU vessels built by Jiangsu New Yangzi Shipbuilding Co., Ltd., or New Jiangsu, 3500 TEU class vessels, and 2500 TEU class vessels have actual capacities of 13092 TEU, 9580 TEU, 8468 TEU, 8495 TEU, 5087 TEU, 4809 TEU, 4520 TEU, 4253 TEU, 4250 TEU, 3534 TEU and 2546 TEU, respectively.

Item 1. Identity of Directors, Senior Management and Advisors

Not applicable.

Item 2. Offer Statistics and Expected Timetable

Not applicable.

Item 3. Key Information

A. Selected Financial Data

	Years Ended December 31,		January 1 to August 11, 2005 ⁽¹⁾	August 12 to December 31, 2005 As adjusted ⁽²⁾	Years Ended December 31,	
	2003 ⁽¹⁾	2004 ⁽¹⁾			2006 As adjusted ⁽²⁾	2007
Statements of operations data (period ended, in thousands of dollars):						
Revenue	\$35,011	\$35,933	\$ 40,157	\$ 34,803	\$ 118,489	\$ 199,235
Operating expenses:						
Ship operating	6,577	7,157	7,733	7,832	27,869	46,174
Depreciation	8,587	8,808	9,904	7,186	26,878	50,162
General and administrative ⁽³⁾	208	207	218	1,694	4,911	6,006
Operating earnings	19,639	19,761	22,302	18,091	58,831	96,893
Other expenses (income):						
Interest expense	12,193	11,804	14,563	1,699	17,594	34,062
Change in fair value of financial instruments ⁽⁴⁾	(5,808)	(1,416)	(7,308)	—	908	72,365
Interest income	—	—	—	(124)	(1,542)	(4,074)
Write-off on debt refinancing	—	3,135	—	—	—	635
Undrawn credit facility fee	—	—	—	1,041	2,803	3,057
Amortization of deferred charges	183	222	450	726	1,980	1,256
Other	(36)	(53)	(17)	—	—	—
Net earnings (loss)	<u>\$13,107</u>	<u>\$ 6,069</u>	<u>\$ 14,614</u>	<u>\$ 14,749</u>	<u>\$ 37,088</u>	<u>\$ (10,408)</u>
Common shares outstanding (at period end):				35,991,600	47,522,350	57,541,933
Per share data (in dollars):						
Basic and diluted earnings (loss) per share	N/A	N/A	N/A	\$ 0.41	\$ 0.98	\$ (0.20)
Cash dividends paid per share	N/A	N/A	N/A	\$ 0.23	\$ 1.70	\$ 1.785

Statements of cash flows data (period ended, in thousands of dollars):

Cash flows provided by (used in):

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	Years Ended December 31,		January 1 to August 11, 2005 ⁽¹⁾	August 12 to December 31, 2005 As adjusted ⁽²⁾	Years Ended December 31, 2006 As adjusted ⁽²⁾	
	2003 ⁽¹⁾	2004 ⁽¹⁾			2006	2007
Operating activities	\$ 16,860	\$ 18,540	\$ 19,289	\$ 24,115	\$ 71,363	\$ 113,168
Investing activities	(236,369)	(8,692)	(20,939)	(826,253)	(605,652)	(1,104,704)
Financing activities	212,320	(8,279)	793	817,856	610,798	1,022,443
Selected balance sheet data (at period end, in thousands of dollars):						
Cash and cash equivalents	\$ 2,497	\$ 4,066	\$ 3,209	\$ 15,718	\$ 92,227	\$ 123,134
Current assets	9,100	13,258	22,316	18,070	96,655	130,318
Vessels	452,141	454,862	466,112	621,163	1,198,782	2,424,253
Fair value of financial instruments, asset ⁽⁴⁾	—	—	—	4,799	10,711	—
Deferred charges	4,828	8,201	8,548	6,526	7,879	17,240
Total assets	466,069	476,321	496,976	650,978	1,317,216	2,576,901
Current liabilities (excluding current portion of long-term debt)	4,135	5,481	5,357	4,226	11,167	15,716
Current portion of long-term debt ⁽⁵⁾	12,848	19,773	26,203	—	—	—
Long-term debt ⁽⁵⁾	347,946	376,999	405,495	122,893	563,203	1,339,438
Due to related party	96,883	64,822	43,393	—	—	—
Fair value of financial instruments, liability ⁽⁴⁾	19,476	18,860	11,552	—	15,831	135,617
Owner's equity (deficiency)	(15,707)	(9,638)	4,976	—	—	—
Share capital	—	—	—	360	475	575
Total shareholders' equity	—	—	—	523,859	725,015	862,326
Other data:						
Number of vessels in operation at period end	5	6	10	13	23	29
TEU capacity at period end	21,265	29,733	50,960	63,719	108,473	143,207
Fleet utilization ⁽⁶⁾	100.0%	100.0%	99.8%	100.0%	99.0%	99.0%

(1) Represents selected financial data for the predecessor for the period prior to our initial public offering.

(2) Effective January 1, 2007, the Company adopted FSP AUG AIR-1, Accounting for Planned Major Maintenance Activities, which provides guidance on the accounting for planned major maintenance activities. Previously, the Company accounted for dry-dock activities using the accrue-in-advance method. The Company has adopted the deferral method of accounting for dry-dock activities whereby actual costs incurred are deferred and amortized on a straight line basis over the period until the next scheduled dry-dock activity. The Company has applied FSP AUG AIR-1 retrospectively, and, as a result, the results for the 142-day period ended December 31, 2005 and the year ended December 31, 2006 have been adjusted.

(3) The predecessor combined financial statements include the general and administrative expenses incurred by the predecessor related to its operations. Subsequent to the completion of the initial public offering and the acquisition of the initial ten container ships, we have incurred additional administrative expenses, including legal, accounting, treasury, premises, securities regulatory compliance and other costs normally incurred by a listed public entity. Accordingly, general and administrative expenses incurred by and allocated to the predecessor do not purport to be indicative of our current expenses.

(4) The predecessor entered into interest rate swap agreements to reduce their exposure to market risks from changing interest rates. These derivative instruments have been recognized on the predecessor combined balance sheet at their fair value. As the predecessor did not designate the interest rate swap agreements as hedging instruments in accordance with the requirements in accounting literature, changes in the fair value of the interest rate swaps have been recognized in earnings. These changes occur due to changes in market interest rates for debt with substantially similar credit risk and payment terms. These interest rate swaps, together with the underlying debt, were settled by the predecessor and not assumed by us on completion of the initial public offering and the acquisition of the initial fleet. For the year ended December 31, 2007, we entered into interest rate swap agreements to reduce our exposure to market risks from changing interest rates. The swap agreements fix LIBOR at 4.6325% to 5.8700% based on expected drawdowns and

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outstanding debt until at least February 2014. Interest rate swap agreements are recorded on the balance sheet at their respective fair values. For the interest rate swap agreements that have been designated as hedging instruments in accordance with the requirements in the accounting literature, the changes in the fair value of these interest rate swap agreements are reported in accumulated other comprehensive income. The fair value will change as market interest rates change. Interest expense is adjusted to include amounts payable or receivable under the interest rate swaps. The ineffective portion of the interest rate swaps are recognized immediately in net income. Other interest rate swap agreements and derivative instruments that are not designated as hedging instruments are marked to market and are recorded on the balance sheet at fair value. The changes in the fair value of these instruments are recorded in earnings.

- (5) All predecessor long-term debt was settled on the completion of the initial public offering and was not assumed by us.
- (6) We calculate fleet utilization by dividing the number of our operating days during a period by the number of our ownership days during the period. We use fleet utilization to measure our efficiency in operating our vessels and the amount of days that our vessels are off-hire. We define operating days as the number of our available days in a period less the aggregate number of days that our vessels are off-hire due to any reason, including unforeseen circumstances. We use operating days to measure the aggregate number of days in a period during which our vessels actually generate revenues. We define ownership days as the aggregate number of days in a period during which each vessel in our fleet has been owned by us. Ownership days are an indicator of the size of our fleet over a period and affects the amount of vessel operating expenses that we incur.

B. Capitalization and Indebtedness

Not applicable.

C. Reasons for the Offer and Use of Proceeds

Not applicable.

D. Risk Factors

Some of the following risks relate principally to the industry in which we operate and to our business in general. Other risks relate principally to the securities market and to ownership of our common shares. The occurrence of any of the events described in this section could significantly and negatively affect our business, financial condition, operating results or cash available for distributions or the trading price of our common shares.

Risks Inherent in Our Business

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

We intend to pay regular quarterly dividends. We may not, however, have sufficient cash available each quarter to pay dividends. The amount of dividends we can pay depends upon the amount of cash we generate from our operations, which may fluctuate based on, among other things:

- the rates we obtain from our charters;
- the level of our operating costs;
- the number of unscheduled off-hire days for our fleet and the timing of, and number of days required for, scheduled drydocking of our containerships;
- delays in the delivery of new vessels and the beginning of payments under charters relating to those ships;
- prevailing global and regional economic and political conditions;

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- the effect of governmental regulations and maritime self-regulatory organization standards on the conduct of our business; and
- changes in the basis of taxation of our activities in various jurisdictions.

The amount of cash we have available for dividends on our shares will not depend solely on our profitability.

The actual amount of cash we will have available for dividends also will depend on many factors including the following:

- changes in our operating cash flow, capital expenditure requirements, working capital requirements and other cash needs;
- the charter rates on new vessels and those obtained upon the expiration of our existing charters;
- modification or revocation of our dividend policy by our board of directors;
- restrictions under our credit facilities or lease arrangements or any future credit agreements or debt securities;
- the amount of any cash reserves established by our board of directors; and
- restrictions under Marshall Islands law.

In addition, before we can determine the amount of cash available for the payment of dividends, we must pay fees to our Manager for the technical management of our vessels, must pay a monthly administrative services fee not to exceed \$6,000 per month and must reimburse our Manager for all reasonable costs in providing us with administrative and strategic services.

The amount of cash we generate from our operations may differ materially from our net income or loss for the period, which will be affected by non-cash items. We may incur other expenses or liabilities that would reduce or eliminate the cash available for distribution as dividends. Our credit facilities and lease arrangements also restrict our declaration and payment of dividends if an event of default has occurred and is continuing or if the payment of the dividend would result in an event of default. In addition, Marshall Islands law generally prohibits the payment of dividends other than from surplus (retained earnings and the excess of consideration received for the sale of shares above the par value of the shares) or while a company is insolvent or would be rendered insolvent by the payment of such a dividend and any such dividend may be discontinued at the discretion of our board of directors. In addition, if our quarterly cash dividend exceeds \$0.485 per common and subordinated share, our Manager will share in incremental dividends through the incentive shares based upon specified sharing ratios, which will reduce the cash available for dividends on our common and subordinated shares. On January 24, 2008, we announced a quarterly cash dividend increase to \$0.475 per common and subordinated shares. As a result of these and the other factors mentioned above, we may pay dividends during periods when we record losses and may not pay dividends during periods when we record net income.

We will be required to make substantial capital expenditures to complete the acquisition of our fleet that we have contracted to purchase and to expand the size of our fleet, which may cause our ability to pay dividends to be diminished, our financial leverage to increase or our shareholders to be diluted.

We have agreed to acquire an additional 39 containerships over approximately the next 43 months. We have entered into contracts to purchase 34 of those containerships and, as of December 31, 2007, the total purchase price of the 34 vessels was estimated to be approximately \$2.6 billion. Our obligation to purchase the 34 vessels is not conditional upon our ability to obtain financing for such purchases. We will lease the remaining five of the 39 vessels from Peony Leasing Limited, or Peony, a subsidiary of Bank of Scotland plc. Under the terms of our lease financing arrangements with Peony, we have the ability to purchase the five vessels from Peony at a price approximately equal to their fair market value at the end of their relevant lease terms. Although we currently intend to purchase all five vessels, we cannot assure you that we will be able to purchase them on terms favorable to us or at all.

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To fund the remaining portion of these and other capital expenditures, we will use cash from operations or incur borrowings or raise capital through the sale of additional securities. Use of cash from operations may reduce cash available for dividends to our shareholders. Our ability to obtain bank financing or to access the capital markets for future offerings may be limited by our financial condition at the time of any such financing or offering and the covenants in our existing debt agreements, as well as by adverse market conditions resulting from, among other things, general economic conditions and contingencies and uncertainties that are beyond our control. Our failure to obtain the funds for necessary future capital expenditures could have a material adverse effect on our business, results of operations, financial condition and ability to pay dividends. Even if we are successful in obtaining the necessary funds, the terms of such financings could limit our ability to pay dividends to our shareholders. In addition, incurring additional debt may significantly increase our interest expense and financial leverage, and issuing additional equity securities may result in significant shareholder dilution and would increase the aggregate amount of cash required to distribute a consistent level of dividends from earnings to our shareholders, which could have a material adverse effect on our ability to pay dividends.

Over the long-term, we will be required to make substantial capital expenditures to preserve the operating capacity of our fleet, which could result in a reduction or elimination of our ability to pay dividends.

We must make substantial capital expenditures over the long-term to preserve the operating capacity of our fleet. If, however, we do not retain funds in our business in amounts necessary to preserve our capital base, over the long-term, we will not be able to continue to refinance our indebtedness or maintain our payment of dividends. At some time in the future, we will likely need to retain additional funds, on an annual basis, to provide reasonable assurance of maintaining our capital base over the long-term. There are a number of factors that will not be determinable for a number of years, but that will be considered by our board of directors in future decisions regarding the amount of funds to be retained in our business to preserve our capital base. Unless we are successful in making accretive acquisitions with outside sources of financing, which add a material amount to our cash available for retention in our business or unless our board of directors concludes that we will likely be able to recharter our fleet when our current charters expire at rates higher than the rates in our current charters, our board of directors will likely determine at some future date to reduce, or possibly eliminate, our dividend in order to be able to have reasonable assurance that it is retaining the funds necessary to preserve our capital base. When we refer to accretive acquisitions, we mean acquisitions that will increase our distributable cash flow per share.

We currently derive the substantial majority of our revenue from four charterers, and the loss of any charterer could result in a significant loss of revenue and cash flow.

Customers for our current operating fleet are China Shipping Container Lines (Asia) Co., Ltd., or CSCL Asia, a subsidiary of China Shipping Container Lines Co., Ltd., or CSCL; Hapag-Lloyd USA, LLC, or HL USA, a subsidiary of Hapag-Lloyd, AG, or Hapag-Lloyd; COSCO Container Lines Co., Ltd., or COSCON, a subsidiary of China COSCO Holdings Company Limited, or China COSCO, and A.P. Møller-Mærsk A/S, or APM. Currently, CSCL Asia, HL USA, APM and COSCON charter fourteen, nine, four and two vessels from us, respectively. For the year ended December 31, 2007, CSCL Asia, HL USA, APM and COSCON accounted for 51.6%, 27.6%, 16.4% and 4.4% of our containership revenue, respectively. All of our vessels are chartered to charterers under long-term time charters, and these charterers' payments to us are our primary source of operating cash flow. At any given time in the future, cash reserves of the charterers may be diminished or exhausted, and we cannot assure you that the charterers will be able to make charter payments to us. The loss of any of these charters could materially and adversely affect our results of operations and financial condition.

Under some circumstances, we could lose a charterer or the benefits of a time charter if:

- the charterer fails to make charter payments because of its financial inability, disagreements with us, defaults on a payment or otherwise;
- at the time of delivery, the vessel subject to the time charter differs in its specifications from those agreed upon under the shipbuilding contract with each of the relevant shipbuilders;
- the charterer exercises certain specific limited rights to terminate the charter;
- upon a change of control of the Company, the charterer fails to consent to such change of control; or

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- the charterer terminates the charter because the ship fails to meet certain guaranteed speed and fuel consumption requirements and we are unable to rectify the situation or otherwise reach a mutually acceptable settlement.

Unless we set aside reserves or are able to borrow funds for vessel replacement at the end of a vessel's useful life, our revenue will decline.

Unless we maintain reserves or are able to borrow funds for vessel replacement, we will be unable to replace the vessels in our fleet upon the expiration of their remaining useful lives. Our cash flows and income are dependent on the revenues earned by the chartering of our vessels to customers. If we are unable to replace the vessels in our fleet upon the expiration of their useful lives, our results of operations, financial condition and ability to pay dividends will be materially and adversely affected. Additionally, any reserves set aside for vessel replacement would not be available for dividends.

As we expand our business, our Manager may need to improve its operating and financial systems and expand our commercial and technical management staff, and will need to recruit suitable employees and crew for our vessels.

In 2007, we increased the size of our contracted fleet to 68, which is approximately triple the size of our contracted fleet at the time of our initial public offering. Our Manager's current operating and financial systems may not be adequate as we continue to implement our plan to expand the size of our fleet, and attempts to improve those systems may be ineffective. In addition, as we expand our fleet, our Manager will need to recruit suitable additional administrative and management personnel. We cannot guarantee that our Manager will be able to continue to hire suitable employees as we expand our fleet. In the event of a shortage of experienced labor or if our Manager encounters business or financial difficulties, our Manager may not be able to adequately staff our vessels. If our Manager is unable to grow its financial and operating systems or to recruit suitable employees as we expand our fleet, our results of operations and customer relationships may be adversely affected.

A decrease in the level of China's exports of goods or an increase in trade barriers to China's exports will have a material adverse impact on our charterers' business and, in turn, affect our business and results of operations.

China exports considerably more goods than it imports. Most of our charterers' container shipping business revenue is derived from the shipment of goods from the Asia Pacific region, primarily China, to various overseas export markets including the United States and Europe. Any reduction in or hindrance to the output of China-based exporters could have a material adverse effect on the growth rate of China's exports and on our charterers' business.

Furthermore, increasing trade protectionism in the markets that our charterers serve has caused an increase in: (i) the cost of goods exported from China, (ii) the length of time required to deliver goods from China and (iii) the risks associated with exporting goods from China. These increases also affect the quantity of goods to be shipped, shipping time schedules, voyage costs and other associated costs.

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

An economic slowdown in the Asia Pacific region could have a material adverse effect on our business, financial condition and results of operations.

A significant number of the port calls made by our containerships involve the loading or discharging of containerships in ports in the Asia Pacific region. As a result, a negative change in economic conditions in any Asia Pacific country, and particularly in China or Japan, may have an adverse effect on our business, financial position and results of operations, as well as our future prospects. In particular, in recent years, China has been one of the world's fastest growing economies in terms of gross domestic product. We cannot assure you that such growth will be sustained or that the Chinese economy will not experience contraction in the future. Moreover, any slowdown in

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the economies of the United States, the European Union or certain Asian countries may adversely affect economic growth in China and elsewhere. Our business, financial condition and results of operations, as well as our future prospects, will likely be materially and adversely affected by an economic downturn in any of these countries.

The legal system in China is not fully developed and has inherent uncertainties that could limit the legal protections available to us.

The Chinese legal system is based on written statutes and their legal interpretation by the standing Committee of the National People's Congress. Prior court decisions may be cited for reference but have limited precedential value. Since 1979, the Chinese government has been developing a comprehensive system of laws and regulations dealing with economic matters such as foreign investment, corporate organization and governance, commerce, taxation and trade. However, because these laws and regulations are relatively new, and because of the limited volume of published cases and their non-binding nature, interpretation and enforcement of these laws and regulations involve uncertainties. If we are required to commence legal proceedings against a charterer or a charter guarantor based in China with respect to the provisions of a time charter or a time charter guarantee, we may have difficulties in enforcing any judgment obtained in such proceedings in China. Similarly, our shipbuilders based in China provide warranties against certain defects for the vessels that they will construct for us and refund guarantees from a Chinese financial institution for the installment payments that we will make to them. Although the shipbuilding contracts and refund guarantees are governed by English law, if we are required to commence legal proceedings against these shipbuilders with respect to the provisions of the shipbuilding contracts or the warranties, or against the refund guarantor for a refund of our installment payments, we may have difficulties enforcing any judgment obtained in such proceeding in China.

We cannot assure you that we will be able to borrow amounts under our credit facilities and restrictive covenants in our credit facilities and lease arrangements impose financial and other restrictions on us, including our ability to pay dividends.

We entered into a \$1.3 billion amended and restated secured credit facility, of which we have drawn \$757.9 million as of December 31, 2007, for the financing and refinancing of our initial fleet and our 4800 TEU vessels and for general corporate purposes. Under the \$1.3 billion credit facility, there are restrictions on the amount that can be advanced to us based on the market value of the vessel or vessels in respect of which the advance is being made. Our \$1.3 billion credit facility has a maturity date of May 11, 2014 or May 11, 2015, if we exercise the extension option for that facility.

On June 29, 2007 and on August 7, 2007, we amended our \$365.0 million secured revolving credit facility, dated May 19, 2006 for the partial financing of the acquisition of the two 3500 TEU vessels and eight of the ten 2500 TEU vessels. As of December 31, 2007, we have drawn \$111.2 million on this facility. The \$365.0 million credit facility has a maturity date of (a) for the 2500 vessels, the earlier of (i) the tenth anniversary of the delivery of the final 2500 TEU vessel or (ii) August 31, 2019, or (b) for the 3500 TEU vessels, July 5, 2017.

On October 16, 2006, we entered into a credit facility for \$218.4 million to partially finance the construction of the four 5100 TEU vessels being built by HHI. The facility maturity date is the earlier of (a) the anniversary date falling twelve years after the delivery date of the fourth 5100 TEU vessel delivered or (b) December 23, 2021. As of December 31, 2007, we have drawn \$83.7 million under this credit facility.

On August 8, 2007, we entered into a secured reducing revolving \$920.0 million credit facility to partially finance the construction of two of the ten 2500 TEU vessels under construction by Jiangsu Yangzijiang Shipbuilding Co. Ltd., or Jiangsu, four 4250 TEU vessels under construction at New Jiangsu, eight 8500 TEU vessels under construction at HHI and for general corporate purposes. The \$920.0 million credit facility has a maturity date of the earlier of (a) the twelfth anniversary of the delivery date of the vessels referenced in the credit facility or (b) December 31, 2022. As of December 31, 2007, we have drawn \$336.6 million under this credit facility.

On December 28, 2007, we entered into a secured reducing revolving \$150.0 million credit facility agreement with two of our wholly-owned subsidiary companies, Seaspan Finance II Co. Ltd. and Seaspan Finance III Co. Ltd., to finance the construction of two of our 13100 TEU vessels and for general corporate purposes. We have drawn \$50.0 million from this credit facility as of December 31, 2007. The final maturity date for the \$150.0 million credit facility is the earlier of the twelfth anniversary of the delivery date of the last vessel delivered and October 17, 2023.

On March 17, 2008, we entered into a \$291.2 million credit facility agreement to partially finance the construction of two of our 13100 TEU vessels and for general corporate purposes. The facility has a term loan component, which is divided into two tranches, and a revolving loan component, which is divided into a senior revolver and junior revolver. We have not drawn any amounts under this facility to date. The final maturity date for the revolving loan is the earlier of the twelfth anniversary of the delivery date of the last vessel delivered and December 31, 2023 and the final maturity date for the term loans is the earlier of the twelfth anniversary of the delivery date of the vessels to which those term loans relate and December 31, 2023.

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Prior to each drawdown under our credit facilities, we are required, among other things, to meet specified financial ratios and other requirements. To the extent that we are not able to satisfy these requirements, we may not be able to draw down under our credit facilities. We may be required to prepay amounts borrowed under our credit facilities if we, or in certain circumstances, our charterers, experience a change of control.

Our credit facilities and lease arrangements also impose operating and financial restrictions on us and require us to comply with certain financial covenants. These restrictions and covenants limit our ability to, among other things:

- except in the case of the lease arrangements, pay dividends if an event of default has occurred and is continuing under one of our credit facilities or if the payment of the dividend would result in an event of default;
- incur additional indebtedness, including through the issuance of guarantees;
- change the flag, class or management of our vessels;
- create liens on our assets;
- sell our vessels without replacing such vessels or prepaying a portion of our loan;
- conduct material transactions with our affiliates except on an arm's-length basis;
- merge or consolidate with, or transfer all or substantially all our assets to, another person; or
- change our business.

Therefore, we may need to seek permission from our lenders or lessors in order to engage in some corporate actions. The interests of our lenders or lessors may be different from ours, and we cannot guarantee that we will be able to obtain our lenders' or lessors' consent when needed. If we do not comply with the restrictions and covenants in our credit agreements or lease arrangements, we will not be able to pay dividends to you, finance our future operations, make acquisitions or pursue business opportunities.

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

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

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Our substantial debt levels may limit our flexibility in obtaining additional financing and in pursuing other business opportunities.

Following the completion of our acquisition of the remaining 39 containerships that we have contracted to purchase or lease, as the case may be, we will have substantial indebtedness. Our level of debt and vessel lease obligations could have important consequences to us, including the following:

- our ability to obtain additional financing, if necessary, for working capital, capital expenditures, acquisitions or other purposes may be impaired or such financing may not be available on favorable terms;
- we may need to use a substantial portion of our cash from operations to make principal and interest payments on our debt or make our lease payments, reducing the funds that would otherwise be available for operations, future business opportunities and dividends to our shareholders;
- our debt level could make us more vulnerable than our competitors with less debt to competitive pressures or a downturn in our business or the economy generally; and
- our debt level may limit our flexibility in responding to changing business and economic conditions.

Our ability to service our debt and vessel lease obligations will depend upon, among other things, our future financial and operating performance, which will be affected by prevailing economic conditions and financial, business, regulatory and other factors, some of which are beyond our control. If our operating results are not sufficient to service our current or future indebtedness and vessel lease obligations, we will be forced to take actions such as reducing dividends, reducing or delaying our business activities, acquisitions, investments or capital expenditures, selling assets, restructuring or refinancing our debt, or seeking additional equity capital or bankruptcy protection. We may not be able to effect any of these remedies on satisfactory terms, or at all.

We depend on our Manager to operate our business.

We were incorporated in May 2005, and we do not currently have any employees. Pursuant to our management agreements, our Manager and certain of its affiliates will provide us with certain of our officers and with technical, administrative and strategic services (including vessel maintenance, crewing, purchasing, shipyard supervision, insurance, assistance with regulatory compliance and financial services). Our operational success and ability to execute our growth strategy will depend significantly upon our Manager's satisfactory performance of these services. Our business will be harmed if our Manager fails to perform these services satisfactorily. In addition, if any of the management agreements were to be terminated or if their terms were to be altered, our business could be adversely affected as we may not be able to immediately replace such services, or even if replacement services are immediately available, the terms offered may be less favorable than the ones currently offered by our Manager.

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

- renew existing charters upon their expiration;
- obtain new charters;
- successfully interact with shipyards during periods of vessel construction constraints;
- obtain financing on commercially acceptable terms;
- maintain satisfactory relationships with our customers and suppliers; or
- successfully execute our growth strategy.

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

The fixed fees that we pay our Manager for its technical management of our ships may increase, which would increase our operating costs and could have a material adverse effect on our financial condition and results of operation.

Under the management agreements for all our vessels, we pay our Manager a fixed fee for its technical management of such vessels. Pursuant to the management agreements, the fees are effective until December 31, 2008 and thereafter, we and our Manager are required to renegotiate new fees every three years. If we and our Manager are unable to agree on new fees, the management agreements require that an arbitrator determines a fair market fee. Any increase in these fees will increase our operating costs and could have a material adverse effect on our financial condition and results of operation.

Delays in deliveries of our newly built containerships could harm our operating results.

We are currently under contract to purchase 34 and lease five additional containerships, which are scheduled to be delivered at various times over approximately the next four years. These vessels are being built by Jiangsu, New Jiangsu, HHI, Hyundai Samho Heavy Industries Co., Ltd. (a subsidiary of HHI), or HSHI, and Samsung (individually, the “Shipbuilder” and collectively, the “Shipbuilders”). The delivery of these vessels, or any other newbuildings we may order, could be delayed, which would delay our receipt of revenue under the time charters for the containerships and therefore adversely affect our results of operations and financial condition.

The delivery of the newbuildings could be delayed because of:

- work stoppages or other labor disturbances or other events that disrupt any of the Shipbuilders’ operations;
- quality or engineering problems;
- changes in governmental regulations or maritime self-regulatory organization standards;
- lack of raw materials;
- bankruptcy or other financial crisis of any of the Shipbuilders;
- a backlog of orders at any of the Shipbuilders;
- hostilities, or political or economic disturbances in South Korea or China, where the containerships are being built;
- weather interference or catastrophic event, such as a major earthquake or fire;
- our requests for changes to the original containership specifications;
- shortages of or delays in the receipt of necessary construction materials, such as steel;
- our inability to obtain requisite permits or approvals; or
- a dispute with any of the Shipbuilders.

In addition, each of the shipbuilding contracts for the additional 39 vessels contain “force majeure” provisions whereby the occurrence of certain events could delay delivery or possibly result in termination of the contract. If delivery of a containership is materially delayed or if a shipbuilding contract is terminated, it could adversely affect our results of operations and financial condition.

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We will be paying all costs for the four 5100 TEU vessels and eight 8500 TEU vessels that are being built for us by HHI, the ten 2500 TEU vessels that are being built for us by Jiangsu, the four 4250 TEU vessels that are being built for us by New Jiangsu and the eight 13100 TEU vessels being built for us by HHI and HSHI.

For each of the four 5100 TEU vessels that we have agreed to purchase, we are required to make five payment installments, ranging from 5% to 20% of the total contracted purchase price for each vessel, and a sixth installment for the final 50% balance remaining outstanding for each vessel. We have entered into a \$218.4 million long-term credit facility to partially fund the construction of these vessels.

For eight of the ten 2500 TEU vessels that we have agreed to purchase, we are required to make five payment installments, each consisting of 10% of the total contracted purchase price for each vessel, and a sixth installment for the final 50% balance remaining outstanding for each vessel. We have entered into a \$365.0 million long-term credit facility to partially fund the construction of these vessels.

For two of the ten 2500 TEU vessels and the four 4250 TEU vessels that we have agreed to purchase, we are required to make five payment installments, each consisting of 20% of the total contracted purchase price for each vessel. For the eight 8500 TEU vessels that we have agreed to purchase, we are required to make five installments ranging from 5% to 20% of the total contracted purchase price for each vessel and a sixth installment for the final 50% balance remaining outstanding for each vessel. We have entered into a \$920.0 million credit facility to partially fund the construction of these vessels.

For the eight 13100 TEU vessels that we have agreed to purchase, we are required to make five payment installments, each consisting of 10% of the total contracted purchase price for each vessel, and a sixth installment for the final 50% balance remaining outstanding for each vessel. We have entered into a \$150.0 million credit facility and a \$291.2 million credit facility to partially fund the construction of four of the eight 13100 TEU vessels.

If a Shipbuilder is unable to deliver a vessel or if we reject a vessel, we may in certain circumstances be required to pay back a portion of the outstanding balance of the relevant credit facility. Further, if a charterer rejects a vessel, we may in certain circumstances be required to pay back a portion of the outstanding balance of the relevant credit facility. Such an outcome could have a material adverse effect on our business, results of operations and financial condition.

We are relying on Peony, subject to the upper aggregate cap of \$400.0 million agreed in the leases, to pay all costs for the five 4500 TEU vessels that we have agreed to lease from Peony upon delivery of the vessels.

We entered into contracts in November and December 2007 to purchase five 4500 TEU vessels from Samsung. We subsequently novated those contracts to Peony, a subsidiary of Bank of Scotland, plc, in connection with the lease financing of the 4500 TEU vessels. Pursuant to the terms of the novation and lease agreements for the vessels, Peony is responsible for all costs relating to the construction and delivery of the five 4500 TEU vessels that we have contracted to lease, but have not yet been delivered, up to a maximum aggregate amount of \$400.0 million.

If Peony becomes insolvent or otherwise fails to continue to make construction payments for the 4500 TEU vessels, Samsung has the right to further novate the contracts back to us and we may need to finance the containerships before they begin operating and generating revenue, which could harm our business. Please read “Information on the Company—B. Business Overview—Financing Facilities—Our \$400.0 Million UK Lease Facility” in this Annual Report.

Due to our lack of diversification, adverse developments in our containership transportation business could reduce our ability to service our debt obligations and pay dividends to our shareholders.

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

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The age of our 4800 TEU secondhand vessels will result in increased operating costs, which could adversely affect our earnings.

In general, the cost of maintaining a vessel in good operating condition increases with the age of the vessel. Our 4800 TEU secondhand vessels have an average age of approximately 18.5 years as of December 31, 2007. Older vessels are typically more costly to maintain than more recently constructed vessels. Cargo insurance rates also increase with the age of a vessel, making older vessels less desirable to charterers. Governmental regulations, including environmental regulations, safety or other equipment standards related to the age of vessels may require expenditures for alterations, or the addition of new equipment to these 4800 TEU secondhand vessels and may restrict the type of activities in which these vessels may engage. The increased costs associated with these vessels may prevent us from operating them profitably during the remainder of their useful lives.

Under the time charters for certain of our vessels, if a vessel is off-hire for an extended period, the charterer has a right to terminate the charter agreement for that vessel.

Pursuant to most of our time charter agreements, if a vessel is off-hire for an extended period, the charterer has a right to terminate the charter agreement for that vessel. If a time charter is terminated early, we may be unable to re-deploy the related vessel on terms as favorable to us. In the worst case, we may not receive any revenues from that vessel, but may be required to pay expenses necessary to maintain the vessel in proper operating condition. Please see “Information on the Company—B. Business Overview—Time Charters.”

Our charter revenue from the four 4800 TEU secondhand vessels will decrease if APM exercises its options to extend its charters beyond the initial charter period of five years.

We purchased the four 4800 TEU secondhand vessels from APM in 2006. Simultaneously with the delivery of the four 4800 TEU vessels, we entered into five-year charter agreements for each of these vessels with APM at a daily hire rate of \$23,450. Upon the expiration of the initial five-year time charter term for each of the four 4800 TEU vessels, APM will have two consecutive one-year options to charter each vessel at \$22,400 and \$21,400 per day, respectively, and a final two-year option to charter each vessel at \$20,400 per day. Our Manager will operate the four 4800 TEU vessels purchased from APM for a fixed fee of \$5,750 per day through December 31, 2008. The daily fixed fee thereafter will be subject to renegotiation every three years. If APM exercises its options, our charter revenue from the four 4800 TEU secondhand vessels will decrease during the option years.

Our growth depends upon continued growth in demand for containerships.

Our articles of incorporation limit our business to the chartering or rechartering of containerships to others and any other lawful act or activity customarily conducted in conjunction with the chartering or rechartering of containerships to others, although our business purpose may be modified by our board of directors subject to, for as long as the management agreements with our Manager are in effect, the approval of the holders of our incentive shares. Our growth will generally depend on continued growth in world and regional demand for chartering marine container shipping.

The ocean-going shipping container industry is both cyclical and volatile in terms of charter hire rates and profitability. In the future, rates may continue to decline. Fluctuations in charter rates result from changes in the supply and demand for ship capacity and changes in the supply and demand for the major products internationally transported by containerships. The factors affecting the supply and demand for containerships and supply and demand for products shipped in containers are outside of our control, and the nature, timing and degree of changes in industry conditions are unpredictable.

The factors that influence demand for containership capacity include:

- supply and demand for products suitable for shipping in containers;
- changes in global production of products transported by containerships;
- the distance container cargo products are to be moved by sea;

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- the globalization of manufacturing;
- global and regional economic and political conditions;
- developments in international trade;
- changes in seaborne and other transportation patterns, including changes in the distances over which container cargoes are transported;
- environmental and other regulatory developments;
- currency exchange rates; and
- weather.

The factors that influence the supply of containership capacity include:

- the number of newbuilding deliveries;
- the scrapping rate of older containerships;
- the price of steel and other raw materials;
- changes in environmental and other regulations that may limit the useful life of containerships;
- the number of containerships that are out of service; and
- port congestion.

Our ability to recharter our containerships upon the expiration or termination of their current time charters and the charter rates payable under any renewal or replacement charters will depend upon, among other things, the then current state of the containership market. If the containership market is in a period of depression when our ships' charters expire, we may be forced to recharter our ships at reduced rates or even possibly a rate whereby we incur a loss, which may reduce our earnings or make our earnings volatile. The same issues will exist if we acquire additional vessels and attempt to subject them to a long-term time charter arrangement as part of our acquisition and financing plan.

An over-supply of containership capacity may lead to reductions in charter hire rates and profitability.

The market supply of containerships has been increasing. An over-supply of containership capacity may result in a reduction of charter hire rates. If such a reduction occurs upon the expiration or termination of our containerships' current time charters, we may only be able to recharter our containerships for reduced rates or unprofitable rates or we may not be able to recharter our containerships at all.

Our growth depends on our ability to expand relationships with existing charterers and obtain new charterers, for which we will face substantial competition.

One of our principal objectives is to acquire additional containerships in conjunction with entering into additional long-term, fixed-rate time charters for such ships. The process of obtaining new long-term time charters is highly competitive and generally involves an intensive screening process and competitive bids, and often extends for several months. Container shipping charters are awarded based upon a variety of factors relating to the vessel operator, including:

- shipping industry relationships and reputation for customer service and safety;
- container shipping experience and quality of ship operations (including cost effectiveness);
- quality and experience of seafaring crew;

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- the ability to finance containerships at competitive rates and financial stability generally;
- relationships with shipyards and the ability to get suitable berths;
- construction management experience, including the ability to obtain on-time delivery of new ships according to customer specifications;
- willingness to accept operational risks pursuant to the charter, such as allowing termination of the charter for force majeure events; and
- competitiveness of the bid in terms of overall price.

We expect substantial competition for providing new containership service from a number of experienced companies, including state-sponsored entities and major shipping companies. Many of these competitors have significantly greater financial resources than we do, and can therefore operate larger fleets and may be able to offer better charter rates. We anticipate that an increasing number of marine transportation companies will enter the containership sector, including many with strong reputations and extensive resources and experience. This increased competition may cause greater price competition for time charters. As a result of these factors, we may be unable to expand our relationships with existing customers or to obtain new customers on a profitable basis, if at all, which would have a material adverse effect on our business, results of operations and financial condition.

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

One of our principal strategies is to enter into additional long-term, fixed-rate container time charters. As more vessels become available for the spot or short-term market, we may have difficulty entering into additional long-term, fixed-rate time charters for our vessels due to the increased supply of vessels and possibly cheaper rates in the spot market and, as a result, our cash flow may be subject to instability in the long-term. A more active short-term or spot market may require us to enter into charters based on changing market prices, as opposed to contracts based on a fixed-rate, which could result in a decrease in our cash flow in periods when the market price for container shipping is depressed or insufficient funds are available to cover our financing costs for related vessels.

Over time, containership values may fluctuate substantially and, if these values are lower at a time when we are attempting to dispose of a containership, we may incur a loss.

Containership values can fluctuate substantially over time due to a number of different factors, including:

- prevailing economic conditions in the market in which the containership trades;
- a substantial or extended decline in world trade;
- increases in the supply of containership capacity; and
- the cost of retrofitting or modifying existing ships, as a result of technological advances in vessel design or equipment, changes in applicable environmental or other regulations or standards, or otherwise.

If a charter terminates, we may be unable to re-deploy the vessel at attractive rates and, rather than continue to incur costs to maintain and finance the vessel, may seek to dispose of it. Our inability to dispose of the containership at a reasonable price could result in a loss on its sale and adversely affect our results of operations and financial condition.

We may be unable to draw down the full amount of our credit facilities if the market value of our vessels declines.

There are restrictions on the amount that can be advanced to us under our credit facilities based on the market value of the vessel or vessels in respect of which the advance is being made and the price at which we are acquiring or have acquired the vessel or other factors. If the market value of our fleet declines, we may not be able to draw down the full amount of our credit facilities, or obtain other financing or incur debt on terms that are acceptable to us or at all. We may also not be able to refinance our debt or obtain additional financing.

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We may be unable to make or realize expected benefits from acquisitions, and implementing our growth strategy through acquisitions may harm our business, financial condition and operating results.

Our growth strategy includes selectively acquiring new containerships, existing containerships, containership related assets and container shipping businesses. Factors that may limit the number of acquisition opportunities in the containership industry in the near term include the relatively small number of independent containership fleet owners and the limited number of modern containerships with appropriate characteristics not subject to existing long-term charters. In addition, competition from other companies could reduce our acquisition opportunities or cause us to pay higher prices.

Any acquisition of a vessel or business may not be profitable to us at or after the time we acquire it and may not generate cash flow sufficient to justify our investment. In addition, our acquisition growth strategy exposes us to risks that may harm our business, financial condition and operating results, including risks that we may:

- fail to realize anticipated benefits, such as new customer relationships, cost savings or cash flow enhancements;
- be unable, through our Manager, to hire, train or retain qualified shore and seafaring personnel to manage and operate our growing business and fleet;
- decrease our liquidity by using a significant portion of our available cash or borrowing capacity to finance acquisitions;
- significantly increase our interest expense or financial leverage if we incur additional debt to finance acquisitions;
- incur or assume unanticipated liabilities, losses or costs associated with the business or vessels acquired;
- incur other significant charges, such as impairment of goodwill or other intangible assets, asset devaluation or restructuring charges; or
- not be able to retain our ability to service our debt obligations and pay substantial regular dividends.

Unlike newbuildings, existing containerships typically do not carry warranties as to their condition. While we would inspect existing containerships prior to purchase, such an inspection would normally not provide us with as much knowledge of a containership's condition as we would possess if it had been built for us and operated by us during its life. Repairs and maintenance costs for existing vessels are difficult to predict and may be substantially higher than for vessels we have operated since they were built. These costs could decrease our cash flow and reduce our liquidity.

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

Our business and the operations of our containerships are materially affected by environmental regulation in the form of international conventions, national, state and local laws and regulations in force in the jurisdictions in which our containerships operate, as well as in the country or countries of their registration, including those governing the management and disposal of hazardous substances and wastes, the cleanup of oil spills and other contamination, air emissions, water discharges and ballast water management. Because such conventions, laws, and regulations are often revised, we cannot predict the ultimate cost of complying with such requirements or the impact thereof on the resale price or useful life of our containerships. Additional conventions, laws and regulations may be adopted that could limit our ability to do business or increase the cost of our doing business and which may materially adversely affect our operations. We are required by various governmental and quasi-governmental agencies to obtain certain permits, licenses, certificates and financial assurances with respect to our operations. Many environmental requirements are designed to reduce the risk of pollution, such as oil spills, and our compliance with these requirements can be costly.

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

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

In addition, in complying with existing environmental laws and regulations and those that may be adopted, we may incur significant costs in meeting new maintenance and inspection requirements and new restrictions on air emissions from our containerships, in developing contingency arrangements for potential spills and in obtaining insurance coverage. Government regulation of vessels, particularly in the areas of safety and environmental requirements, can be expected to become stricter in the future and require us to incur significant capital expenditures on our vessels to keep them in compliance, or even to scrap or sell certain vessels altogether. Substantial violations of applicable requirements or a catastrophic release of bunker fuel from one of our containerships could have a material adverse impact on our financial condition and results of operations.

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

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

Since the events of September 11, 2001, U.S. and Canadian authorities have increased container inspection rates. Government investment in non-intrusive container scanning technology has grown and there is interest in electronic monitoring technology, including so-called "e-seals" and "smart" containers, that would enable remote, centralized monitoring of containers during shipment to identify tampering with or opening of the containers, along with potentially measuring other characteristics such as temperature, air pressure, motion, chemicals, biological agents and radiation.

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

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

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

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

Terrorist attacks such as the attacks on the United States on September 11, 2001, and the continuing response of the United States to these attacks, as well as the threat of future terrorist attacks, continue to cause uncertainty in the world financial markets and may affect our business, results of operations and financial condition. The conflict in Iraq may lead to additional acts of terrorism, regional conflict and other armed conflict around the world, which may contribute to further economic instability in the global financial markets. These uncertainties could also adversely affect our ability to obtain additional financing on terms acceptable to us or at all.

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

Changing economic, political and governmental conditions in the countries where we are engaged in business or where our vessels are registered could affect us. Hostilities in South Korea could constitute a force majeure event under our contracts with Samsung, HHI and HSHI and could impact the construction of our newbuildings or result in their inability to perform under the contracts. In addition, future hostilities or other political instability in regions where our vessels trade could affect our trade patterns and adversely affect our operations and performance.

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

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

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

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

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

We maintain insurance for our fleet against risks commonly insured against by vessel owners and operators. Our insurance includes hull and machinery insurance, war risks insurance and protection and indemnity insurance (which includes environmental damage and pollution insurance). We can give no assurance that we will be adequately insured against all risks or that our insurers will pay a particular claim. Even if our insurance coverage is adequate to cover our losses, we may not be able to timely obtain a replacement vessel in the event of a loss. Under the terms of our credit facilities and lease agreements, we will be subject to restrictions on the use of any proceeds we may receive from claims under our insurance policies. Furthermore, in the future, we may not be able to obtain adequate insurance coverage at reasonable rates for our fleet. We may also be subject to supplementary or additional calls, or premiums, in amounts based not only on our own claim records but also the claim records of all other members of the protection and indemnity associations, as an industry group, through which we receive indemnity insurance coverage for statutory, contractual and tort liability due to the sharing and reinsurance arrangements stated in the insurance rules. Our insurance policies also contain deductibles, limitations and exclusions which, although we believe are standard in the shipping industry, may nevertheless directly or indirectly increase our costs.

In addition, we do not carry loss-of-hire insurance, which covers the loss of revenue during extended vessel off-hire periods, such as those that occur during an unscheduled drydocking due to damage to the vessel from accidents. Accordingly, any loss of a vessel or extended vessel off-hire, due to an accident or otherwise, could have a material adverse effect on our business, results of operations and financial condition.

Maritime claimants could arrest our vessels, which could interrupt our cash flow.

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

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

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

In general, the cost of maintaining a vessel in good operating condition increases with the age of the vessel. As our fleet ages, we will incur increased costs. Older vessels are typically more costly to maintain than more recently constructed vessels. Cargo insurance rates increase with the age of a vessel, making older vessels less desirable to charterers. Governmental regulations and safety or other equipment standards related to the age of vessels may also require expenditures for alterations, or the addition of new equipment, to our vessels and may restrict the type of activities in which our vessels may engage.

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

The hull and machinery of every commercial vessel must be classed by a classification society authorized by its country of registry. The classification society certifies that a vessel is safe and seaworthy in accordance with the applicable rules and regulations of the country of registry of the vessel and the Safety of Life at Sea Convention. Our 8500 TEU vessels and our 9600 TEU vessels that are chartered to CSCL Asia are enrolled with Lloyd’s Register. Our 4250 TEU vessels that are chartered to HL USA and our 4800 TEU vessels that are chartered to APM are also enrolled with Lloyd’s Register. Our 4250 TEU vessels that are chartered to CSCL Asia and our 3500 TEU vessels that are chartered to COSCON are enrolled with Det Norske Veritas. Upon delivery, each of the 13100 TEU vessels, the 8500 TEU vessels and the ten 2500 TEU vessels that we have contracted to purchase will also be

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enrolled with Lloyd's Register. The 4250 TEU vessels that we have contracted to purchase will be enrolled with Germanischer Lloyd. Each of the 5100 TEU vessels that we have contracted to purchase and the 4500 TEU vessels that we have contracted to lease will be enrolled with Det Norske Veritas.

All of the currently operating vessels have been awarded ISM certification and we expect that each of the vessels to be delivered in the future will be awarded ISM certification upon delivery.

A vessel must undergo annual surveys, intermediate surveys and special surveys. In lieu of a special survey, a vessel's machinery may be on a continuous survey cycle under which the machinery would be surveyed periodically over a five-year period. Each of the vessels in our fleet is on a special survey cycle for hull inspection and a continuous survey cycle for machinery inspection. These vessels have qualified within their respective classification societies for drydocking once every five years for inspection of the underwater parts of such vessel.

If any vessel does not maintain its class and/or fails any annual survey, intermediate survey or special survey, the vessel will be unable to trade between ports and will be unemployable and we could be in violation of certain covenants in our loan agreements and our lease agreements for the 4500 TEU vessels. This would negatively impact our revenue.

Our Manager will engage in other businesses and may compete with us.

Pursuant to an omnibus agreement, our Manager, Seaspan International Ltd., or Seaspan International, and Norsk Pacific Steamship Company Limited, generally agreed to, and agreed to cause their controlled affiliates (which does not include us), not to engage in the business of chartering or rechartering containerships to others during the term of our Initial Management Agreement (as defined below in "Information on the Company—B. Business Overview—Management Agreements.") The omnibus agreement, however, contains significant exceptions that may allow these entities to compete with us.

Our officers do not devote all of their time to our business.

Our Manager and its affiliates as well as certain of our officers are involved in other business activities that may result in their spending less time than is appropriate or necessary in order to manage our business successfully. Our chief executive officer has entered into an employment agreement with our Manager whereby he has agreed to serve as our chief executive officer for an initial term of three years to December 31, 2008 that is renewable annually thereafter by mutual consent. Pursuant to this employment agreement, our chief executive officer devotes substantially all of his time to us and our Manager on our business and affairs. Our chief financial officer is also employed by our Manager and he also devotes substantially all of his time to us and our Manager. Other officers appointed by our Manager may spend a material portion of their time providing services to our Manager and its affiliates on matters unrelated to us.

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

Our future success depends to a significant extent upon our chief executive officer, Gerry Wang, and certain members of our senior management and that of our Manager. Mr. Wang has substantial experience in the container shipping industry and has worked with our Manager for many years. Mr. Wang and others employed by our Manager are crucial to the development of our business strategy and to the growth and development of our business. If they were no longer to be affiliated with our Manager, or if we otherwise cease to receive advisory services from them, we may fail to recruit other employees with equivalent talent and experience, and our business and financial condition may suffer as a result. Although Mr. Wang has an employment agreement with our Manager, he does not have an employment agreement with us. In addition, Mr. Wang's employment agreement is due to expire at the end of 2008 (or 2009 if the contract is renewed). As such, it is possible that Mr. Wang will no longer provide services to us and that our business may be adversely affected by the loss of such services.

Our Manager and its affiliates have conflicts of interest and limited fiduciary and contractual duties, which may permit them to favor their own interests to your detriment and ours.

Conflicts of interest may arise between our Manager and its affiliates, on the one hand, and us and holders of our securities, on the other hand. As a result of these conflicts, our Manager may favor its own interests and the interests of its affiliates over the interests of the holders of our securities. These conflicts include, among others, the following situations:

- the asset purchase agreement, our Initial Management Agreement and the omnibus agreement and other contractual agreements we have with our Manager and its affiliates were negotiated prior to our initial public offering and were not the result of arm's-length negotiations, and the negotiation of these agreements may have resulted in prices and other terms that are less favorable to us than terms we might have obtained in arm's-length negotiations with unaffiliated third parties for similar services;

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- our chief executive officer and certain of our directors also serve as executive officers or directors of our Manager;
- our Manager advises our board of directors about the amount and timing of asset purchases and sales, capital expenditures, borrowings, issuances of additional securities and reserves, each of which can affect the amount of cash that is available for dividends to our shareholders and the payment of dividends on the incentive shares;
- our Manager may recommend that we borrow funds in order to permit the payment of cash dividends, even if the purpose or effect of the borrowing is to pay a dividend on the subordinated shares;
- our officers, including our chief executive officer and our chief financial officer, do not spend all of their time on matters related to our business; and
- our Manager advises us of costs incurred by it and its affiliates that it believes are reimbursable by us.

Even if our board of directors or our shareholders are dissatisfied with our Manager, there are limited circumstances under which the management agreements governing the management of our vessels can be terminated by us. On the other hand, our Manager has substantial rights to terminate the management agreements and, under certain circumstances could receive very substantial sums in connection with such termination.

Under the management agreements governing our vessels, our Manager has the right after five years from our initial public offering to terminate the management agreements on twelve months' notice, although the covenant limiting our Manager's ability to compete with us continues for two years following such termination. Our Manager also has the right to terminate the management agreements after a dispute resolution if we have materially breached any of the management agreements, in which case none of the covenants would continue to apply to our Manager.

The management agreements will each terminate upon the sale of substantially all our assets to a third party, our liquidation or after any change of control of our company occurs. If the management agreements are terminated as a result of an asset sale, our liquidation or change of control, then our Manager may be paid the fair market value of the incentive shares as determined by an appraisal process. Any such payment could be substantial.

In addition, our rights to terminate the management agreements are limited. Even if we are not satisfied with the Manager's efforts in managing our business, unless our Manager materially breaches one of the agreements, we may not be able to terminate any of the management agreements until 2020. This early termination right requires a two-thirds approval of our independent directors, and if we elect to do so, or if we elect to terminate the management agreements at the end of their initial terms in 2025 or a subsequent renewal term, our Manager will continue to receive dividends on the incentive shares for a five-year period from the date of termination.

Our Manager could receive substantial sums based on its ownership of the incentive shares if our quarterly dividends to our shareholders are increased, reducing the amount of cash that would otherwise have been available for increased dividends to our shareholders.

Our Manager shares in incremental dividends, based on specified sharing ratios, on its incentive shares if and to the extent that the available cash from operating surplus paid by us exceeds specified target dividend levels. Because these incentive dividends are taken from the total pool of dividends payable to holders of common and subordinated shares, such dividends will reduce the amount of cash which would otherwise have been available to increase the amount to be paid as dividends to our shareholders. Please read "Information on the Company—B. Business Overview—Management Agreements—Compensation of Our Manager."

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

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

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

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

These provisions include:

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

In addition, upon a change of control, our Manager may elect to have us purchase the incentive shares, which could result in a substantial payment to our Manager and discourage a change of control that might otherwise be beneficial to shareholders.

We have also adopted a shareholder rights plan pursuant to which our board of directors may cause the substantial dilution of the holdings of any person that attempts to acquire us without the prior approval of our board of directors.

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

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Each vessel in our fleet is built or will be built in accordance with standard designs and uniform in all material respect to all other vessels in its class, thus any material defect in one vessel will likely affect all of our other vessels in such class.

Each vessel in our fleet is built or will be built in accordance with standard designs and uniform in all material respects to all other vessels in its class. As a result, any latent design defect discovered in one of our vessels will likely affect all of our other vessels in that class. Any disruptions in the operation of our vessels resulting from these defects could adversely affect our receipt of revenue under time charters for the vessels affected.

There are greater than normal operational risks with respect to the 9600 TEU vessels that we have purchased.

The two 9600 TEU vessels that we have purchased are some of the first vessels of this type to be built. Although one other company before us has built, serviced or operated similar vessels built by Samsung, there are unknown and possibly greater than normal operational risks associated with these vessels. Problems with operation of these vessels could be encountered, which would adversely affect our receipt of revenue under time charters for these vessels as well as their future resale value.

There are greater than normal construction, delivery and operational risks with respect to the 13100 TEU vessels that we have agreed to purchase.

The eight 13100 TEU vessels that we have purchased are some of the first vessels of this type to be built. As such, there are unknown and possibly greater than normal construction, delivery and operational risks associated with these vessels. Deliveries of these vessels could be delayed and problems with operation of these vessels could be encountered, either of which would adversely affect our receipt of revenue under time charters for these vessels, as well as their future resale value.

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

The charter hire rates and the value and operational life of a vessel are determined by a number of factors including the vessel's efficiency, operational flexibility and physical life. Efficiency includes speed, fuel economy and the ability to be loaded and unloaded quickly. Flexibility includes the ability to enter harbors, utilize related docking facilities and pass through canals and straits. Physical life is related to the original design and construction, maintenance and the impact of the stress of operations. If new containerships are built that are more efficient or flexible or have longer physical lives than our vessels, competition from these more technologically advanced containerships could adversely affect the amount of charter hire payments we receive for our vessels once their initial charters are terminated and the resale value of our vessels. As a result, our cash available for the service of our debt obligations and the payment of dividends could be adversely affected.

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

The actual or perceived credit quality of our charterers, and any defaults by them, may materially affect our ability to obtain the additional capital resources that we will require to purchase additional vessels or may significantly increase our costs of obtaining such capital. Our inability to obtain additional financing at all or at a higher than anticipated cost may materially affect our results of operation and our ability to implement our business strategy.

We are incorporated in the Republic of the Marshall Islands, which does not have a well developed body of corporate law.

Our corporate affairs are governed by our articles of incorporation and bylaws and by the Marshall Islands Business Corporations Act, or BCA. The provisions of the BCA resemble provisions of the corporation laws of a number of states in the United States. However, there have been few judicial cases in the Republic of the Marshall Islands interpreting the BCA. The rights and fiduciary responsibilities of directors under the laws of the Republic of the Marshall Islands are not as clearly established as the rights and fiduciary responsibilities of directors under

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statutes or judicial precedent in existence in certain United States jurisdictions. Shareholder rights may differ as well. While the BCA does specifically incorporate the non-statutory law, or judicial case law, of the State of Delaware and other states with substantially similar legislative provisions, our public shareholders may have more difficulty in protecting their interests in the face of actions by management, directors or controlling shareholders than would shareholders of a corporation incorporated in a United States jurisdiction.

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

We are organized under the laws of the Marshall Islands, and all of our assets are located outside of the United States. Our principal executive offices are located in Hong Kong. As a result, it may be difficult or impossible for you to bring an action against us or against our directors or our management in the United States if you believe that your rights have been infringed under securities laws or otherwise. Even if you are successful in bringing an action of this kind, the laws of the Marshall Islands and of other jurisdictions may prevent or restrict you from enforcing a judgment against our assets or our directors and officers.

Tax Risks

In addition to the following risk factors, you should read “Item 10. Additional Information—E. Taxation—U.S. Federal Income Tax Considerations” for a more complete discussion of expected material U.S. federal income tax consequences of owning and disposing of common shares.

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

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

We expect that we qualified for this statutory tax exemption for the year ended December 31, 2007 (our “2007 Year”) and we will take this position for U.S. federal income tax return reporting purposes. However, there are circumstances, including some that are beyond our control, that could cause us to lose the benefit of this tax exemption and thereby become subject to U.S. federal income tax on our U.S. source income. For example, 5% shareholders could acquire and own the majority of our outstanding common shares. This would preclude us from being eligible for the Section 883 exemption unless we can establish that among those 5% shareholders, there are sufficient 5% shareholders that are qualified shareholders for purposes of Section 883 to preclude non-qualified 5% shareholders from owning 50% or more of such shares for more than half the number of days during the taxable year. Therefore, we can give no assurances regarding our qualification for this tax exemption or that of any of our subsidiaries.

If we or our subsidiaries are not entitled to this exemption under Section 883 for any taxable year, we or our subsidiaries would be subject to a 4% U.S. federal income tax on our gross U.S. source shipping income for such year. The imposition of this taxation could have a negative effect on our business and could result in decreased earnings available for distribution to our shareholders.

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

A non-U.S. corporation will be treated as a “passive foreign investment company,” or PFIC, for U.S. federal income tax purposes if at least 75% of its gross income for any taxable year consists of certain types of “passive income,” or at least 50% of the average value of the corporation’s assets produce or are held for the production of those types of “passive income.” For purposes of these tests, “passive income” includes dividends, interest, and gains from the sale or exchange of investment property and rents and royalties other than rents and royalties that are received from unrelated parties in connection with the active conduct of a trade or business. For purposes of these tests, income derived from the performance of services does not constitute “passive income.” U.S.

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shareholders of a PFIC are subject to a disadvantageous U.S. federal income tax regime with respect to the income derived by the PFIC, the distributions they receive from the PFIC, and the gain, if any, they derive from the sale or other disposition of their shares in the PFIC.

Based on our assets, income and operations, we do not believe that for our 2007 Year we were a PFIC nor do we expect to become a PFIC with respect to any other taxable year. We derive substantially all of our income from time chartering activities and we believe that at least a majority, if not all, such income should be treated for relevant U.S. federal income tax purposes as services income rather than rental income. Such services income should not constitute “passive income,” and the assets that we own and operate in connection with the production of that income, in particular, at least a majority, if not all, of our vessels, should not constitute passive assets for purposes of determining whether we are a PFIC in any taxable year.

The preferential tax rates applicable to qualified dividend income are temporary, and the enactment of previously proposed legislation could affect whether dividends paid by us constitute qualified dividend income eligible for the preferential rate.

Certain of our distributions may be treated as qualified dividend income eligible for preferential rates of U.S. federal income tax to U.S. individual shareholders (and certain other U.S. shareholders). In the absence of legislation extending the term for these preferential tax rates, all dividends received by such U.S. taxpayers in tax years beginning on January 1, 2011 or later will be taxed at ordinary graduated tax rates.

In addition, legislation proposed in the U.S. Congress would deny the preferential rate of U.S. federal income tax currently imposed on qualified dividend income with respect to dividends received from a non-U.S. corporation unless the non-U.S. corporation is created or organized under the laws of a foreign country that has a comprehensive income tax system. The Marshall Islands imposes only limited taxes on entities organized under its laws. Consequently, if this legislation were enacted, the preferential rate of federal income tax imposed on qualified dividend income may no longer be applicable to dividends received from us. As of the date hereof, it is not possible to predict with any certainty whether this previously proposed legislation will be enacted.

We may become a resident of Canada and have to pay tax in Canada on our worldwide income, which could reduce our earnings, and shareholders could then become taxable in Canada in respect of their ownership of our shares. Moreover, as a non-resident of Canada we may have to pay tax in Canada on our Canadian source income, which could reduce our earnings.

Under the Income Tax Act (Canada), or the Canada Tax Act, a corporation that is resident in Canada is subject to tax in Canada on its worldwide income, and shareholders of a corporation resident in Canada may be subject to Canadian capital gains tax on a disposition of its shares and to Canadian withholding tax on dividends paid in respect of such shares.

Our place of residence, under Canadian law, would generally be determined on the basis of where our central management and control are, in fact, exercised. It is not our current intention that our central management and control be exercised in Canada but, even if it were, there is a specific statutory exemption under the Canada Tax Act that provides that a corporation incorporated, or otherwise formed, under the laws of a country other than Canada will not be resident in Canada in a taxation year if its principal business is the operation of ships that are used primarily in transporting passengers or goods in international traffic, all or substantially all of its gross revenue for the year consists of gross revenue from the operation of ships in transporting passengers or goods in that international traffic, and it was not granted articles of continuance in Canada before the end of the year.

Based on our operations, we do not believe that we are, nor do we expect to be, resident in Canada for purposes of the Canada Tax Act, and we intend that our affairs will be conducted and operated in a manner such that we do not become a resident of Canada under the Canada Tax Act. However, if we were or become resident in Canada, we would be or become subject under the Canada Tax Act to Canadian income tax on our worldwide income. Further, shareholders who are non-residents of Canada may be or become subject under the Canada Tax Act to tax in Canada on any gains realized on the disposition of our shares and would be or become subject to Canadian withholding tax on dividends paid or deemed to be paid by us, subject to any relief that may be available under a tax treaty or convention.

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Generally, a corporation that is not resident in Canada will be taxable in Canada on income it earns from carrying on a business in Canada and on gains from the disposition of property used in a business carried on in Canada. However, there are specific statutory exemptions under the Canada Tax Act that provide that income earned in Canada by a non-resident corporation from the operation of a ship in international traffic, and gains realized from the disposition of ships used principally in international traffic, are not included in a non-resident corporation's income for Canadian tax purposes where the corporation's country of residence grants substantially similar relief to a Canadian resident. A Canadian resident corporation that carries on business in the Republic of the Marshall Islands is exempt from income tax under the current laws of the Republic of the Marshall Islands.

We expect that we will qualify for these statutory exemptions under the Canada Tax Act. Based on our operations, we do not believe that we are, nor do we expect to be, carrying on a business in Canada for purposes of the Canada Tax Act other than a business that would provide us with these statutory exemptions from Canadian income tax. However, these statutory exemptions are contingent upon reciprocal treatment being provided under the laws of the Republic of the Marshall Islands. If in the future as a non-resident of Canada, we are carrying on a business in Canada that is not exempt from Canadian income tax, or these statutory exemptions are not accessible due to changes in the laws of the Republic of the Marshall Islands or otherwise, we would be subject to Canadian income tax on our non-exempt income earned in Canada which could reduce our earnings available for distribution to shareholders.

Please read "Additional Information—E. Taxation—Canadian Federal Income Tax Consequences" for a discussion of expected material Canadian federal income tax consequences of owning and disposing of our common shares.

Item 4. Information on the Company

A. History and Development of the Company

We are Seaspan Corporation, a Marshall Islands corporation that was incorporated on May 3, 2005. We are an owner of containerships and we charter them pursuant to long-term, fixed-rate time charters to major container liner companies. We currently own and operate a fleet of 29 containerships and have entered into contracts for the purchase of an additional 34 containerships and contracts to lease an additional five containerships. Customers for our current operating fleet are CSCL Asia, HL USA, APM and COSCON. Customers for the additional 39 vessels will include Mitsui O.S.K. Lines, Ltd., or MOL, Kawasaki Kisen Kaisha Ltd., or K-Line, Compañía Sud Americana De Vapores S.A., or CSAV, CSCL Asia and COSCON. Our primary objective is to continue to grow our business through accretive acquisitions in order to increase our dividend per share.

We deploy all our vessels on long-term, fixed-rate time charters to take advantage of the stable cash flow and high utilization rates that are typically associated with long-term time charters. The charters on the 29 vessels in our operating fleet as of December 31, 2007 have an average remaining term of 7.7 years plus certain options.

We maintain our principal executive offices at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, China. Our telephone number is (852) 2540-1686.

B. Business Overview

General

Our business is to own containerships, charter them pursuant to long-term, fixed-rate charters and seek additional accretive vessel acquisitions. We deploy all our vessels on long-term, fixed-rate time charters to take advantage of the stable cash flow and high utilization rates that are typically associated with long-term time charters.

We currently own and operate a fleet of 29 containerships and have entered into contracts for the purchase of an additional 34 containerships and to lease an additional five containerships. As of December 31, 2007, the average age of the 29 vessels currently in our fleet was 4.7 years. Please read "Information on the Company—D. Property, Plants and Equipment—Our Fleet" for more information.

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Our customer selection process is targeted at well-established container liner companies that charter-in vessels on a long-term basis as part of their fleet expansion strategy. Currently, 14 containerships in our fleet are under time charters with CSCL Asia. CSCL Asia, a British Virgin Islands company, is a subsidiary of CSCL. Nine containerships in our current fleet are under time charters with HL USA, an affiliate of TUI AG, or TUI. Our four 4800 TEU vessels are chartered to APM, the world's largest container shipping company. Our two 3500 TEU vessels are under time charters with COSCON. The 39 containerships that we have contracted to purchase or lease, as the case may be, will similarly be chartered on a long-term basis to well established container liner companies.

Most of our charterers' container shipping business revenues are derived from the shipment of goods from the Asia Pacific region, primarily China, to various overseas export markets in the United States and in Europe.

Our Manager and certain of its wholly-owned subsidiaries provide technical, administrative and strategic services necessary to support our business. Our Manager provides a variety of ship management services, including purchasing, crewing, vessel maintenance, insurance procurement and claims handling, inspections, and ensuring compliance with flag, class and other statutory requirements. In addition to the ship management services provided to us, our Manager also provides assistance with ship design, drawing approval and construction supervision to a number of other vessel owning companies and container liner operators, including its affiliates.

As of December 31, 2007, our Manager and its subsidiaries employed approximately 1,100 seagoing staff and approximately 90 shore staff. We expect our Manager and its subsidiaries will hire additional employees as we grow. We believe our Manager and its subsidiaries provide its seafarers competitive employment packages and comprehensive benefits and opportunities for career development .

We believe our Manager achieves high standards of technical ship management by pursuing risk reduction, operational reliability, and reduced personnel work time accidents. These standards are achieved through staff competencies, strategic alliances with suppliers and class societies on training, and information links across a nearly homogeneous fleet. Examples of our Manager's methods include the following:

- development of an audited competency standard for seagoing staff;
- standardization of equipment used throughout the fleet, which brings economies of scale, good familiarization by crew and streamlined logistical support;
- implementation of voluntary vessel condition monitoring vetted by class (our Manager was the first in the world to achieve accreditation by Det Norske Veritas on its hull planned maintenance system);
- direct recruitment of officers and ratings through an office in India that has supported the development of a culture of company loyalty and high retention of employees;
- implementation of a system that rewards staff for avoiding off-hire incidents and for operating without accidents; and
- initiation and development of a cadet training program.

Our Manager's personnel have experience in overseeing new vessel construction, vessel conversions and general marine engineering. The core management of our Manager has worked in various companies in the international ship management industry, including China Merchants Group, Neptune Orient Lines, Teekay Shipping, Safmarine Container Lines and Columbia Ship Management. Our Manager's staff has skills in all aspects of ship management, including design and operations and marine engineering, among others. A number of senior officers also have sea-going experience, having served aboard vessels at a senior rank. Our crews are directly selected by our Manager and hired by its crew management affiliate, Seaspan Crew Management Ltd. In all training programs, our Manager places an emphasis on safety, and regularly trains its crew members and other employees in order to ensure that our high standards can continuously be met. Shore-based personnel and crew members are trained to be prepared for, and are ready to respond to, emergencies related to life, property or the environment.

Our Manager is required to perform its services in a commercially reasonable manner and cannot engage in fraud, willful misconduct or act in a reckless or grossly negligent manner in performing its duties. Our Manager is

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responsible for and will indemnify us for damages resulting from its obligations or liabilities under the management agreements, breaches of the agreements, fraud, willful misconduct, recklessness or gross negligence of our Manager or certain agents (other than the crew) or affiliates of our Manager in the performance of our Manager's duties.

Our Manager has agreed not to dispose of those wholly-owned subsidiaries that provide services to us pursuant to the management agreements.

Our Competitive Strengths

We believe that we possess a number of competitive strengths that will allow us to capitalize on the growth opportunities in the containership shipping industry, including the following:

- *Stability of cash flows through long-term, fixed-rate time charters and fixed vessel operating expenses.* Each vessel that we have contracted to purchase is subject to a long-term, fixed-rate time charter. As a result, the revenues from our vessels are protected from the volatility of spot rates and short-term charters. In order to further mitigate our risk, we have historically placed newbuilding orders and purchased secondhand vessels only when we have concurrently entered into long-term time charters with our customers. In addition, we have fixed the vessel operating expenses for our fleet through December 31, 2008 pursuant to the various agreements with our Manager governing the management of our fleet.
- *Built-in growth.* We have significantly grown our fleet since our initial public offering in August 2005. At that time, we had an operating fleet of 10 vessels with another 13 vessels on order. As of December 31, 2007, we had 29 vessels in service and 39 vessels to be delivered.
- *Diverse, high-quality fleet.* Our current operating fleet of 29 vessels had an average age of 4.7 years as of December 31, 2007. All of these vessels are built to high specifications, of which 23 vessels were designed by our Manager. The other newbuilding vessels we have agreed to purchase or lease meet our exacting standards for design, construction quality and maintenance. Upon delivery of the vessels we have contracted to purchase or lease, the vessels in our fleet will range in size from 2500 TEU to 13100 TEU.
- *Strong customer relationships.* We have long-standing relationships with our initial customers, CSCL Asia and CP Ships Limited, or CP Ships, which was acquired by TUI, and amalgamated with its liner subsidiary, Hapag Lloyd AG, or Hapag Lloyd in 2006. We believe that we will continue to be a significant provider to CSCL Asia and HL USA, a subsidiary of Hapag Lloyd, as they continue to grow their businesses and outsource capacity to charter owners. Since the completion of our initial public offering, we have expanded our customer base to include COSCON, APM, MOL, K-Line and CSAV. We will seek to expand our relationships with our new customers as we believe they will continue to outsource the ownership and operations of their existing and newbuilding vessels. In addition, we have extensive relationships with many other leading container liners, which we believe will lead to future business and enable us to further diversify our customer base.
- *Experienced management.* Our Chief Executive Officer and Chief Financial Officer have over 29 years of professional experience in the shipping industry. In addition, our Manager's core management team has experience with many companies in the international ship management industry, including China Merchants Group, Neptune Orient Lines, Teekay Shipping, Safmarine Container Lines, Columbia Ship Management and V Ships. Our Manager's staff has skills in all aspects of ship management, including design, operations and marine engineering, among others. Since our initial public offering, our management has demonstrated a disciplined acquisition approach by significantly increasing the size of the fleet through the purchase of high-quality vessels and concurrently entering into long-term time charters.

Our Business Strategies

We will seek to increase distributable cash flow per share by employing the following business strategies:

- *Pursue long-term, fixed-rate charters.* We intend to continue to pursue long-term, fixed-rate charters, which provide us with stable future cash flows. Further, container liner companies typically employ long-term charters for strategic expansion into major trade routes while employing spot charters for shorter term discretionary needs. As container liner companies expand their services into these major trade routes, we believe that we will be well positioned to participate in their growth.

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- *Expand and diversify our customer relationships* . Since our initial public offering, we have increased our customer base from two to seven customers and have expanded our relationships with our original two customers, CSCL Asia and HL USA. We intend to continue to expand our relationships with CSCL Asia, HL USA, COSCON, APM, MOL, K-Line and CSAV, as well as add new customers as container liner companies continue to expand their use of chartered-in vessels to add capacity in their existing trade routes and establish new trade routes. We believe that we will benefit from the continued growth of worldwide container demand, especially in certain high-growth markets, such as China, where we have strong existing customer relationships. We also believe that our Manager's experience in working with container liners to provide ship design, drawing approval, construction supervision and brokering services will improve our ability to secure new customers.
- *Actively acquire newly-built and secondhand vessels*. We have increased, and intend to further increase, the size of our fleet through timely and selective acquisitions of new and secondhand containerships that we believe will be accretive to distributable cash flow per share. We believe that entering into newbuild contracts will provide for the long-term growth of our fleet and continue to reduce the average age of our fleet. In addition, we believe that selectively acquiring high-quality secondhand vessels with long-term charters with leading container liners should provide for near-term growth in our fleet. We intend to continue this strategy to the extent market conditions permit, as we believe that it will enable us to reduce capital costs and enhance returns.
- *Operate under a fixed cost business model* . We have entered into, and expect to continue to enter into, fixed-rate contracts for the daily operations of our vessels with our Manager. Further, we have entered into interest rate swap agreements to fix the interest rate on our current and anticipated borrowings under our credit facilities until at least February 2014. We believe that operating under a fixed cost business model will provide for stability of cash flows and dividend payments. Excluding reserves, general and administrative expenses, and potential extraordinary costs, as defined in the management agreements, our operating cost structure will be fixed through at least December 2008.
- *Maintain efficient capital structure* . We intend to pursue a financial strategy that aims to preserve our financial flexibility and achieve the lowest possible capital cost so that we will be able to pursue acquisition and expansion opportunities to take advantage of potential growth opportunities in the future. We intend to use cash from operations to pay dividends, as well as to reinvest in our business and acquire new vessels.

Time Charters

General

We own containerships and charter them pursuant to long-term, fixed-rate charters. A time charter is a contract for the use of a vessel for a fixed period of time at a specified daily rate. Under a time charter, the vessel owner provides crewing and other services related to the vessel's operation, the cost of which is included in the daily rate; the charterer is responsible for substantially all of the vessel voyage costs.

Each of the vessels in our fleet is subject to a long-term time charter. Currently, 14 containerships in our fleet are subject to charters with CSCL Asia, a subsidiary of CSCL. Nine containerships are subject to charters with HL USA, a subsidiary of Hapag-Lloyd. CP Ships has provided a guarantee of the obligations and liabilities of HL USA under each time charter and Hapag-Lloyd AG has provided a guarantee of the obligations and liabilities of CP Ships under the original guarantee. CSCL Hong Kong and CSCL have each provided a guarantee of the obligations and liabilities of CSCL Asia under each time charter. Four vessels are subject to charters with APM, and two vessels are subject to time charters with COSCON.

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Each of the 39 vessels that will be delivered over approximately the next 43 months is also subject to a long-term time charter. Eight containerships are subject to charters with CSCL Asia, four are subject to charters with MOL, four are subject to charters with CSAV, seven are subject to charters with K-Line and the remaining sixteen containerships are subject to charters with COSCON.

Initial Term; Extensions

The initial term for a time charter commences on the vessel's delivery. Under all of our time charters, the charterer may also extend the term for periods in which the vessel is off-hire. One of our charterers has a very specific right to terminate its charters prior to expiration of the original term, as described in more detail below.

The charter periods of 14 of the vessels in our current fleet that are chartered to CSCL Asia are as follows. Five of the charters for the 4250 TEU vessels have initial terms of ten years each with options, exercisable by the charterer, to extend the term of each charter for an additional two years. The two charters for the 8500 TEU vessels have initial terms of 12 years with options, in favor of the charterer, to extend the term of each charter for an additional three years. The two charters for the 9600 TEU vessels have terms of 12 years. The charters for the remaining five 4250 TEU vessels in our current fleet chartered to CSCL Asia have terms of 12 years. The eight 2500 TEU vessels that are currently under construction or will be constructed and that are chartered to CSCL Asia are also subject to charters of 12 years.

The charter periods of the four 4800 TEU vessels in our current fleet that are chartered to APM have initial terms of five years, two consecutive one-year options and a final two-year option; provided, however, that APM may declare initial terms on one or two vessels that is up to nine months less than five years; so long as they declare an initial period which is correspondingly greater than five years for the same number of vessels.

The charter periods for the two 3500 TEU vessels in our current fleet that are chartered to COSCON are 12 years. The charter period for each of the eight 8500 TEU vessels that will be constructed and that are chartered to COSCON is 12 years with three one-year options. The charter period for each of the eight 13100 TEU vessels that will be constructed and that are chartered to COSCON is 12 years.

The charter periods for the four 5100 TEU vessels that will be constructed for charter to MOL are 12 years. There is no option to extend beyond the initial term.

The initial term of each of the time charters with HL USA is three years. HL USA has the right to extend each of the charters for up to an additional seven years in successive one-year extensions. Each one-year extension is automatic, unless HL USA provides written notice to the contrary to us not later than two years prior to the commencement of the respective extension period. If HL USA provides notice of its intention not to extend a time charter at the end of its initial three-year term, it must pay to us, at the end of the term, a termination fee of approximately \$8.0 million. The termination fee declines by \$1.0 million per vessel in years four through nine. If the term of a time charter is extended for the full ten years, HL USA has an option to extend the term for two additional one-year periods.

In the case of our charters with HL USA, while the initial term is only three years, we consider these charters to be long-term charters. Given that HL USA is required to pay a termination fee of approximately \$8.0 million to terminate a charter at the end of the initial term, that the charter hire rates are substantially below those rates presently offered in the spot market and short-term time charter market, and that the charters automatically renew unless terminated upon two years prior notice, we believe it is likely that HL USA will extend the charters beyond the initial term.

The charter periods for the five 4500 TEU vessels that will be constructed and chartered to K-Line are 12 years with two three-year options. The charter periods for the two 2500 TEU vessels that will be constructed and chartered to K-Line are 10 years.

The charter periods for the four 4250 TEU vessels that will be constructed and that are chartered to CSAV are 6 years.

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Hire Rate

“Hire rate” refers to the basic payment from the charterer for the use of the vessel. Under all of our time charters, hire is payable, in advance, in U.S. dollars, as specified in the charter.

If a vessel’s speed is reduced as a result of a defect or breakdown of the hull, machinery or equipment, hire payments under all of our time charters may be reduced by the cost of the time lost and extra fuel consumed. Historically, we have had no instances of hire rate reductions and neither have the VesselCos.

Under the time charters with CSCL Asia, the hire rate is payable in advance every 15 days at the applicable daily rate. Generally, the hire rate is a fixed daily amount which increases by a fixed amount at varying intervals during the term of the charter and/or any extension to the term.

Under the time charters with HL USA, the hire rate is payable monthly in advance at the applicable daily rate. The hire rate consists of two general components: a fixed hire rate component and a fixed payment for services. Pursuant to the management services agreement entered into by certain VesselCos with our Manager and HL USA, which were assigned to us on completion of our purchase of the vessel owned by each such VesselCo, HL USA agreed to make certain payments toward operating expenses directly to our Manager under the direction of those VesselCos. Both components are fixed for the first three years of the charters and for the seven extension years and increase for the two subsequent extension terms.

Similarly to the time charters with CSCL Asia, under the time charters with COSCON, the hire rate is payable in advance every 15 days at the applicable fixed daily rate.

The hire rate under the time charters with APM and MOL is payable monthly in advance at the applicable fixed daily rate, the hire rate with K-Line is payable semi-monthly in advance at the applicable fixed daily rate and the hire rate with CSAV is payable in advance on the 10th of each month at the applicable fixed daily rate. In each case, for any part of a payment period, the approximate amount of the hire rate is to be paid on the relevant due date with any outstanding balance to be paid day by day as it becomes due unless a bank guarantee or deposit is made by the relevant charterer.

Operations and Expenses

Our Manager operates our vessels and is responsible for ship operating expenses, which include technical management, crewing, repairs and maintenance, insurance, stores, lube oils, communication expenses and capital expenses, which include normally scheduled drydocking of the vessels. Please read “Information on the Company—B. Business Overview—Management Related Agreements” for a description of the material terms of the management agreements. The charterer generally pays the voyage expenses, which include all expenses relating to particular voyages, including any bunker fuel expenses, port fees, cargo loading and unloading expenses, canal tolls, agency fees and commissions.

Off-hire

Under all forms of our time charters, when the vessel is “off-hire,” or not available for service, the charterer generally is not required to pay the hire rate, and we are responsible for all costs, including the cost of fuel bunkers unless the charterer is responsible for the circumstances giving rise to the lack of availability. A vessel generally will be deemed to be off-hire if there is an occurrence preventing the full working of the vessel due to, among other things:

- operational deficiencies not due to actions of the charterers;
- dry-docking for repairs, maintenance or inspection;
- equipment breakdowns;
- delays due to accidents;
- crewing strikes, labor boycotts, certain vessel detentions or similar problems; or

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- our failure to maintain the vessel in compliance with its specifications and contractual standards or to provide the required crew.

Under our time charters with HL USA, if a vessel is delayed, detained or arrested for 30 consecutive days due to engine or essential gear breakdown, strikes, labor stoppages, boycotts or blockades, or is requisitioned, or other causes affecting the vessel's schedule, other than grounding, collision or similar causes, we must charter a substitute vessel and we must pay any difference in hire cost of the charter for the duration of the substitution. Under our time charters with COSCON for the 3500 TEU vessels, if a vessel is placed off-hire for 30 cumulative days in a 365 day period, COSCON may cancel the time charter with respect to that vessel. Under our time charters with COSCON for the 8500 TEU vessels and the 13100 TEU vessels, if a vessel is placed off-hire for 45 cumulative days in a 365 day period, COSCON may cancel the time charter with respect to that vessel. Under our time charters with MOL and APM, if a vessel is off-hire for more than 60 consecutive days, the charterer has a right to terminate the charter agreement for that vessel. Under our time charters with CSAV, if a vessel is off-hire for more than 15 days and if we estimate that such off-hire is to last longer than 45 days, CSAV has the right to terminate the charter party. If a vessel chartered to K-Line is off-hire more than 50 consecutive days, K-Line has the option to cancel the time charter. CSCL Asia does not have similar rights under its charters with us.

Ship Management and Maintenance

Under each of our time charters, we are responsible for the operation and management of each vessel that includes maintaining the vessel, periodic dry-docking, cleaning and painting and performing work required by regulations. Our Manager provides these services to us pursuant to the management agreements between us. Please read "Information on the Company—B. Business Overview—Management Related Agreements" for a description of the material terms of the management agreements.

Termination and Suspension

We are generally entitled to withdraw the vessel from service to the charterers if the charterer defaults in its payment obligations, without prejudice to other claims for hire against the charterers. Some of our charterers also have the right to terminate the time charters in circumstances other than extended periods of off-hire as noted above. Under our time charters with HL USA, if a vessel consistently fails to perform to a warranted speed or the amount of fuel consumed to power the vessel under normal circumstances exceeds a warranted amount, and we are unable to rectify the situation within a reasonable period of time or otherwise reach a mutually acceptable settlement, HL USA has the right to terminate the time charter with respect to that vessel. Under our time charters with COSCON, if a vessel consistently fails to perform to a specified, mutually agreed to speed, and we are unable to rectify the situation within a reasonable period of time or otherwise reach a mutually acceptable settlement, COSCON has the right to terminate the time charter with respect to that vessel. APM, MOL, CSCL Asia and CSAV do not have similar rights under their charters with us.

Change of Control

Under our time charters with HL USA, HL USA's prior consent is required to any material change in our ownership or voting control. HL USA cannot unreasonably withhold such consent. None of CSCL Asia, APM, MOL, COSCON, CSAV or K-Line have similar rights under their charters with us.

Sale of Vessels

Several of our time charters with CSCL Asia allow us to sell the vessels under time charters to any party as long as the warranties under the time charters remain unaffected. The remaining time charters with CSCL Asia allow us to sell the vessels under the time charters to any party as long as we obtain the charterer's prior consent. CSCL Asia cannot unreasonably withhold such consent.

In the event we wish to sell one of the vessels under a time charter with HL USA, we must first notify HL USA and provide HL USA with an opportunity to purchase the vessel. If HL USA refuses to purchase the vessel or if we are unable to reach an agreement with HL USA within 14 days, we will be free to conclude a sale with another party subject to certain terms.

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Our time charters with COSCON, MOL, K-Line and CSAV allow us to sell the vessels under time charters to any buyer suitable to fulfill the charter, but only when justified by circumstances and subject to charterer's consent, which cannot be unreasonably withheld. In addition, under our time charters with CSAV, we must give CSAV 50 days notice of our intent to transfer ownership.

There is no similar provision in the time charters with APM relating to the sale of the vessels.

Charterers

The following information about our charterers is as of December 28, 2007:

- CSCL Asia is a subsidiary of CSCL and is the sixth largest container shipping company in the world with over 434,00 TEU of capacity. Incorporated in China, CSCL is listed on the Hong Kong Stock Exchange with a market capitalization of approximately \$2.2 billion. Currently, CSCL Asia charters 14 of the 29 vessels in our fleet although they have sub-chartered one 8500 TEU vessel to Mediterranean Shipping Company, S.A., or MSC, who operates it as the MSC Belgium. Each time charter to CSCL Asia has a guarantee provided by CSCL and CSCL Hong Kong to cover the obligations and liabilities of CSCL Asia.
- HL USA was formed pursuant to a merger with another subsidiary of CP Ships under the laws of the state of Delaware and is a subsidiary of Hapag Lloyd. CP Ships was acquired by TUI in 2005 and was later amalgamated into its affiliate, Hapag Lloyd, to create the world's fifth largest container shipping company with a capacity of 492,000 TEU and a market capitalization of \$7.0 billion. HL USA currently charters nine vessels in our fleet.
- COSCON is the container shipping subsidiary of China COSCO, a Chinese company publicly traded on the Hong Kong Stock Exchange, with a market capitalization of approximately \$7.1 billion. China COSCO is one of the leading global providers of integrated container shipping services. COSCON is the world's seventh largest container shipping company. COSCON is charterer of our two 3500 TEU vessels and will charter eight of our ten 8500 TEU vessels upon their deliveries in 2009 and 2010 and our 13100 TEU vessels upon their deliveries in 2011.
- APM is the largest containership company in the world with over 1,873,000 TEU of capacity. APM is listed on the Copenhagen Stock Exchange with a market capitalization of approximately \$46.1 billion. APM currently charters four vessels in our fleet although they have sub-chartered one vessel to MSC, who operates it as the MSC Sweden.
- MOL is the 12th largest containership company in the world with over 329,000 TEU of capacity. MOL is listed on the Tokyo Stock Exchange with a market capitalization of approximately \$15.4 billion. MOL will charter a total of four 5100 TEU vessels upon their deliveries in 2009.
- CSAV is the 17th largest containership company in the world with over 253,000 TEU of capacity. CSAV is listed on the Santiago Stock Exchange with a market capitalization of approximately \$1.6 billion. CSAV will charter four of our 4250 TEU vessels upon their deliveries in 2009.
- K-Line is the 13th largest containership company in the world with over 306,000 TEU of capacity. K-Line is listed on the Tokyo Stock Exchange with a market capitalization of approximately \$6.3 billion. K-Line will charter two of our ten 2500 TEU vessels upon their deliveries in 2010 and our five 4500 TEU vessels upon their deliveries in 2010 and 2011.

Competition

We operate in markets that are highly competitive and based primarily on supply and demand. We compete for charters based upon price, customer relationships, operating expertise, professional reputation and size, age and condition of the vessel.

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Competition for providing new containership service comes from a number of experienced shipping companies. Some of our competitors have significantly greater financial resources than we do, and can therefore operate larger fleets and may be able to offer better charter rates. An increasing number of marine transportation companies have entered the containership sector, including many with strong reputations and extensive resources and experience. This increased competition may cause greater price competition for time charters.

Seasonality

Our vessels operate under long-term charters and are not subject to the effect of seasonal variations in demand.

Management Related Agreements

The following summary of the material terms of the ship management agreements does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the management agreements, omnibus agreement and each of the employment agreements with Gerry Wang and Graham Porter. Capitalized words and expressions used herein and defined in the management agreements shall have the same meaning herein or as therein defined. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read each of the management agreements, the entire omnibus agreement and each of the employment agreements between subsidiaries of our Manager, Gerry Wang and Graham Porter incorporated herein by reference.

Certain aspects of our operations, including the management of our fleet, are performed by our Manager under the supervision of our board of directors. Our Chief Executive Officer and our Chief Financial Officer have been made available to us by our Manager to manage our day-to-day operations and affairs. Our Chief Executive Officer, our Chief Financial Officer and others, including our Manager and its affiliated companies, report to our board of directors regarding strategic, administrative and technical management matters.

Our Manager, Seaspan Management Services Limited, is owned primarily by trusts established for members of the Washington family and an entity indirectly owned by Gerry Wang and Graham Porter. Mr. Wang is our Chief Executive Officer and a member of our board of directors. Mr. Porter is a director and officer of both our Manager and SCLL.

Management Agreements

Substantially all of the management services for our vessels are provided by our Manager, the provision of which is currently governed by five management agreements: the amended and restated management agreement for our initial fleet chartered to CSCL Asia and HL USA and the 4800 TEU vessels chartered to APM, or the Initial Management Agreement; the vessel management agreement for the 5100 TEU vessels chartered to MOL, or the 5100 Management Agreement; the vessel management agreement for eight of ten 2500 TEU vessels, which are chartered to CSCL Asia, and the 3500 TEU vessels chartered to COSCON, or the 2500/3500 Management Agreement; the vessel management agreement for two of ten 2500 TEU vessels, which are chartered to K-Line, the four 4250 TEU vessels chartered to CSAV and the eight 8500 TEU vessels chartered to COSCON, or the 2500/4250/8500 Management Agreement; and the vessel management agreement for two of our 13100 TEU vessels chartered to COSCON, or the 13100 TEU Management Agreement, which we entered into on January 28, 2008 and the vessels subject to which are scheduled to be delivered in the first quarter of 2011.

Under our management agreements, our Manager is responsible for providing us with certain services, in each case, at the direction of our board of directors, which include the following:

- *technical services*, which include managing day-to-day vessel operations, arranging general vessel maintenance, ensuring regulatory compliance and compliance with the law of the flag of each vessel and of the places where the vessel trades, ensuring classification society compliance, supervising the maintenance and general efficiency of vessels, arranging our hire of qualified officers and crew, training, transportation, compensation and insurance of the crew (including processing all claims), arranging normally scheduled drydocking and general and routine repairs, arranging insurance for vessels (including marine hull and machinery insurance, protection and indemnity insurance and risks and crew insurance), purchasing stores, supplies, spares, lubricating oil and maintenance capital expenditures for vessels, appointing supervisors and technical consultants and providing technical support, shoreside support, and attending to all other technical matters necessary to run our business (provision of technical services and related costs are paid for by our Manager at its cost and in return for its technical services, our Manager receives fixed daily technical services fees);

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- *administrative services*, which include assistance with the maintenance of our corporate books and records, payroll services, the assistance with the preparation of our tax returns (and paying all vessel taxes) and financial statements, assistance with corporate and regulatory compliance matters not related to our vessels, procuring legal and accounting services (including the preparation of all necessary budgets for us for submission to our board of directors), assistance in complying with the U.S. and other relevant securities laws, human resources, cash management and bookkeeping services, development and monitoring of internal audit controls, disclosure controls and information technology, assistance with all regulatory and reporting functions and obligations, furnishing any reports or financial information that might be requested by us and other non-vessel related administrative services (including all annual, quarterly, current and other reports we are required to file with the Commission pursuant to the Securities Exchange Act of 1934 (the “Exchange Act”)), assistance with office space, providing legal and financial compliance services, overseeing banking services (including the opening, closing, operation and management of all our accounts including making any deposits and withdrawals reasonably necessary for the management of our business and day-to-day operations), procuring general insurance and director and officer liability insurance, arranging for the licensing to us of the tradename “Seaspan” and associated logos, providing all administrative services required for subsequent debt and equity financings and attending to all other administrative matters necessary to ensure the professional management of our business; and
- *strategic services*, which include chartering our vessels, managing our relationships with our charter parties, identifying and negotiating the purchase and sale of vessels and arranging for financing of such vessels, providing general strategic planning services and implementing corporate strategy, providing business development services, developing acquisition and divestiture strategies, working on the integration of any acquired business, providing pre-delivery services for vessels, including overseeing and supervising the plan approval and construction of new vessels and negotiating shipbuilding contracts and liaising with the shipbuilders, providing such other strategic, corporate planning, business development and advisory services as we may reasonably identify from time to time.

Generally, our Manager is responsible for paying for all costs associated with the provision of technical services but is not responsible for certain “extraordinary costs and expenses,” which consist of repairs for accidents; non-routine drydocking; any improvement, structural change, installation of new equipment imposed by compulsory legislation; increase in crew employment and support expenses resulting from an introduction of new, or change in the interpretation of, applicable laws; or any other similar costs, liabilities and expenses that were not reasonably contemplated by us and our Manager as being encompassed by or a component of the technical services fee at the time the fee was determined. We carry insurance coverage consistent with industry standards for certain matters but we cannot assure you that our insurance will be adequate to cover all extraordinary costs and expenses. Notwithstanding the foregoing, if any extraordinary costs and expenses are caused by our Manager’s fraud, wilful misconduct, recklessness or gross negligence, our Manager will be responsible for them. For vessels other than those in our initial contracted fleet, we will pay for the pre-delivery purchase of stores, spares, lubricating oils, supplies, equipment and services related to the delivery of the relevant vessels and for fees associated with the classification society or registration under the relevant flag.

Subject to certain termination rights, the initial term of the management agreements will expire on December 31, 2025. If not terminated, the management agreements shall automatically renew for a five-year period and shall thereafter be extended in additional five-year increments if we do not provide notice of termination in the fourth quarter of the fiscal year immediately preceding the end of the respective term.

Reporting Structure

Our Chief Executive Officer and our Chief Financial Officer have been made available to us by our Manager to manage our day-to-day operations and affairs. Pursuant to his employment agreement described below, our Chief Executive Officer devotes substantially all of his time to us and our Manager on our business and affairs. Our Chief Financial Officer also devotes substantially all of his time to us and our Manager on our business and affairs. Our Manager reports to our board of directors through our Chief Executive Officer and our Chief Financial Officer and operates our business. Our board of directors and our Chief Executive Officer and Chief Financial Officer have responsibility for overall corporate strategy, acquisitions, financing and investor relations. Our Chief Executive Officer and Chief Financial Officer utilize the resources of our Manager to run our business.

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Compensation of Our Manager

In return for its technical management of our ships, our Manager receives a daily fixed fee per vessel payable on a monthly basis once the vessels have been delivered. The initial fixed fees are \$4,000 per day for each 2500 TEU vessel constructed by Jiangsu and chartered to CSCL Asia; \$4,200 per day for each 2500 TEU vessel constructed by Jiangsu and chartered to K-Line; \$4,200 per day for each 3500 TEU vessel; \$4,500 per day for each 4250 TEU vessel constructed by Samsung and chartered to CSCL Asia; \$4,725 per day for each 4250 TEU vessel constructed by New Jiangsu and chartered to CSAV; \$5,600 per day for each 4500 TEU vessel; \$5,750 per day for each 4800 TEU vessel; \$4,800 per day for each 5100 TEU vessel; \$6,000 per day for each 8500 TEU vessel; \$6,500 per day for each 9600 TEU vessel; and, \$6,750 per day for each 13100 TEU vessel. We believe these are fair market fees.

The initial fixed fees are in effect through December 31, 2008 and thereafter will be subject to renegotiation every three years, provided that the fee for the three-year period beginning January 1, 2009 will not be less than the initial technical services fee.

With respect to fee renegotiation, if our Manager and the board of directors are unable to reach an agreement an arbitrator will determine the fair market fee. In the event that we acquire an additional vessel, the technical services fee in respect of that vessel will be the same fee as is applicable to vessels of the same size. If there is a material difference in the operating costs associated with the new vessel, or if there are no vessels of a similar size already owned by us, we will negotiate a fair market fee with our Manager. If we are unable to reach an agreement an arbitrator will determine the fair market fee.

In return for providing us with strategic and administrative services, our Manager is entitled to a service fee not exceeding a maximum of \$6,000 per month, and to reimbursement for all of the reasonable costs and expenses incurred by it and its affiliates in providing us with such services. Our Manager provides these services to us directly but may subcontract certain of these services to other entities, including its affiliates. The management agreements provide that we have the right to audit the costs and expenses billed to us and also provides for a third party to settle any billing disputes between us and our Manager.

In connection with providing us strategic services, our Manager's affiliate acquired 100 incentive shares for \$1,000 concurrently with our initial public offering. The incentive shares are entitled to a share of incremental dividends, based on specified sharing ratios, once dividends on our common and subordinated shares reach certain specified targets beginning with the first target of \$0.485 per share. On January 24, 2008, we announced a quarterly cash dividend increase to \$0.475 per common and subordinated shares. Under the terms of the Initial Management Agreement, we have the right to reacquire the incentive shares from our Manager's affiliate at a nominal price under specified circumstances and we have the obligation to reacquire them at a price determined by independent parties under other specified circumstances.

The following table further details this allocation among the common, subordinated and incentive shares:

	Quarterly Common and Subordinated Share Dividend Target Amount	Allocation of Incremental Operating Surplus Paid as a Dividend	
		Common and Subordinated Shares	Incentive Shares
Below First Target	up to \$0.485	100%	0%
First Target	above \$0.485 up to \$0.550	90%	10%
Second Target	above \$0.550 up to \$0.675	80%	20%
Third Target	above \$0.675	75%	25%

The table below illustrates the percentage allocations of operating surplus distributed between the common shares, subordinated shares and the incentive shares as a result of certain quarterly dividend amounts per common

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and subordinated share. The amounts presented below are intended to be illustrative of the way in which the incentive shares are entitled to an increasing share of dividends based on the target dividend levels described above as total dividends increase. This is not intended to represent a prediction of future performance.

Quarterly Dividend Per Common and Subordinated Share	Common and Subordinated Share Dividend as Percentage of Total Dividends	Incentive Share Dividend as Percentage of Total Dividends
\$0.485	100.00	0.00
\$0.550	98.70	1.30
\$0.675	94.61	5.39
\$0.750	92.20	7.80
\$1.000	87.20	12.80

Omnibus Agreement

We have entered into an agreement with our Manager, certain of our Manager's subsidiaries that provide services to us, Norsk, a company within the Washington Marine Group, and Seaspan International, a company that owns substantially all of the Washington Companies' marine transportation shipyards and ship management entities. The following discussion describes the provisions of the omnibus agreement.

Non-competition

Our Manager, Norsk, and Seaspan International have agreed, and have caused their controlled affiliates (other than us and our subsidiaries) to agree, directly or indirectly, not to engage in or otherwise acquire or invest in any business involved in the chartering or rechartering of containerships to others, hereinafter referred to as the "containership business," during the term of our Initial Management Agreement, except as provided below. "Containerships" includes any ocean-going vessel that is intended primarily to transport containers or is being used primarily to transport containers. In the event that our Initial Management Agreement is terminated for Manager Cause or Manager Breach or if our Manager elects to terminate our Initial Management Agreement pursuant to its optional termination right, the term of the non-competition agreement shall survive for two years from such date. The non-competition agreement does not prevent Seaspan International, Norsk, our Manager or any of their controlled affiliates (other than us and our subsidiaries) from:

- acquiring and subsequently operating assets that are within the definition of containership business as part of a business if a majority of the fair market value of the acquisition is not attributable to the containership business. However, if at any time a party completes such an acquisition, it must offer to sell the assets that are attributable to the containership business to us for their fair market value plus any additional tax or other similar costs to the acquiring party that would be required to transfer such assets to us separately from the acquired business;
- solely with respect to Seaspan International, acquiring and subsequently operating assets that are within the definition of containership business that relate to discussions, negotiations or agreements that occurred prior to the date of our initial public offering; provided, however, that Seaspan International must offer to sell the assets to us within one year from the acquisition date valued at their "fully built-up cost," which represents the aggregate expenditures incurred by Seaspan International to acquire and bring such assets to the condition and location necessary for our intended use;
- collectively with Gerry Wang, Graham Porter and the controlled affiliates of Seaspan International, Norsk and our Manager, acquiring up to a 9.9% equity ownership, voting or profit participation for investment purposes only in any publicly traded entity that is engaged in the containership business;
- acquiring operating assets that are within the definition of containership business pursuant to the right of first offer after our Initial Management Agreement is terminated;
- acquiring, and subsequently operating, containerships that we do not purchase pursuant to the terms of the asset purchase agreement;

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- acquiring, and subsequently operating, containerhips with a capacity of less than 1000 TEU; or
- providing technical ship management services relating to containerhips.

Rights of First Offer on Containerhips

Our Manager and Seaspan International and their controlled affiliates have granted us a 30-day right of first offer on any proposed sale, transfer or other disposition of any assets that fall within the definition of containerhip business they might own. This right of first offer does not apply to a sale, transfer or other disposition of vessels between any affiliates, or pursuant to the terms of any charter or other agreement with a charterer. Our right of first offer is in effect during the term of our Initial Management Agreement and, unless termination is for Company Breach or we terminate pursuant to our early termination right or optional termination right, shall extend for a two year period following its termination.

Prior to any disposition of assets that fall within the definition of containerhip business, Seaspan International, our Manager and their controlled affiliates, as appropriate, must deliver a written notice setting forth the material terms and conditions of any proposed sale, transfer or disposition of the assets. During the 30-day period after the delivery of such notice, we will negotiate in good faith with Seaspan International, our Manager or their controlled affiliates, as appropriate, to reach an agreement on the transaction. If an agreement is not reached within such 30-day period, Seaspan International or our Manager, as the case may be, will be able within the next 180 days to sell, transfer or dispose of such assets to a third party (or to agree in writing to undertake such transaction with a third party) on terms generally no less favorable to the selling party than those offered pursuant to the written notice.

Our Manager and Seaspan International have a similar 30-day right of first offer on any of our assets that fall within the definition of containerhip business for a period beginning on the date of the termination of our Initial Management Agreement and extending for a period of two years, unless such termination is for Manager Cause, Manager Breach or our Manager exercises its optional termination right, in which case such right of first offer shall not apply.

Employment Agreement with Gerry Wang

Our Chief Executive Officer has entered into an employment agreement with Seaspan Ship Management Ltd., or SSML, a subsidiary of our Manager. The employment agreement provides that Mr. Wang receive an annual base salary of \$600,000, subject to increases at the discretion of the board of directors of our Manager, half of which is being reimbursed by us. We reimburse our Manager for a portion of this amount under the Initial Management Agreement. Pursuant to this agreement, Mr. Wang serves as the Chief Executive Officer of SSML and as our Chief Executive Officer. He devotes substantially all of his time to us and our Manager on our business and affairs. The initial term of the agreement expires on December 31, 2008. However, unless written notice is provided between 180 days and 210 days prior to the termination date, the agreement automatically renews on December 31, 2008, and each subsequent year for an additional one-year term. Except in the case of a termination for cause, our Manager cannot terminate the Chief Executive Officer without our prior consent, which cannot be unreasonably withheld.

Mr. Wang has acknowledged in the agreement that by virtue of his employment, he owes fiduciary obligations to us and to SSML. In such case where our interests and those of SSML conflict, Mr. Wang will act in our best interests and such action or inaction in fulfilling his obligations in our respect will not be a breach of his employment agreement with SSML.

Mr. Wang has agreed to be bound by the terms of the omnibus agreement and not to engage in any activity that our Manager is prohibited from engaging in pursuant to the omnibus agreement.

Employment Agreement with Graham Porter

Graham Porter has entered into an employment agreement with Seaspan Advisory Services Limited, or Seaspan Advisory, a subsidiary of our Manager that provides us with strategic services pursuant to the Initial Management Agreement. The agreement provides that Mr. Porter receive an annual base salary of \$200,000, subject to increases at the discretion of the board of directors of our Manager. We reimburse our Manager for

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one half of this amount under the Initial Management Agreement. Pursuant to this agreement, Mr. Porter serves as the Chief Executive Officer of Seaspan Advisory. The initial term of the agreement expires on December 31, 2008. However, unless written notice is provided between 180 days and 210 days prior to the termination date, the agreement automatically renews on December 31, 2008, and each subsequent year for an additional one-year term.

Mr. Porter has agreed to be bound by the terms of the omnibus agreement and not to engage in any activity that our Manager is prohibited from engaging in pursuant to the omnibus agreement.

Risk of Loss and Insurance

Hull & Machinery, Loss of Hire and War Risks Insurance

We maintain marine hull and machinery and war risks insurance, which covers the risk of actual or constructive total loss, for all of our vessels. Each of our vessels is covered up to at least fair market value with certain deductibles per vessel per claim. We also maintain increased value coverage for each of our vessels. Under this increased value coverage, in the event of total loss of a vessel, we will be entitled to recover amounts not recoverable under our hull and machinery policy due to under-insurance. We have not obtained, and will not obtain, loss-of-hire insurance covering the loss of revenue during extended off-hire periods. We believe that this type of coverage is not economical and is of limited value to us. However, we evaluate the need for such coverage on an ongoing basis, taking into account insurance market conditions and the employment of our vessels.

Protection and Indemnity Insurance

Protection and indemnity insurance is provided by mutual protection and indemnity associations, or P&I associations, which insure our third-party and crew liabilities in connection with our shipping activities. This includes third-party liability, crew liability and other related expenses resulting from the injury or death of crew, passengers and other third parties, the loss or damage to cargo, claims arising from collisions with other vessels, damage to other third-party property, pollution arising from oil or other substances and salvage, towing and other related costs, including wreck removal. Protection and indemnity insurance is a form of mutual indemnity insurance, extended by protection and indemnity mutual associations. Subject to the “capping” discussed below, our coverage, except for pollution, is unlimited, but subject to the rules of the particular protection and indemnity insurer.

Our protection and indemnity insurance coverage for pollution is \$1.0 billion per vessel per incident. The fourteen P&I associations that comprise the International Group insure approximately 90% of the world’s commercial blue-water tonnage and have entered into a pooling agreement to reinsure each association’s liabilities. As a member of a P&I association, which is a member of the International Group, we are subject to calls payable to the associations based on the International Group’s claim records as well as the claim records of all other members of the individual associations.

Inspection by Classification Societies

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

Each vessel is inspected by a surveyor of the classification society in three surveys of varying frequency and thoroughness: every year for the annual survey, every two to three years for intermediate surveys and every five years for special surveys. Should any defects be found, the classification surveyor will issue a “recommendation” for appropriate repairs that have to be made by the shipowner within the time limit prescribed. Vessels may be required, as part of the annual and intermediate survey process, to be dry-docked for inspection of the underwater portions of the vessel and for necessary repair stemming from the inspection. Special surveys always require dry-docking. The classification society also undertakes on request other surveys and checks that are required by regulations and requirements of the flag state. These surveys are subject to agreements made in each individual case and/or to the regulations of the country concerned.

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Financing Facilities

Our \$1.3 Billion Credit Facility

The following summary of the material terms of this \$1.3 Billion Credit Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$1.3 Billion Credit Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$1.3 Billion Credit Facility listed as an exhibit to this Annual Report.

On August 8, 2005, we entered into a \$1.0 billion secured loan facility agreement with certain lenders. This credit facility was amended and restated on May 11, 2007. The amended and restated credit agreement (the “\$1.3 Billion Credit Agreement”) provides for a \$1.3 billion single-tranche senior secured seven year revolving credit facility. The borrowings of the facility may be used to finance vessel acquisitions, to refinance vessels already acquired by us and for general corporate purposes. The facility maturity date is May 11, 2014, except that we have the option to extend the facility maturity for one additional year under certain circumstances.

Our obligations under the \$1.3 Billion Credit Agreement are secured by, among other things, first and second priority mortgages on the vessels of our initial fleet as well as the 4800 TEU vessels. Also, the facility is secured by a first-priority assignment of earnings related to these same vessels, including time-charter revenues, and a first-priority assignment of insurance proceeds.

Until August 11, 2012, we will be able to borrow up to \$1.3 billion without adding additional collateral so long as the total outstanding loan balance remains below 70% of the market value of the vessels that are collateralized. In certain circumstances and for a certain period of time, even if our loan to value ratio exceeds 70%, we can borrow under the facility so long as the loan to value ratio does not exceed 80% (the “Overadvance Loan”).

Beginning on August 11, 2012, the maximum facility amount will be reduced by \$32.5 million per quarter until May 11, 2014, when the outstanding loan balance will be due and payable. If the facility is extended for one additional year, then in addition to the previous mentioned reduction and beginning on May 11, 2014, the maximum facility amount will be reduced by \$65.0 million per quarter until May 11, 2015, when the outstanding loan balance will be due and payable. We have the right, subject to certain conditions, to add additional vessels to the collateral package to preserve access to the full amount of the facility.

We may prepay all loans without penalty, other than breakage costs in certain circumstances. We are required to prepay a portion of the outstanding loans under certain circumstances, including the sale or loss of a vessel where the ratio of the loan to market value of the remaining collateral vessels exceeds a certain percentage. Amounts prepaid in accordance with these provisions may be reborrowed, subject to certain conditions. Under the terms of \$1.3 Billion Credit Agreement, we must pay interest at a rate per annum, calculated as LIBOR plus 0.7% per annum. In the case of an Overadvance Loan, the interest rate is LIBOR plus 1.0% per annum. The \$1.3 Billion Credit Agreement requires payment of a commitment fee of 0.2625% per annum calculated on the undrawn, uncanceled portion of the facility.

In addition to the security granted by us to secure the facility, we are also subject to other customary conditions before we may borrow under the facility, including but not limited to, that no event of default is outstanding and that there has been no material adverse change in our ability to make all required payments under the \$1.3 Billion Credit Agreement. In addition, the \$1.3 Billion Credit Agreement contains various covenants limiting our ability to, among other things:

- allow liens to be placed on the collateral securing the facility;
- enter into mergers with other entities;
- conduct material transactions with affiliates; or

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- change the flag, class or management of the collateral vessels.

The \$1.3 Billion Credit Agreement also contains certain financial covenants including but not limited to those that require us to maintain:

- a tangible net worth in excess of \$450,000,000;
- total borrowings at less than 65% of the total assets;
- cash on hand and cash equivalents of \$25,000,000 if at any time more than 50% of the collateral vessels are subject to time charters having a remaining term of one year or less;
- a net interest coverage ratio of 2.50 to 1.00; and
- an interest and principal coverage ratio greater than or equal to 1.1 to 1.0.

The \$1.3 Billion Credit Agreement contains customary events of default, including but not limited to non-payment of principal or interest, breach of covenants, material inaccuracy of representations, default under other material indebtedness and bankruptcy.

Our \$365.0 Million Credit Facility

The following summary of the material terms of the \$365 Million Credit Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$365 Million Credit Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$365 Million Credit Facility listed as an exhibit to this Annual Report.

On May 19, 2006, we entered into an agreement for an 11 to 13-year (based on the delivery dates of certain vessels), senior secured, \$365.0 million revolving credit facility with certain lenders (the “\$365 Million Credit Agreement”).

The facility is split into two separate tranches, one to partially fund the acquisition of our two 3500 TEU vessels and the second to partially fund the construction of eight of our ten 2500 TEU vessels. We are also able to use the facility for general corporate purposes in certain circumstances. Our obligations under the facility are or will be secured by first-priority mortgages on our two 3500 TEU container vessels and the eight 2500 TEU vessels. Also, the facility is or will be secured by a first-priority assignment of our earnings related to the collateral vessels, including time-charter revenues, and any insurance proceeds and first priority assignments of shipbuilding contracts and related refund guarantees.

We may prepay all loans at any time without penalty, other than breakage costs in certain circumstances. Amounts that have been prepaid may be reborrowed. We are required to prepay a portion of the outstanding loans under certain circumstances, including the sale or loss of a vessel if we do not substitute another vessel. Beginning January 5, 2008, the total amounts available for borrowing under the first tranche were reduced and will continue to be reduced semiannually in accordance with the commitment reduction schedule until the maturity date, at which time the outstanding balance shall be repaid. Beginning six months from the delivery date of the last vessel securing the second tranche of the facility, but no later than April 30, 2010, the total amounts available for borrowing under the second tranche will be reduced semiannually in accordance with the commitment reduction schedule until the maturity date, at which time the outstanding balance shall be repaid.

Indebtedness under this revolving credit facility bears interest at a rate equal to LIBOR plus 0.850% until approximately July 5, 2013, for the first tranche, and the earlier of the sixth anniversary of the delivery date of the last 2500 TEU vessel and August 31, 2015, for the second tranche, and LIBOR plus 0.925% thereafter for both tranches. We incur a commitment fee on the undrawn portion of the revolving credit facility at a rate of 0.30% per annum.

We are subject to other customary conditions before we may borrow under the facility, including that no event of default is ongoing and there having occurred no material adverse effect on our ability to perform our payment obligations under the facility. In addition, the credit facility contains various covenants limiting our ability to:

- allow liens to be placed on the collateral securing the facility;

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- enter into mergers with other entities;
- conduct material transactions with our affiliates except on an arm's-length basis; and
- change the flag, class, or management of our vessels.

This revolving credit facility agreement contains certain financial covenants including covenants requiring us to maintain a minimum tangible net worth, maximum leverage and minimum interest coverage and principal and interest coverage ratios similar to the \$1.3 Billion Credit Agreement.

The \$365 Million Credit Agreement contains customary events of default, including nonpayment of principal or interest, breach of covenants or material inaccuracy of representations, default under other material indebtedness, bankruptcy and change of control.

On June 29, 2007, we amended the \$365 Million Credit Agreement. The amendments included permitting us to enter into the 2500/3500 Management Agreement and requiring us to provide a first priority assignment of such management agreement in favor of the lenders and converting certain conditions precedent to each pre-delivery drawing into conditions subsequent that may be satisfied within 35 days after the relevant drawing. If we do not comply with the conditions subsequent within the required time periods set out in the amendment, we must immediately repay the relevant advance to which the non-compliance relates and the repayment will cure the non-compliance.

We further amended the \$365 Million Credit Agreement on August 7, 2007 to increase the number of days by which we must deliver to our lenders certain financial information of the charterers, charter guarantors or certain related companies for the vessels that are financed under this facility.

Our \$218.4 Million Term Loan Facility

The following summary of the material terms of the \$218.4 Million Term Loan Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$218.4 Million Term Loan Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$218.4 Million Term Loan Facility listed as an exhibit to this Annual Report.

On October 16, 2006, we entered into an agreement for a \$218.4 million credit facility (the “\$218.4 Million Credit Agreement”). The proceeds of this facility will be used to partially finance the construction of the four 5100 TEU vessels. The facility maturity date is the earlier of the anniversary date falling twelve years after the delivery date of the fourth 5100 TEU vessel delivered and December 23, 2021.

Our obligations under the facility are secured by first-priority assignments of the shipbuilding contracts and refund guarantees, first-priority assignments of our earnings related to the 5100 TEU vessels, including time-charter revenues, and a first-priority assignment of the management agreement for the 5100 TEU vessels. Also, our obligations under the facility will be secured by first-priority mortgages on each of the vessels and a first-priority assignment of any insurance proceeds.

Beginning thirty-six months from the scheduled delivery date of the last vessel securing the facility, the principal amount borrowed under the facility will be reduced in eighteen semi-annual payments by amounts ranging from 2.7% and 3.3% of the amount borrowed until the maturity date. A final repayment of approximately 45% of the amount borrowed is required upon the final maturity date.

We may prepay all loans without penalty, other than breakage costs in certain circumstances. We are required to prepay a portion of the outstanding loans under certain circumstances, including the sale or loss of a vessel if we do not substitute another vessel. The credit facility requires payment of interest at a rate per annum, calculated as LIBOR plus 0.6% per annum. The credit facility requires payment of a commitment fee of 0.3% per annum calculated on the undrawn, uncanceled portion of the facility.

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We are subject to other customary conditions before we may borrow under the facility, including that no event of default is ongoing and there having occurred no material adverse change on our ability to perform our payment obligations under the facility. In addition, the credit facility contains various covenants limiting our ability to:

- allow liens to be placed on the collateral securing the facility;
- enter into mergers with other entities;
- conduct material transactions with our affiliates except on an arm's-length basis; or
- change the flag, class, or management of our vessels.

The \$218.4 Million Credit Agreement also contains covenants, among others, requiring us to maintain:

- a tangible net worth of \$450,000,000;
- total borrowings at less than 65% of the total assets;
- cash on hand and cash equivalents of \$25,000,000 if at any time more than 50% of the collateral vessels are subject to time charters having a remaining term of one year or less;
- a net interest coverage ratio of 2.50 to 1.00; and
- an interest and principal coverage ratio of 1.1 to 1.0.

The \$218.4 Million Credit Agreement contains customary events of default, including nonpayment of principal or interest, breach of covenants or material inaccuracy of representations, default under other material indebtedness and bankruptcy.

Our \$920.0 Million Credit Facility

The following summary of the material terms of the \$920 Million Credit Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$920 Million Credit Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$920 Million Credit Facility listed as an exhibit to this Annual Report.

On August 8, 2007, we entered into a secured reducing revolving \$920.0 million credit facility agreement with certain lenders (the “\$920 Million Credit Agreement”). The proceeds of this facility are available to partially finance the construction of two of the 2500 TEU vessels by Jiangsu, the four 4250 TEU vessels by New Jiangsu and the eight 8500 TEU vessels by HHI. After delivery of these vessels, we may use the facility for general corporate purposes.

The final maturity date for this facility is the earlier of the twelfth anniversary of the delivery date of the last vessel delivered and December 31, 2022. Our obligations under this credit agreement are or will be secured by, among other things, assignments of ship building contracts and refund guarantees for the vessels, assignments of time charters, earnings and any charter guarantee for the vessels, assignments of insurances for the vessels, mortgages of the vessels and an assignment of a management agreement for the vessels.

Under the \$920 Million Credit Agreement, we may borrow up to the lesser of \$920.0 million and 65% of the vessel delivered costs (as defined in the credit agreement) provided that amounts borrowed in respect of vessel delivered costs that are not covered by the amount of the refund guarantees for the vessels may not exceed \$1,250,000 per vessel. The facility will be proportionately reduced to the extent that not all vessels are delivered by June 30, 2011. Commencing on the earlier of 36 months after the delivery date of the last vessel and June 30, 2014,

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the facility will reduce by eighteen consecutive semi-annual reductions in the amounts and on the dates set out in a schedule to the credit agreement, and on each such date that we must prepay the amount of the outstanding loan that exceeds the amount of the reduced facility. The outstanding loans under the facility must be paid in full by the final maturity date.

We may prepay all loans without penalty, other than breakage costs in certain circumstances. Amounts prepaid voluntarily may be re-borrowed up to the amount of the facility, subject to the required reductions in the facility. We will be required to prepay a portion of the outstanding loans in certain circumstances, including the sale or loss of a vessel or the cancellation of a ship building contract where we elect not to substitute another vessel within the time period and on the terms set out in the credit agreement. We may also remove a vessel from the facility upon prepayment of the relevant portion of the outstanding loans and substitute another vessel within the time period prescribed and on the terms set out in the credit agreement. Amounts prepaid in the circumstance of a sale, loss or removal of a vessel or cancellation of a ship building contract may only be re-borrowed in certain limited circumstances.

The \$920 Million Credit Agreement requires payment of interest on the outstanding loans at a rate calculated as LIBOR plus 0.5% per annum. The credit agreement also requires payment of a commitment fee of 0.20% per annum calculated on the undrawn, uncanceled portion of the facility. Prior to delivery of a vessel, interest and commitment fees associated with the loans for a vessel may be capitalized and added to the outstanding loans.

In addition to the security we have granted to secure the facility, we are also subject to other customary conditions precedent before we may borrow under the facility including, but not limited to, that no event of default is outstanding and that there has been no material adverse change in our ability to make all required payments under the credit agreement. We are also subject to certain conditions subsequent to drawing including, but not limited to, registration of certain refund guarantees with applicable authorities in the People's Republic of China. In addition, the facility contains various covenants limiting our ability to among other things:

- allow liens to be placed on the collateral securing the facility;
- enter into mergers with other entities;
- conduct material transactions with affiliates; or
- change the flag, class or management of the collateral vessels.

The \$920 Million Credit Agreement also contains certain financial covenants including, but not limited to, those that require us to maintain:

- a tangible net worth in excess of \$450,000,000;
- total borrowings at less than 65% of the total assets;
- cash on hand and cash equivalents of \$25,000,000 if at any time more than 50% of the collateral vessels are subject to time charters having a remaining term of one year or less;
- a net interest coverage ratio of 2.50 to 1.00; and
- an interest and principal coverage ratio greater than or equal to 1.1 to 1.0.

The \$920 Million Credit Agreement contains customary events of default including, but not limited to, non-payment of principal or interest, breach of covenants, material inaccuracy of representations, default under other material indebtedness and bankruptcy.

Our \$150.0 Million Credit Facility

The following summary of the material terms of the \$150.0 Million Credit Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$150.0 Million

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Credit Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$150.0 Million Credit Facility listed as an exhibit to this Annual Report.

On December 28, 2007, we entered into a secured reducing revolving \$150.0 million credit facility agreement (the “\$150 Million Credit Agreement”) with two of our wholly-owned subsidiary companies, Seaspac Finance II Co. Ltd. and Seaspac Finance III Co. Ltd., as borrowers. We guaranteed the obligations of our subsidiaries under the terms of the agreement. The proceeds of the facility are available to finance construction of two of our 13100 TEU vessels; one of which is under construction by HHI and the other by HSHI. After delivery of these vessels, we may use the facility for general corporate purposes.

The final maturity date for this facility is the earlier of the twelfth anniversary of the delivery date of the last vessel delivered and October 17, 2023. Our obligations under this credit agreement are or will be secured by, among other things, pre-delivery assignments of the ship building contracts and refund guarantees for the vessels, assignments of time charter and earnings, a pledge of shares in the borrowers by us, assignments of insurances for the vessels, mortgages of the vessels and an assignment of a management agreement for the vessels.

Under the \$150 Million Credit Agreement, we may borrow for each vessel up to the lesser of \$150.0 million and 65% of the vessel delivered costs (as defined in the credit agreement) for that vessel provided that amounts borrowed in respect of vessel delivered costs that are not covered by the amount of the refund guarantees for the vessels may not exceed \$2,500,000 per vessel. The facility will be proportionately reduced to the extent that a vessel is not delivered by October 27, 2011. Commencing on the earlier of six months after the delivery date of the last vessel and April 27, 2012, the facility will reduce by consecutive semi-annual reductions in the amounts and on the dates set out in a schedule to the credit agreement, and on each such date we must prepay the amount of the outstanding loan that exceeds the amount of the reduced facility. The outstanding loans under the facility must be paid in full by the final maturity date.

We may prepay all loans without penalty, other than breakage costs in certain circumstances. Amounts prepaid voluntarily may be re-borrowed up to the amount of the facility, subject to the required reductions in the facility. We will be required to prepay a portion of the outstanding loans in certain circumstances, including the sale or loss of a vessel or the cancellation of a ship building contract where we elect not to substitute another vessel within the time period and on the terms set out in the credit agreement. We may also remove a vessel from the facility upon prepayment of the relevant portion of the outstanding loans and substitute another vessel within the time period prescribed and on the terms set out in the credit agreement. Amounts prepaid in the circumstance of a sale, loss or removal of a vessel or cancellation of a ship building contract may only be re-borrowed in certain limited circumstances.

The \$150 Million Credit Agreement requires payment of interest on the outstanding loans at a rate calculated as LIBOR plus 0.8% per annum. The credit agreement also requires payment of a commitment fee of 0.20% per annum calculated on the undrawn, uncanceled portion of the facility.

In addition to the security we have granted to secure the facility, we are also subject to other customary conditions precedent before borrowing under the facility including, but not limited to, that no event of default is outstanding and that there has been no material adverse change in our ability to make all required payments under the credit agreement. In addition, the facility contains various covenants limiting our ability and the ability of the borrowers to, among other things:

- allow liens to be placed on the collateral securing the facility;
- enter into mergers with other entities;
- conduct material transactions with affiliates; or
- change the flag, class or management of the collateral vessels.

The \$150 Million Credit Agreement also contains certain financial covenants including, but not limited to, those that require us to maintain:

- a tangible net worth in excess of \$450,000,000;

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- total borrowings at less than 65% of the total assets;
- cash on hand and cash equivalents of \$25,000,000 if at any time more than 50% of the collateral vessels are subject to time charters having a remaining term of one year or less;
- a net interest coverage ratio of 2.50 to 1.00; and
- an interest and principal coverage ratio greater than or equal to 1.1 to 1.0.

The \$150 Million Credit Agreement contains customary events of default including, but not limited to, non-payment of principal or interest, breach of covenants, material inaccuracy of representations, default under other material indebtedness and bankruptcy.

Our \$291.2 Million Credit Facility

The following summary of the material terms of the \$291.2 Million Credit Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$291.2 Million Credit Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$291.2 Million Credit Facility listed as an exhibit to this Annual Report.

On March 17, 2008, we entered into a \$291.2 million credit facility agreement, or the \$291.2 Million Credit Agreement. The facility has a term loan component, which is divided into two tranches, and a revolving loan component, which is divided into a senior revolver and junior revolver. The proceeds of this facility are available to partially finance the construction of two of our 13100 TEU vessels, one of which is under construction by HHI and the other by HSHI. The term loans are available for drawing until a certain period of time following the scheduled delivery date of each vessel. After delivery of these vessels, we may use the revolving loan for general corporate purposes.

The final maturity date for the revolving loan is the earlier of the twelfth anniversary of the delivery date of the last vessel delivered and December 31, 2023 and the final maturity date for the term loans is the earlier of the twelfth anniversary of the delivery date of the vessels to which those term loans relate and December 31, 2023. The outstanding loans under the facility must be paid in full by the relevant final maturity date.

Our obligations under the \$291.2 Million Credit Agreement will be secured by, among other things, assignments of ship building contracts and refund guarantees for the vessels, assignments of time charters and earnings for the vessels, assignments of insurances for the vessels, mortgages of the vessels and an assignment of a management agreement for the vessels. One of the tranches of the term loan portion is guaranteed by the Export-Import Bank of Korea, or KEXIM.

Under the \$291.2 Million Credit Agreement, we may borrow up to the lesser of \$291.2 million and 80% of the vessel delivered costs (as defined in the credit agreement) and on an individual vessel basis, the lesser of \$145.6 million and 80% of the vessel delivered costs for that vessel provided that amounts borrowed in respect of vessel delivered costs that are not covered by the amount of the refund guarantees for the vessels may not exceed \$1,000,000 per vessel. Consistent with export-import bank financing under the applicable OECD rules, we must pay 20% of the vessel delivered costs on or prior to the delivery date.

We may prepay the term loans on a repayment date (as defined in the credit agreement) without penalty, other than breakage costs and opportunity costs in certain circumstances. We may prepay the revolving loan on the last day of any interest period except that we are not permitted to prepay the junior revolving loan during the pre-delivery period. Amounts of the revolving loan that are prepaid voluntarily may be re-borrowed up to the amount of the revolving loan. We will be required to prepay a portion of the outstanding loans in certain circumstances, including the sale or loss of a vessel, the cancellation of a ship building contract or if the guarantee provided by KEXIM ceases to be valid for certain reasons and KEXIM determines that there has been or could be a material adverse effect on our ability to perform our payment obligations. We may also remove a vessel from the facility upon prepayment of the relevant portion of the outstanding loans.

The \$291.2 Million Credit Agreement requires payment of interest on the outstanding revolving loan at a rate calculated as LIBOR plus 0.85% per annum and payment of interest on the outstanding term loans at a rate calculated as the commercial interest reference rate of KEXIM plus 0.65% per annum for the first tranche, LIBOR plus 0.35% for the second tranche. The credit agreement also requires payment of a commitment fee of 0.30% per annum calculated on the undrawn, uncanceled portion of the facility. Prior to delivery of a vessel, interest and commitment fees associated with the loans for a vessel may be capitalized and added to the outstanding loans.

In addition to the security we have granted to secure the facility, we are also subject to other customary conditions precedent and other restrictions before we may borrow under the facility including, but not limited to, that no event of default is outstanding and that there has been no material adverse change in our ability to make all required payments under the credit agreement. In addition, the facility contains various covenants limiting our ability to, among other things:

- allow liens to be placed on the collateral securing the facility;
- enter into mergers with other entities;
- conduct material transactions with affiliates; or
- change the flag, class or management of the collateral vessels.

The \$291.2 Million Credit Agreement also contains certain financial covenants including, but not limited to, those that require us to maintain:

- a tangible net worth in excess of \$450,000,000;
- total borrowings at less than 65% of the total assets;
- cash on hand and cash equivalents of \$25,000,000 if at any time more than 50% of the collateral vessels are subject to time charters having a remaining term of one year or less;
- a net interest coverage ratio of 2.50 to 1.00; and
- an interest and principal coverage ratio greater than or equal to 1.1 to 1.0.

The \$291.2 Million Credit Agreement contains certain events of default including, but not limited to, non-payment of principal or interest, breach of covenants, material inaccuracy of representations, default under other material indebtedness and bankruptcy.

Our \$400.0 Million UK Lease Facility

The following summary of the material terms of the \$400.0 Million UK Lease Facility does not purport to be complete and is subject to, and qualified in its entirety by reference to, all the provisions of the \$400.0 Million UK Lease Facility. Because the following is only a summary, it does not contain all information that you may find useful. For more complete information, you should read the entire \$400.0 Million UK Lease Facility listed as an exhibit to this Annual Report.

Our wholly-owned subsidiary, Seaspan Finance I Co. Ltd., or the lessee, entered into lease agreements with Peony, also referred to as the lessor, for a UK lease facility in respect of each of the 4500 TEU vessels. The purpose of the lease facility is to finance the acquisition of our 4500 TEU vessels. The facility limit, or the aggregate net capital expenditure allowed for all five 4500 TEU vessels under the terms of the lease agreements, is \$400.0 million. The lessee and the lessor entered into lease agreements for all five of the 4500 TEU vessels on December 27, 2007, accompanied by a payment to Samsung by the lessor for three of the 4500 TEU vessels on December 28, 2007 and for the remaining two 4500 TEU vessels on January 8, 2008.

As part of the lease transaction, the lessor acquired each 4500 TEU vessel by way of a novation of the shipbuilding contract so that legal title of each vessel will pass from Samsung directly to the lessor on the delivery date of each vessel. The lessor appointed our Manager as its agent to supervise the construction of the vessels in accordance with the terms of the novated shipbuilding contracts. Our Manager will perform all of the obligations of the lessor under the novated shipbuilding contracts, other than payment of the contract price, which the lessor will be responsible for during the construction period and signature of the protocol of delivery and acceptance (which it may only sign upon instruction and satisfaction of the lease conditions precedent). If the amounts owing to Samsung are in excess of the \$400.0 million facility limit, the lessee will contribute towards the lessor's capital expenditure on each vessel.

On the delivery date of each vessel, the lessor will lease the vessel to the lessee by bareboat charter for a maximum period of four years and 360 days, during which time the lessee will have full possession and use of the vessel with quiet enjoyment except in certain limited circumstances. During the lease period, the lessee will pay to the lessor a rental payment calculated in accordance with a financial schedule appended to the lease agreements. The payments are predicated upon a number of principles and variable assumptions. The lessee bears any change of law risk. To the extent that any variable assumptions are incorrect, the lessor will be entitled to alter the rentals payable under the leases to take account of the failure of, or the change in, the relevant assumption. The obligation of the lessee to pay such rent applies irrespective of any contingency, including but not limited to the unavailability of the relevant vessel for any reason.

The rentals will be paid in large part by equal installments and quarterly in arrears, the first installment payable on the first to occur of January 15, April 15, July 15 and October 15 after delivery from Samsung and the final payment for each vessel, being the lower of 99% of the total vessel cost and \$64,000,000, will be due and payable at the end of the lease period. No rental payments will be due to the lessor during the construction period.

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The lease agreements require payment of a commitment fee of 0.35% of any undrawn balance of the facility limit payable in arrears on interest payment dates during the construction period.

The lessee's obligations under the \$400.0 million facility are secured by a general assignment of earnings (other than those related to the time charters for the vessels), insurances and requisition hire for each vessel and a corporate guarantee issued by us in respect of the obligations of the lessee and our Manager.

Subject to payment of a termination fee in certain circumstances, the lessee may voluntarily terminate the lease agreements during the construction period if the lease transactions are determined to be economically burdensome or commercially burdensome. Upon a voluntary termination during the construction period, the lessor will further novate the vessel to the lessee. The lessee may also terminate the lease during the lease period after the construction period subject to payment of a termination fee. Upon such termination, the lessor will sell the relevant vessel and appoint the lessee as its sales agent for that purpose. Following the sale, the lessor will pay to the lessee a rebate of rental equal to 99.99% of the proceeds of sale of the vessel (after deduction of any rental or other sums then due and unpaid to the lessor).

The lease agreements may be treated by the lessor as terminated in the event of certain circumstances including the failure of the lessee to pay an installment of rent and the acceleration and non-payment of the financial indebtedness owed by us or the lessee to the lessor or any other subsidiary of Bank of Scotland plc, and failure of the lessee to perform other obligations of a non-financial nature. The lessee will also be required to prepay rental amounts, broken funding costs and other costs to the lessor in certain circumstances, including but not limited to a change in law which will result in the lessor incurring a material liability or increased liability arising out of its ownership of the vessel beyond its day-one liabilities that does not entitle the lessor to increase the rental payment. Termination or mandatory prepayment will result in payment by the lessee to the lessor of a termination amount, rental amounts due and payable, broken funding costs and other costs. If the termination or mandatory prepayment event occurs during the lease period, the lessor will have the right to sell the vessel which shall be subject to the above sales agency arrangements unless the lessee has forfeited these.

The lease agreements contain various covenants regarding the use and employment of the vessels, their maintenance and operation, equipment, title and registration and insurances. The lease agreements also contain certain covenants that limit the ability of the lessor to, among other things, create or allow any security interests to arise over the vessels. Certain financial covenants are included in our corporate guarantee that are similar to those in our credit facilities and which include, but are not limited to, those that require us and our subsidiaries to maintain:

- a tangible net worth in excess of \$450,000,000;
- total borrowings at less than 65% of the total assets;
- cash and cash equivalents of \$25,000,000 if at any time less than 50% of the collateral vessels are subject to time charters having a remaining term of one year or more;
- a net interest coverage ratio always greater than 2.50 to 1.00; and
- an interest and principal coverage ratio greater than 1.1 to 1.0.

Subject to the lessee not being in default under the lease agreement at the relevant time, at the end of each lease period and in other prescribed circumstances, the lessor will appoint the lessee as its sole and exclusive agent to sell the relevant vessel to certain acceptable parties, excluding the lessee (but not excluding Seaspans Corporation or one of its other subsidiaries) and K-Line. The sale must be on best terms, including price, that are reasonably obtainable on the open market on an "as is, where is" basis. Following the payment of the sale proceeds to the lessor, the lessor will unconditionally pay to the lessee a rebate of rental equal to 99.99% of the proceeds of sale of the vessel (after deduction of any rental or other sums then due and unpaid to the lessor).

To comply with the lease arrangements, the lessee is a party to the time charters with K-Line, and we have guaranteed the performance of the lessee's obligations to K-Line.

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The lease agreements also provide for a standby loan agreement to be provided by an affiliate of the lessor to a Seaspan company, or a Standby Lender, at the end of the lease period in respect of the vessels. The availability of the standby loan will be determined in the sole discretion of the Standby Lender and on the terms and conditions set out in the lease agreements.

The benefits under the lease financings are derived primarily from tax depreciation assumed to be available to lessors as a result of their investment in the vessels. If that depreciation ultimately proves not to be available to the lessors, or is clawed back from the lessor as a result of adverse tax rate changes or rulings, or in the event that we terminate one or more of our leases, the benefits of a reduced financing margin may be lost.

In entering into the lease arrangements, the lessee has taken credit, insolvency and performance risk on the lessor. If the lessor is subject to insolvency or similar proceedings in the UK, the lessee may not be able to obtain full performance of the lease arrangements, and will be subject to the insolvency rules applicable to claims by unsecured creditors. However, the lessee has the benefit of a limited parent support letter from Bank of Scotland plc.

Environmental and Other Regulations

Government regulation affects the ownership and operation of our vessels in a significant manner. We are subject to international conventions and codes, and national, state, provincial and local laws and regulations in force in the countries in which our vessels may operate or are registered, including those governing the management and disposal of hazardous substances and wastes, the cleanup of oil spills and other contamination, air emissions, and water discharges and ballast water management.

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

We believe that the heightened level of environmental and quality concerns among insurance underwriters, regulators and charterers is leading to greater inspection and safety requirements on all vessels and may accelerate the scrapping of older vessels throughout the shipping industry.

Increasing environmental concerns have created a demand for vessels that conform to the strictest environmental standards. We are required to maintain operating standards for all of our vessels that emphasize operational safety, quality maintenance, continuous training of our officers and crews and compliance with United States, Canadian and international regulations.

International Maritime Organization

The International Maritime Organization, or IMO, has negotiated international conventions that impose liability for pollution in international waters and a signatory's territorial waters. For example, the International Convention for the Prevention of Pollution from Ships (MARPOL) imposes environmental standards on the shipping industry relating to pollution prevention and procedures, technical standards, oil spills management, management of garbage, the handling and disposal of noxious liquids, harmful substances in packaged forms, sewage and air emissions. Annex III of MARPOL regulates the transportation of marine pollutants, including standards on packing, marking, labeling, documentation, stowage, quantity limitations and pollution prevention. These requirements have been expanded by the International Maritime Dangerous Goods Code, which imposes additional standards for all aspects of the transportation of dangerous goods and marine pollutants by sea. Annex VI to MARPOL, which became effective in May 2005, addresses air pollution from ships. All of the vessels we have agreed to purchase are generally Annex VI compliant. Annex VI sets limits on sulfur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances, such as chlorofluorocarbons. Annex VI also includes a global cap on the sulfur content of fuel oil and allows for special areas to be established with more stringent controls on sulfur emissions. The United States in February 2007 proposed a series of amendments to Annex VI regarding emissions of particulate matter, nitrogen oxides, and sulfur

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oxides emission standards. The emission program described in this proposal would reduce air pollution from ships by establishing a new tier of performance-based standards for marine diesel engines on all vessels and by establishing stringent emission requirements for ships that operate in certain coastal areas where air-quality problems are acute. On June 28, 2007, the World Shipping Council announced its support for these amendments. If these amendments are implemented and apply to existing vessels (as opposed to vessels manufactured after the effective date), we may incur costs to install equipment in these vessels to comply. Neither the United States nor Canada have ratified Annex VI.

The operation of our vessels is also affected by the requirements set forth in the IMO's Management Code for the Safe Operation of Ships and Pollution Prevention, or ISM Code. The ISM Code requires ship owners and bareboat charterers to develop and maintain an extensive "Safety Management System" that includes the adoption of a safety and environmental protection policy setting forth instructions and procedures for safe operation and describing procedures for dealing with emergencies. A Safety Management Certificate is issued under the provisions of the International Convention for the Safety of Life at Sea (SOLAS) to each ship with an SMS verified to be in compliance with the ISM Code. The failure of a ship owner or bareboat charterer to comply with the ISM Code may subject such party to increased liability, may decrease available insurance coverage for the affected vessels and may result in a denial of access to, or detention in, certain ports. As of the date of this Annual Report, each of the 29 vessels in our current fleet is ISM code-certified.

The IMO adopted an International Convention for the Control and Management of Ships' Ballast Water and Sediments, or the BWM Convention, in February 2004. The BWM Convention's implementing regulations call for a phased introduction of mandatory ballast water exchange requirements (beginning in 2009), to be replaced in time with mandatory concentration limits. The BWM Convention will not enter into force until 12 months after it has been adopted by 30 states, the combined merchant fleets of which represent not less than 35% of the gross tonnage of the world's merchant shipping. As of January 24, 2008, the BWM Convention has not yet been adopted by the required number of states to come into force. The IMO has indicated that it may seek to postpone the deadline for inclusion of ballast water treatment facilities on newly built ships to the end of 2011 were adoption by the requisite number of states to lead to an earlier effective date.

In 2001, the IMO adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage, or the Bunker Convention, which imposes strict liability on ship owners for pollution damage in jurisdictional waters of ratifying states caused by discharges of "Bunker Oil." The Bunker Convention defines "Bunker Oil" as "any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil." The Bunker Convention also requires registered owners of ships over a certain size to maintain insurance for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime (but not exceeding the amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims of 1976, as amended). As of November 2007, the Bunker Convention has been ratified by a sufficient number of nations for entry into force, and the Bunker Convention will become effective on November 21, 2008. Until the Bunker Convention comes into force, liability for spills or releases of oil from ship's bunkers typically is determined by the national or other domestic laws in the jurisdiction where the events or damages occur.

On September 17, 2008, the International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFSC) is to come into force, and will prohibit the use of harmful organotins in anti-fouling paints used on ships and will establish a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems. Our vessels will be required to obtain certification of compliance, which is anticipated to be achievable in due time.

Increasingly, various regions are adopting additional, unilateral requirements on the operation of vessels in their territorial waters. These regulations, such as those described below, apply to our vessels when they are in their waters and can add to the costs of operating and maintaining those vessels as well as increasing the potential liabilities that apply to spills or releases of oil or other materials or violations of the applicable requirements. What follows will describe such regional regulations.

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United States

The United States Oil Pollution Act of 1990

The United States Oil Pollution Act of 1990, or OPA, established an extensive regulatory and liability regime for the protection and cleanup of the environment from oil spills. OPA affects all owners and operators whose vessels trade in the United States, its territories and possessions or whose vessels operate in United States waters, which includes the United States' territorial sea and its two hundred nautical mile exclusive economic zone. Although OPA is primarily directed at oil tankers (which are not operated by us), it also applies to non-tanker ships, including container ships, with respect to the fuel used to power such ships.

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

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

Amendments to OPA 90 signed into law on July 11, 2006 increased the limits on the liability of responsible parties for any vessel other than a tank vessel to \$950 per gross ton or \$800,000, whichever is greater, unless the incident is caused by gross negligence, willful misconduct, or a violation of certain regulations, in which case liability is unlimited.

We maintain pollution liability coverage insurance in the amount of \$1 billion per incident for each of our vessels. If the damages from a catastrophic spill were to exceed our insurance coverage it could have an adverse effect on our business and results of operation. OPA requires owners and operators of vessels to establish and maintain with the United States Coast Guard evidence of financial responsibility sufficient to meet their potential liabilities under the act. In 1994, the U.S. Coast Guard implemented regulations requiring evidence of financial responsibility for non-tank vessels in the amount of \$900 per gross ton, which includes the then-applicable OPA limitation on liability of \$600 per gross ton and the U.S. CERCLA liability limit of \$300 per gross ton, as described below. On February 5, 2008, the U.S. Coast Guard proposed a new rule that will increase the applicable amount of required evidence of financial responsibility to \$1,250 per gross ton, to reflect the increase in liability limits under OPA pursuant to the recent amendments and CERCLA. Under the U.S. Coast Guard regulations implementing OPA, vessel owners and operators may evidence their financial responsibility by showing proof of insurance, surety bond, self-insurance, or guaranty. Under the OPA regulations, an owner or operator of a fleet of vessels is required only to demonstrate evidence of financial responsibility in an amount sufficient to cover the vessels in the fleet having the greatest maximum liability under OPA. We have obtained the necessary OPA financial assurance certificates for each of our vessels currently in service and trading to the United States.

The Coast Guard and Maritime Transportation Act of 2004 (the “CGMTA”) amended OPA to require the owner or operator of any non-tank vessel of 400 gross tons or more that carries oil of any kind as a fuel for main propulsion, to prepare and submit a response plan for each vessel on or before August 8, 2005. Previous law was limited to vessels that carry oil in bulk as cargo. The vessel response plans include detailed information on actions to be taken by vessel personnel to prevent or mitigate any discharge or threat of discharge of oil from the vessel due to operational activities or casualties. Each of our vessels has the necessary response plans in place to comply with the requirements of the CGMTA and OPA.

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OPA specifically permits individual states to impose their own liability regimes with regard to oil pollution incidents occurring within their boundaries, and some states have enacted legislation providing for unlimited liability for oil spills. In some cases, states that have enacted such legislation have not yet issued implementing regulations defining vessels owners' responsibilities under these laws. We intend to comply with all applicable state regulations in the ports where our vessels call.

CERCLA

The Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA, governs spills or releases of hazardous substances other than petroleum or petroleum products. CERCLA imposes joint and several liability, without regard to fault, on the owner or operator of a ship, vehicle or facility from which there has been a release, along with other specified responsible parties. Costs recoverable under CERCLA include cleanup and removal costs, natural resource damages and governmental oversight costs. Liability under CERCLA is generally limited to the greater of \$300 per gross ton or \$0.5 million, unless the incident is caused by gross negligence, willful misconduct or a violation of certain regulations, in which case liability is unlimited.

Ballast Water Management

The U.S. Environmental Protection Agency, or the EPA, had exempted the discharge of ballast water and other substances incidental to the normal operation of vessels in U.S. ports from the Clean Water Act permitting requirements. However, on March 30, 2005, a U.S. District Court ruled that the EPA exceeded its authority in so exempting ballast water from regulation under the act. On September 18, 2006, the court issued an order invalidating the exemption in the EPA's regulations for all discharges incidental to the normal operation of a vessel as of September 30, 2008, and directing the EPA to develop a system for regulating all discharges from vessels by that date. The EPA has appealed this decision, and oral arguments on the appeal were heard by the Ninth Circuit Court of Appeals on August 13, 2007. No decision has yet been issued. However, on June 21, 2007, the EPA provided notice of its intention to promulgate rules regarding the regulation of ballast water discharges and other discharges incidental to the normal operation of vessels and solicited comments. If the exemption is ultimately repealed, we would be subject to Clean Water Act permit requirements that could include ballast water treatment obligations that could increase the cost of operating in the United States. For example, this could require the installation of equipment on our vessels to treat ballast water before it is discharged or the implementation of other port facility disposal arrangements or procedures at potentially substantial cost and/or otherwise restrict our vessels from entering waters in the United States that are subject to this ruling.

Similarly, on August 15, 2007, a federal district court in the state of Michigan upheld a state environmental law requiring vessels to obtain a ballast water discharge permit to operate in state waters and use certain technologies to prevent the introduction of non-native species into waters of the state. The Michigan Department of Environmental Quality has approved four options for ballast water treatment that involve sodium hypochlorite, chlorine dioxide, ultraviolet light radiation, or de-oxygenation. The use of these technologies may be costly for oceangoing vessels operating in Michigan ports to implement. International shipping entities have appealed the decision. If this decision is upheld, other states may create similar ballast water regulations that could increase the costs of operating in state waters of the United States.

Additionally, on October 10, 2007, the California governor signed into law legislation (A.B. 740) expanding the state's marine invasive species ballast water regulatory program (A.B. 433, California's Marine Invasive Species Act, which regulates the discharge and/or exchange of ballast water of vessels coming from outside the exclusive economic zone into a California port) to regulate "hull fouling organisms." A.B. 740 gives the State Lands Commission until 2012 to adopt regulations requiring vessels owners and operators to use best available and economically feasible "inwater" technology to remove aquatic species from submerged parts of vessels. Until the regulations can be implemented, A.B. 740 specifies that "hull fouling organisms," such as barnacles, algae, mussels, and worms that attach to the hard parts of ships, must be removed and disposed of on a regular basis. Furthermore, on October 15, 2007, the California State Lands Commission approved regulations governing the discharge of ballast water for vessels operating in California waters, which among other things, sets limits for the number of living organisms allowed in ballast water discharge. The regulations will be implemented on a graduated time schedule beginning on January 1, 2009, with a final performance standard of zero detectable living organisms going into effect on January 1, 2020. Other states may create other similar hull cleaning regulations or ballast water performance standards that could increase the costs of operating in state waters of the United States.

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Clean Air Act

The Federal Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1977 and 1990 (CAA), requires the EPA to promulgate standards applicable to emissions of volatile organic compounds and other air contaminants. Our vessels are subject to vapor control and recovery requirements when cleaning fuel tanks and conducting other operations in regulated port areas and emissions standards for compression-ignition marine engines operating in U.S. waters. These types of engines are called “Category 3” marine diesel engines and are typically found on large oceangoing vessels. These rules are currently limited to new engines beginning with the 2004 model year. More recently, in November 2007, EPA issued an Advance Notice of Proposed Rulemaking regarding its plan to propose more stringent emission standards and other related provisions for new Category 3 marine engines. The standards under consideration are consistent with the U.S. Government’s proposal to amend Annex VI of MARPOL discussed above, by establishing lower standards for vessel emissions of particulate matter, sulfur oxides, and nitrogen oxides. Certain emission standards under consideration could take effect as early as 2011. This announcement comes as EPA is defending a lawsuit seeking to require new limits for emissions from Category 3 marine diesel engines on U.S. and foreign-flagged vessels operating in U.S. waters. If these amendments are implemented and apply to existing vessels (as opposed to vessels manufactured after the effective date), we may incur costs to install equipment in these vessels to comply.

The CAA also requires states to draft State Implementation Plans (SIPs) designed to attain national health-based air quality standards in primarily major metropolitan and/or industrial areas. Where states fail to present approvable SIPs or SIP revisions by certain statutory deadlines, the federal government is required to draft a Federal Implementation Plan. Several SIPs regulate emissions resulting from degassing operations by requiring the installation of vapor control equipment on vessels. A risk exists that new regulations could require significant capital expenditures and otherwise increase our costs.

California’s Air Resources Board regulations effective January 1, 2007, set emission limits on particulate matter, sulfur oxides, and nitrogen oxides from the auxiliary diesel engines of ocean-going vessels in waters within approximately 24 miles of the California coast. Compliance is to be achieved through the use of marine diesel oil with a sulfur content not exceeding 0.1% by weight, or marine gas oil, or through alternative means of emission control, such as the use of shore-side electrical power or exhaust emission controls. These regulations were challenged, and a federal District Court in the Eastern District of California issued an order on August 30, 2007 blocking California from enforcing the rule, holding that the EPA, not the state, had authority to regulate ship emissions. California appealed, and the Ninth Circuit lifted the District Court’s stay on October 23, 2007 while the state’s appeal is pending. As of January 16, 2008, the Ninth Circuit had yet to make its decision, and the rule was still in effect.

Canada

Canada has established a complex regulatory enforcement system under the jurisdiction of various ministries and departments for preventing and responding to a marine pollution incident. The legislation prescribes measures to prevent pollution, mandates clean up of marine pollution, and creates civil and criminal liabilities for those responsible for a marine pollution incident.

The Canada Shipping Act, 2001

On July 1, 2001, the Canada Shipping Act, 2001, or CSA 2001, replaced the Canada Shipping Act as the primary legislation governing marine transport, pollution and safety. However, most of the provisions of CSA 2001 did not come into force until July 1, 2007 when certain regulations necessary to implement these provisions came into effect. CSA 2001 applies to all vessels operating in Canadian waters and in the Exclusive Economic Zone of Canada and establishes the primary regulatory and liability regime for oil pollution prevention and response.

CSA 2001 requires ship owners to have in place an arrangement with an approved pollution response organization. Vessels must carry a declaration, which identifies the vessel’s insurer and confirms that an arrangement with a response organization is in place. Failure of a vessel to comply with these requirements can result in a fine of up to C\$1.0 million or imprisonment for a term of not more than 18 months, or both. Lesser offenses, such as failing to comply with the directions of a pollution prevention officer, are subject to a fine of not more than C\$100,000, imprisonment for a term of not more than one year, or both.

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CSA 2001 also makes it a strict liability offense to discharge a pollutant, including but not limited to, oil from a vessel. Vessels must have a shipboard oil pollution plan and implement the same in respect of an oil pollution incident. The maximum fine for marine pollution, or for failing to implement an oil pollution plan, is C\$1 million or imprisonment for not more than 18 months, or both. If the discharge of a pollutant continues for more than one day, the person committing the offense may be convicted of a separate offense for each day on which the pollutant is discharged. Lesser offenses, such as failing to comply with directions of the Minister in respect of a pollution incident, are subject to a fine of not more than C\$100,000, imprisonment for a term of not more than one year, or both. Depending upon the circumstances of the offense, a person convicted of an offense may be subject to other penalties, such as being liable to fund the cost of conducting research into the ecological use and disposal of the pollutant in respect of which the offense was committed.

CSA 2001 also provides the authorities with broad discretionary powers to enforce its requirements. The CSA 2001 authorizes the detention of a vessel where there are reasonable grounds for believing that the vessel caused marine pollution or that an offence has been committed.

Migratory Birds Convention Act, 1994

The Migratory Birds Convention Act, or MBCA, implements Canada's obligations under a bilateral Canada—United States treaty designed to protect migrating birds that cross North American land and water areas. Recent amendments to MBCA clarify existing prohibitions, expand the investigative and enforcement powers of Environment Canada and provide the government with the ability to enforce the statute effectively in Canada's Exclusive Economic Zone.

MBCA prohibits the deposit of any substance that is harmful to migratory birds in any waters or area frequented by migratory birds. Increased maximum fines range from C\$300,000 to C\$1 million or imprisonment from six months to three years, or both, which penalty provisions extend to the vessel's owner, operator, master and chief engineer. MBCA imposes minimum fines, C\$500,000 for an indictable offence and C\$100,000 for a summary offence, for offences committed by a vessel in excess of 5,000 tons deadweight. An offence can be committed by a "person" or a "vessel."

MBCA extends to every master, chief engineer, owner and operator of a vessel and, if the vessel is owned by a corporation, to certain of its directors and officers, the duty to take reasonable steps to ensure a vessel's compliance with the prohibition against harmful deposits. A foreign vessel may be detained within Canada's Exclusive Economic Zone with the consent of the attorney general. MBCA grants discretion to the court, on application by a person who has incurred monetary loss as a result of an offence, to order the convicted party to pay compensation to that person.

The Canadian Environmental Protection Act, 1999

The Canadian Environmental Protection Act, or CEPA, regulates water pollution, including disposal at sea and the management of hazardous waste. Insofar as the shipping industry is concerned, CEPA prohibits the disposal or incineration of substances at sea except with a permit issued under CEPA, the importation or exportation of a substance for disposal at sea without a permit, and the loading on a ship of a substance for disposal at sea without a permit.

Contravention of CEPA can result in maximum fines ranging from C\$300,000 to C\$1 million or imprisonment from six months to three years, or both. The penalties may be increased if damage to the environment results and the person acted intentionally or recklessly. A vessel also may be seized or detained for contravention of CEPA's prohibitions. Costs and expenses of measures taken to remedy a condition or mitigate damage resulting from an offence are also recoverable. CEPA establishes civil liability for restoration of the environment, costs and expenses incurred relating to prevention or remedying environmental damage, or an environmental emergency. Limited defenses are provided but generally would not cover violations arising from ordinary vessel operations.

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Recent amendments to CEPA subject owners of ships and directors and offices of corporations that own ships to a duty of care to ensure that ships comply with CEPA provisions and its regulations concerning disposal at sea and with orders and directions made under CEPA. The amendments also expand the jurisdiction of Canadian courts to include the Exclusive Economic Zone of Canada.

An Act to Amend the Migratory Birds Convention Act, 1994 and the Canadian Environmental Protection Act, 1999

An Act To Amend The Migratory Birds Convention Act, 1994 , and the Canadian Environmental Protection Act, 1999 clarifies existing prohibitions, expands the investigative and enforcement powers of Environment Canada and provides the government with the ability to enforce the two statutes effectively in Canada's Exclusive Economic Zone. The Act also creates or amends a number of strict liability offences. Other amendments effected by the Act include:

- the extension to every master, chief engineer, owner and operator of a vessel and, if the vessel is owned by a corporation, to certain of its directors and officers, of the duty to take reasonable steps to ensure a vessel's compliance with the prohibition against harmful deposits;
- a provision allowing a foreign vessel to be detained within Canada's Exclusive Economic Zone with the consent of the attorney general;
- an increased maximum fine of C\$1 million or up to three years' imprisonment, or both, for indictable offences and an increased maximum fine of C\$300,000 or up to six months' imprisonment for summary offences, which penalty provisions extend to the vessel's owner, operator, master and chief engineer;
- for offences committed by a vessel in excess of 5,000 tons deadweight, a minimum fine of C\$500,000 for an indictable offence and C\$100,000 for a summary offence;
- a provision that an offence can be committed by a person or a vessel; and
- the grant to a court of the discretion, on application by a person who has incurred monetary loss as a result of an offence, to order the convicted party to pay compensation to that person.

The Act is now in force in Canada. If one of our vessels fails to comply with its provisions, it could have an adverse effect on us.

Fisheries Act

The Fisheries Act prohibits the deposit of a deleterious substance in waters frequented by fish. The owner of a deleterious substance, the person having control of the substance and the person causing the spill must report the spill and must take all reasonable measures to counteract, mitigate or remedy any adverse effects resulting from a spill and are subject to maximum fines ranging from C\$300,000 to C\$1 million or imprisonment from six months to three years, or both.

Marine Liability Act

The Marine Liability Act implements the 1992 International Convention on Civil Liability for Oil Pollution Damage (the CLC or Civil Liability Convention) and the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (the IOPC or Fund Convention). The Marine Liability Act creates strict liability for a vessel owner for damages from oil pollution from a ship, as well as for the costs and expenses incurred for clean up and preventive measures. Both governments and private parties can pursue vessel owners for damages sustained or incurred as a result of such an incident. Although the Act does provide some limited defenses, they are generally not available for spills or pollution incidents arising out of the routine operation of a vessel. The Act limits the overall liability of a vessel owner to amounts that are determined by the tonnage of the containership.

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British Columbia's Environmental Management Act

British Columbia's Environmental Management Act, or EMA, governs spills or releases of waste into the environment within the province in a manner or quantity that causes pollution. EMA imposes absolute, retroactive, joint and separate liability for remediation of a contaminated site. Maximum penalties for an offence are C\$1 million or imprisonment for up to six months, or both. Where a person intentionally causes damage to the environment, the maximum penalties are C\$3 million or imprisonment for up to three years, or both.

European Union Requirements

The European Union has also adopted legislation that: (1) requires member states to refuse access to their ports to certain sub-standard vessels, according to vessel type, flag and number of previous detentions; (2) creates an obligation of member states to inspect at least 25% of vessels using their ports annually and provides for increased surveillance of vessels posing a high risk to maritime safety or the marine environment; (3) provides the European Union with greater authority and control over classification societies, including the ability to seek to suspend or revoke the authority of negligent societies, and (4) requires member states to impose criminal sanctions for certain pollution events, such as the unauthorized discharge of tank washings. It is impossible to predict what additional legislation or regulations, if any, may be promulgated by the European Union or any other country or authority.

Other Regions

Other regions of the world also have the ability to adopt requirements or regulations that may impose obligations on our vessels and may increase our costs to operate them. We cannot assure you that compliance with these requirements will not entail significant expenditures on our part. However, these requirements would apply to the industry as a whole and should also affect our competitors.

Greenhouse Gas Legislation

In February 2005, the Kyoto Protocol to the United Nations Framework Convention on Climate Change entered into force. Pursuant to the Protocol, adopting countries are required to implement national programs to reduce emissions of certain gases, generally referred to as greenhouse gases, which are suspected of contributing to global warming. Currently, the greenhouse gas emissions from international shipping do not come under the Kyoto Protocol. The European Union confirmed in April 2007 that it plans to expand the European Union emissions trading scheme by adding vessels. In the United States, the California Attorney General and a coalition of environmental groups petitioned the EPA in October 2007 to regulate greenhouse gas emissions from ocean-going ships under the Clean Air Act. Any passage of climate control legislation or other regulatory initiatives by the IMO, European Union, or individual countries where we operate that restrict emissions of greenhouse gases from vessels could require us to make significant financial expenditures we cannot predict with certainty at this time.

In Canada, the British Columbia Legislature passed the *Greenhouse Gas Reduction Targets Act* in late 2007 and brought it into force on January 1, 2008. It sets a province-wide 33% reduction in the 2007 level of greenhouse gas emissions by 2020. The specific industry restrictions and requirements shall be set out in regulations targeted for the latter part of 2008.

Vessel Security Regulations

Since the terrorist attacks of September 11, 2001, there have been a variety of initiatives intended to enhance vessel security. On November 25, 2002, the Maritime Transportation Security Act of 2002, or the MTSA, came into effect. To implement certain portions of the MTSA, in July 2003, the United States Coast Guard issued regulations requiring the implementation of certain security requirements aboard vessels operating in waters subject to the jurisdiction of the United States. Similarly, in December 2002, amendments to the International Convention for the Safety of Life at Sea, or SOLAS, created a new chapter of the convention dealing specifically with maritime security. The new chapter came into effect in July 2004 and imposes various detailed security obligations on vessels and port authorities, most of which are contained in the newly created International Ship and Port Facilities Security Code or ISPS Code. Among the various requirements are:

- on-board installation of automatic information systems, or AIS, to enhance vessel-to-vessel and vessel-to-shore communications;

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- on-board installation of ship security alert systems;
- the development of vessel security plans; and
- compliance with flag state security certification requirements.

The United States Coast Guard regulations, intended to align with international maritime security standards, exempt non-United States vessels from MTSA vessel security measures provided such vessels have on board a valid International Ship Security Certificate, or ISSC, that attests to the vessel's compliance with SOLAS security requirements and the ISPS Code. The VesselCos implemented the various security measures addressed by the MTSA, SOLAS and the ISPS Code and we intend to continue to do so in the future.

C. Organizational Structure

We incorporated three wholly-owned subsidiary companies in 2007: Seaspan Finance I Co. Ltd., Seaspan Finance II Co. Ltd. and Seaspan Finance III Co. Ltd. Each of our subsidiary companies was incorporated in the Marshall Islands.

D. Property, Plants and Equipment

Our Fleet

We currently own and operate a fleet of 29 containerships and have entered into contracts to purchase an additional 34 containerships and lease an additional five containerships. As of December 31, 2007, the average age of our fleet of 29 vessels was 4.7 years.

In our current fleet, 19 of the vessels have a container capacity of approximately 4250 TEU each. Those vessels are approximately 260.0 meters long, 32.3 meters wide and 19.3 meters deep and have a gross tonnage of 39,941 tons. Two vessels have a container capacity of approximately 8500 TEU each. Those vessels are approximately 334.0 meters long, 42.8 meters wide and 24.6 meters deep. The gross tonnage of each vessel is 90,645 tons. Four vessels have a container capacity of approximately 4800 TEU each. Those vessels are approximately 294.2 meters long, 32.2 meters wide and 21.5 meters deep. The gross tonnage of each vessel is 52,191 tons. Two of the vessels have a container capacity of approximately 9600 TEU. Those vessels are approximately 336.7 meters long, 45.6 meters wide and 27.2 meters deep and have a gross tonnage of 108,069 tons. Two of the vessels have a container capacity of approximately 3500 TEU. These vessels are approximately 231.0 meters long, 32.2 meters wide and 18.8 meters deep and have a gross tonnage of 35,988 tons.

All of our vessels in operation, except for the 3500 TEU vessels, were designed and were constructed, inspected and tested in accordance with the rules and regulations of and under special survey of Lloyd's. The 3500 TEU vessels were designed and were constructed, inspected and tested in accordance with the rules and regulations of and under special survey of Germanischer Lloyd. The classification society for our 3500 TEU vessels and our 4250 TEU vessels, except for those chartered to HL USA, is Det Norske. The classification society for our 9600 TEU vessels, 8500 TEU vessels, 4250 TEU vessels chartered to HL USA and 4800 TEU vessels is Lloyd's Register. All of the vessels have been certified as being "in class" by their respective classification societies.

The following table summarizes key facts regarding the 29 vessels in operation as of December 31, 2007. Each of the vessels listed below was built by Samsung, except for four 4800 TEU vessels, three of which were built in 1989 by Odense-Lindo Shipyard Ltd., and one of which was built in 1988 by Odense-Lindo Shipyard Ltd., and the two 3500 TEU vessels, which were built in 2007 by Zhejiang Shipbuilding Co. Ltd.

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Vessel Name	Vessel Class (TEU)	Commencement		Charterer	Length of Time Charter	Daily Charter Rate (in thousands)	Operating	Operating	Operating
		of Charter	Year Built				Days in 2005 / Available Days 2005	Days in 2006 / Available Days 2006	Days in 2007 / Available Days 2007
CSCL Zeebrugge	9600	03/15/07	2007	CSCL Asia	12 years	\$ 34.0 ⁽¹⁾	N/A	N/A	292/292
CSCL Long Beach	9600	07/05/07	2007	CSCL Asia	12 years	34.0 ⁽¹⁾	N/A	N/A	180/180
MSC Belgium	8500	12/4/04	2004	CSCL Asia	12 years + one 3-year option	29.5 ⁽²⁾	365/365	365/365	365/365
CSCL Africa	8500	1/24/05	2005	CSCL Asia	12 years + one 3-year option	29.5 ⁽²⁾	342/342	365/365	365/365
CSCL Hamburg	4250	7/3/01	2001	CSCL Asia	10 years + one 2-year option	18.3 ⁽³⁾	365/365	338/365	365/365
CSCL Chiwan	4250	9/20/01	2001	CSCL Asia	10 years + one 2-year option	18.3 ⁽³⁾	365/365	356/365	355/365
CSCL Ningbo	4250	6/15/02	2002	CSCL Asia	10 years + one 2-year option	19.9 ⁽³⁾	365/365	363/365	354/365
CSCL Dalian	4250	9/4/02	2002	CSCL Asia	10 years + one 2-year option	19.9 ⁽⁴⁾	365/365	365/365	356/365
CSCL Felixstowe	4250	10/15/02	2002	CSCL Asia	10 years + one 2-year option	19.9 ⁽⁴⁾	365/365	365/365	355/365
CSCL Vancouver	4250	2/16/05	2005	CSCL Asia	12 years	17.0	319/319	365/365	365/365
CSCL Sydney	4250	4/19/05	2005	CSCL Asia	12 years	17.0	257/257	365/365	365/365
CSCL New York	4250	5/26/05	2005	CSCL Asia	12 years	17.0	220/220	365/365	365/365
CSCL Melbourne	4250	8/17/05	2005	CSCL Asia	12 years	17.0	137/137	365/365	365/365
CSCL Brisbane	4250	9/15/05	2005	CSCL Asia	12 years	17.0	108/108	365/365	365/365
New Delhi Express					3 years + seven 1-year extensions + two 1-year options				
	4250	10/18/05	2005	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	75/75	341/365	365/365
Dubai Express					3 years + seven 1-year extensions + two 1-year options				
	4250	1/3/06	2006	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	363/363	365/365
Jakarta Express					3 years + seven 1-year extensions + two 1-year options				
	4250	2/21/06	2006	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	313/313	365/365
Saigon Express					3 years + seven 1-year extensions + two 1-year options				
	4250	4/6/06	2006	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	269/269	365/365
Lahore Express					3 years + seven 1-year extensions + two 1-year options				
	4250	7/11/06	2006	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	173/173	365/365
Rio Grande Express					3 years + seven 1-year extensions + two 1-year options				
	4250	10/20/06	2006	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	73/73	365/365
Santos Express					3 years + seven 1-year extensions + two 1-year options				
	4250	11/13/06	2006	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	49/49	365/365
Rio de Janeiro Express					3 years + seven 1-year extensions + two 1-year options				
	4250	03/28/07	2007	HL USA	⁽⁵⁾	18.0 ⁽⁶⁾	N/A	N/A	279/279
Manila Express					3 years + seven 1-year extensions + two 1-year options				

MSC Sweden	4250	05/23/07	2007	HL USA	(5)	18.0 ⁽⁶⁾	N/A	N/A	223/223
					5 years + two 1-year options + one 2-year option				
Mærsk Matane	4800	11/6/06	1989	APM		23.5 ⁽⁷⁾	N/A	56/56	349/365
					5 years + two 1-year options + one 2-year option				
Mærsk Marystown	4800	11/20/06	1988	APM		23.5 ⁽⁷⁾	N/A	42/42	365/365
					5 years + two 1-year options + one 2-year option				
Mærsk Moncton	4800	12/6/06	1989	APM		23.5 ⁽⁷⁾	N/A	26/26	339/365
					5 years + two 1-year options + one 2-year option				
COSCO Fuzhou	3500	03/27/07	2007	COSCON		19.0	N/A	N/A	280/280
					12 years				
COSCO Yingkou	3500	07/05/07	2007	COSCON		19.0	N/A	N/A	179/180
					12 years				

- (1) CSCL Asia has an initial daily charter rate of \$34,000 per day, increasing to \$34,500 per day after six years.
- (2) CSCL Asia has an initial charter of twelve years with a charter rate of \$29,500 per day for the first six years, \$29,800 per day for the second six years, and \$30,000 per day during the option period.
- (3) CSCL Asia has an initial charter of ten years with a charter rate of \$18,000 per day for the first five years, \$18,300 per day for the second five years, and \$19,000 per day for the final two-year option.
- (4) CSCL Asia has an initial charter of ten years with a charter rate of \$19,933 per day for the first five years, \$19,733 per day for the second five years, and \$20,500 per day for the final two-year option.

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- (5) For these charters, the initial term is three years that automatically extends for up to an additional seven years in successive one-year extensions, unless HL USA elects to terminate the charters with two years' prior written notice. The charterer is required to pay a termination fee of approximately \$8.0 million to terminate a charter at the end of the initial term. The termination fee declines by \$1.0 million per year per vessel in years four through nine.
- (6) HL USA has an initial term of three years that automatically extends for up to an additional seven years with a charter rate of \$18,000 per day, and \$18,500 per day for the final two one-year options.
- (7) APM has an initial term for five years at \$23,450 per day, two consecutive one-year options to charter the vessel at \$22,400 and \$21,400 per day, respectively, and a final two-year option to charter the vessel at \$20,400 per day; provided, however, that APM may declare an initial term on one or two vessels that is up to 9 months less than 5 years so long as they declare an initial term which is correspondingly greater than 5 years for the same number of vessels. In addition, we will pay an affiliate of APM a 0.5% commission on all hire payments for each of the APM charters.

New Vessel Contracts

We have contracted to purchase or lease, as the case may be, 39 additional containerships that are currently or will be under construction. These consist of ten 2500 TEU vessels, four 4250 TEU vessels, five 4500 TEU vessels, four 5100 TEU vessels, eight 8500 TEU vessels and eight 13100 TEU vessels. We expect to take delivery of these 39 containerships over approximately the next four years.

We have agreed to acquire ten 2500 TEU vessels from Jiangsu as each vessel is delivered and passes inspection. These ten vessels will be built by Jiangsu at its shipyard in Jiangsu Province, China. The contractual purchase price for eight of the 2500 TEU vessels that we agreed to acquire is \$41.25 million per vessel. These vessels are subject to a twelve-year time charter with CSCL Asia. The purchase price for the remaining two 2500 TEU vessels is \$41.75 million. These vessels are subject to ten-year time charters with K-Line.

We have agreed to acquire the four 4250 TEU vessels from New Jiangsu as each vessel is delivered and passes inspection. The contractual purchase price is \$61.35 million per vessel. The four 4250 TEU vessels are being built by New Jiangsu at its shipyard in Jiangsu Province, China. Each 4250 TEU vessel is subject to a six-year time charter with CSAV.

We have agreed to acquire four 5100 TEU vessels from HHI as each vessel is delivered and passes inspection. These four vessels will be built by HHI at its shipyard in Ulsan, South Korea. The contractual purchase price is \$77.35 million per vessel. Each 5100 TEU vessel is subject to a twelve-year time charter with MOL.

We have also agreed to acquire eight 8500 TEU vessels from HHI as each vessel is delivered and passes inspection. The contractual purchase price is \$122.35 million per vessel. These eight vessels will be assembled, launched, completed, commissioned and delivered by HHI at its shipyard in Ulsan, South Korea. Each 8500 TEU vessel is subject to a twelve-year time charter with COSCON with three one-year options.

We have also agreed to acquire eight 13100 TEU vessels, five of which will be built by HHI at its shipyard in Ulsan, South Korea and the other three by HSHI at its shipyard in Samho, South Korea. Again, we will acquire these vessels as they are delivered and pass inspection. The contractual purchase price is \$165.284 million per vessel. Each 13100 TEU vessel is subject to a twelve-year time charter with COSCON.

We have also agreed to lease five 4500 TEU vessels from Peony as each vessel is delivered to Peony and passes inspection. These five vessels will be built by Samsung at its shipyard in Geoje Island, South Korea. Each 4500 TEU vessel is subject to a twelve-year time charter with K-Line with two-three year options.

The 34 newbuilding containerships that we have contracted to purchase and the 5 that we have contracted to lease are currently or will be under construction and consist of the following vessels:

Vessel	Vessel Class (TEU)	Length of Time		Contractual Delivery Date	Daily Charter Rate (in thousands)	Shipbuilder
		Charter ⁽¹⁾	Charterer			
Hull No. S452	13100	12 years	COSCON	01/05/11	\$55.0	HSHI
Hull No. 2177	13100	12 years	COSCON	03/31/11	55.0	HHI
Hull No. S453	13100	12 years	COSCON	04/06/11	55.0	HSHI
Hull No. 2178	13100	12 years	COSCON	05/23/11	55.0	HHI
Hull No. S454	13100	12 years	COSCON	06/22/11	55.0	HSHI

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Vessel	Vessel Class (TEU)	Length of Time Charter ⁽¹⁾	Charterer	Contractual	Daily Charter Rate (in thousands)	Shipbuilder
				Delivery Date		
Hull No. 2179	13100	12 years	COSCON	07/11/11	55.0	HHI
Hull No. 2180	13100	12 years	COSCON	08/30/11	55.0	HHI
Hull No. 2181	13100	12 years	COSCON	10/20/11	55.0	HHI
Hull No. 2081		12 years + three one-			42.9 ⁽²⁾	
	8500	year options	COSCON	11/05/09		HHI
Hull No. 2082		12 years + three one-				
	8500	year options	COSCON	12/28/09	42.9 ⁽²⁾	HHI
Hull No. 2083		12 years + three one-				
	8500	year options	COSCON	02/05/10	42.9 ⁽²⁾	HHI
Hull No. 2084		12 years + three one-				
	8500	year options	COSCON	06/30/10	42.9 ⁽²⁾	HHI
Hull No. 2085		12 years + three one-				
	8500	year options	COSCON	08/10/10	42.9 ⁽²⁾	HHI
Hull No. 2086		12 years + three one-				
	8500	year options	COSCON	09/10/10	42.9 ⁽²⁾	HHI
Hull No. 2087		12 years + three one-				
	8500	year options	COSCON	09/30/10	42.9 ⁽²⁾	HHI
Hull No. 2088		12 years + three one-				
	8500	year options	COSCON	11/10/10	42.9 ⁽²⁾	HHI
Hull No. 1970	5100	12 years	MOL	4/20/09	28.9	HHI
Hull No. 1971	5100	12 years	MOL	8/5/09	28.9	HHI
Hull No. 1972	5100	12 years	MOL	11/20/09	28.9	HHI
Hull No. 1973	5100	12 years	MOL	12/23/09	28.9	HHI
Hull No. 1851		12 years + two				
	4500	three-year options	K-Line	09/30/10	34.3 ⁽³⁾	Samsung
Hull No. 1852		12 years + two				
	4500	three-year options	K-Line	12/30/10	34.3 ⁽³⁾	Samsung
Hull No. 1853		12 years + two				
	4500	three-year options	K-Line	02/28/11	34.3 ⁽³⁾	Samsung
Hull No. 1854		12 years + two				
	4500	three-year options	K-Line	04/28/11	34.3 ⁽³⁾	Samsung
Hull No. 1855		12 years + two				
	4500	three-year options	K-Line	07/28/11	34.3 ⁽³⁾	Samsung
Hull No. YZJ2007-767	4250	6 years	CSAV	03/31/09	25.9	New Jiangsu
Hull No. YZJ2007-768	4250	6 years	CSAV	04/30/09	25.9	New Jiangsu
Hull No. YZJ2007-769	4250	6 years	CSAV	08/31/09	25.9	New Jiangsu
Hull No. YZJ2007-770	4250	6 years	CSAV	09/30/09	25.9	New Jiangsu
Hull No. YZJ 2005-696C (to be named CSCL Panama)			CSCL			
	2500	12 years	Asia	5/14/08	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-716C (to be named CSCL Montevideo)			CSCL			
	2500	12 years	Asia	11/30/08	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-717C (to be named CSCL San Paulo)			CSCL			
	2500	12 years	Asia	9/5/08	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-718C (to be named CSCL Lima)			CSCL			
	2500	12 years	Asia	10/21/08	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-719C (to be named CSCL Santiago)			CSCL			
	2500	12 years	Asia	11/30/08	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-720C (to be named CSCL San Jose)			CSCL			
	2500	12 years	Asia	12/15/08	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-721C (to be named Callao)			CSCL			
	2500	12 years	Asia	4/1/09	16.8 ⁽⁴⁾	Jiangsu
Hull No. YZJ 2006-722C (to be named CSCL			CSCL			

Manzanillo)	2500	12 years	Asia	9/21/09	16.8 ⁽⁴⁾	Jiangsu
Hull No.YZJ2007-771	2500	10 years	K-Line	03/2/10	17.9	Jiangsu
Hull No.YZJ2007-772	2500	10 years	K-Line	06/1/10	17.9	Jiangsu

- (1) Each charter begins upon delivery of the vessel.
- (2) COSCON has an initial charter period of twelve years with a charter rate of \$42,900 per day, and \$43,400 per day for the three one-year options.
- (3) K-Line has an initial charter rate of \$34,250 per day for years one to six, increasing to \$34,500 per day for years seven to twelve, and \$37,500 for the first three-year option period and \$42,500 for the second three-year option period.
- (4) CSCL Asia has an initial daily charter rate of \$16,750 per day, increasing to \$16,900 after six years.

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The following chart details the number of vessels in our fleet based on size as we take contractual delivery:

TEU Vessel Size	Actual	As of December 31, 2007	Forecasted			
			Year Ending December 31,			
Class			2008	2009	2010	2011
13100	13092	—	—	—	—	8
9600	9580	2	2	2	2	2
8500	8468	2	2	2	2	2
8500	8495	—	—	2	8	8
5100	5087	—	—	4	4	4
4800	4809	4	4	4	4	4
4500	4520	—	—	—	2	5
4250	4253	19	19	19	19	19
4250	4250	—	—	4	4	4
3500	3534	2	2	2	2	2
2500	2546	—	6	8	10	10
Operating Vessels		29	35	47	57	68
Actual Capacity (TEU)		143,207	158,483	217,913	283,015	401,311

Item 5. Operating and Financial Review and Prospects

A. Results of Operations

Management's Discussion and Analysis of Financial Condition and Results of Operations

The following management's discussion and analysis should be read in conjunction with our historical financial statements and their notes included elsewhere in this report. This discussion contains forward-looking statements that reflect our current views with respect to future events and financial performance. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, such as those set forth in the section entitled "Risk Factors" and elsewhere in this Annual Report. The consolidated financial statement balances for the year ended December 31, 2007 included in this Annual Report as well as in management's discussion and analysis below include the predecessor's 223 day operating period ended August 11, 2005 and 142 days of our operations from August 12, 2005, the date of completion of our initial public offering.

Overview

We are Seaspan Corporation, a Marshall Islands corporation that was incorporated on May 3, 2005. Our business is to own containerships, charter them pursuant to long-term, fixed-rate charters and seek additional accretive vessel acquisitions. We deploy all our vessels on long-term, fixed-rate time charters to take advantage of the stable cash flow and high utilization rates that are typically associated with long-term time charters. Our primary objective is to continue to grow our business through accretive acquisitions in order to increase our dividend per share.

We currently own and operate a fleet of 29 containerships and have entered into contracts for the purchase or lease, as the case may be, of an additional 39 containerships. As of December 31, 2007, the average age of the 29 vessels currently in our fleet was 4.7 years. Please read "Information on the Company—D. Property, Plants and Equipment—Our Fleet" for more information.

Our customer selection process is targeted at well-established container liner companies that charter-in vessels on a long-term basis as part of their fleet expansion strategy. Currently, 14 containerships in our fleet are under time charters with CSCL Asia. CSCL Asia, a British Virgin Islands company, is a subsidiary of CSCL. CSCL, the sixth largest container shipping company in the world based on TEU capacity as of December 28, 2007, is listed on the Hong Kong Stock Exchange. CSCL Asia primarily operates in the China trade routes, which in the past few years have experienced significant growth. Nine containerships in our fleet are under time charters with HL USA, which is an affiliate of Hapag Lloyd, the fifth largest container shipping company in the world by TEU capacity as of December 28, 2007. Our four 4800 TEU vessels are chartered to APM, the world's largest container shipping company based on TEU capacity as of December 28, 2007. Two container ships are currently chartered to

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COSCON, the world's seventh largest container shipping company based on TEU capacity as of December 28, 2007. The 39 containerships that we have contracted to purchase or lease, as the case may be, will similarly be chartered on a long-term basis.

Critical Accounting Estimates

We prepare our consolidated financial statements in accordance with accounting principles generally accepted in the United States ("GAAP"), and we make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and the related disclosures of contingent obligations. On an on-going basis, we evaluate our estimates and judgments. We base our estimates on historical experience and anticipated results and trends and on various other assumptions that we believe are reasonable under the circumstances. By their nature, estimates are subject to an inherent degree of uncertainty. Actual results may differ from our estimates.

Senior management has discussed with our audit committee the development, selection, and disclosure of accounting estimates used in the preparation of our consolidated financial statements.

Revenue Recognition

Charter revenue is generated from long-term time charters for each vessel and commences as soon as the vessel is delivered. Time charter revenues are recorded on a straight-line basis over the initial term of the charter arrangement. The charters provide for a per vessel fixed daily charter hire rate. We do not enter into spot voyage arrangements with respect to any of our vessels. Although our charter revenues are fixed, and accordingly little judgment is required to be applied to the amount of revenue recognition, there is no certainty as to the daily charter rates or other terms that will be available upon the expiration of our existing charter party agreements.

Vessel Lives

Our vessels represent our most significant assets. The initial fleet of 10 vessels is carried at the historical carrying value of the predecessor, which includes capitalized interest during construction and other construction, design, supervision and predelivery costs, less accumulated depreciation. The difference between the purchase price of the initial fleet and the historical carrying value was charged against shareholders' equity at the time of the acquisition. All additional vessels purchased subsequent to our initial public offering are recorded at their cost to us, reflecting the fair value of the consideration we pay upon their acquisition. We depreciate our vessels using the straight-line method over their estimated useful lives. We review the estimate of our vessels useful lives on an ongoing basis to ensure they reflect current technology, service potential, and vessel structure. For accounting purposes, we estimate the useful life of the vessels will be 30 years from the date of initial completion. Should certain factors or circumstances cause us to revise our estimate of vessel service lives in the future, depreciation expense could be materially lower or higher. Such factors include, but are not limited to, the extent of cash flows generated from future charter arrangements, changes in international shipping requirements, and other factors, many of which are outside of our control.

Impairment of Long-lived Assets

We evaluate the net carrying value of our vessels for possible impairment when events or conditions exist that cause us to question whether the carrying value of the vessels will be recovered from future undiscounted net cash flows. Considerations in making such an impairment evaluation would include comparison of current carrying value to anticipated future operating cash flows, expectations with respect to future operations, and other relevant factors. To the extent that the carrying value of the vessels exceeds the undiscounted estimated future cash flows, the vessels would be written down to their fair value.

Intangible Assets

For certain vessels where the Company provides lubricants for the operation of such vessels, the Company has a contractual right to have the vessel returned with the same level and complement of lubricants. This contractual right is recorded as an intangible asset at the historical fair value of the lubricants at the time of delivery. Intangible assets are tested for impairment annually or more frequently due to events or changes in circumstances that indicate the asset might be impaired. An impairment loss is recognized when the carrying amount of the intangible asset exceeds its fair value.

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Derivative Instruments

Our hedging policies permit the use of various derivative financial instruments to manage interest rate risk. Interest rate swap and swaption agreements have been entered into to reduce our exposure to market risks from changing interest rates. Derivatives and hedging activities are accounted for in accordance with FASB Statement No. 133, *Accounting for Derivative Instruments and Certain Hedging Activities*, as amended, which requires that all derivative instruments be recorded on the balance sheet at their respective fair values. We recognize the interest rate swap and swaption agreements on the balance sheet at their fair value.

To qualify for hedge accounting, derivatives must be highly effective at reducing the risk associated with the exposure being hedged and must be formally designated as a hedge at the inception of the hedging relationship. We consider a hedge to be highly effective if the change in fair value of the derivative hedging instrument is within 80% to 125% of the opposite change in the fair value of the hedged item attributable to the hedged risk. For interest rate swap agreements that are formally designated as cash flow hedges, the changes in the fair value of these interest rate swaps are recorded in other comprehensive income and are reclassified to earnings when the hedged transaction is reflected in earnings. Ineffective portions of the hedges are recognized in earnings as they occur. Actual cash receipts and/or payments and related accruals on derivatives related to hedges are recorded as adjustments to the interest income or interest expense associated with the hedged item. During the life of the hedge, we formally assess whether each derivative designated as a hedging instrument continues to be highly effective in offsetting changes in the fair value or cash flows of hedged items. If it is determined that a hedge has ceased to be highly effective, we will discontinue hedge accounting prospectively.

While the hedged level of interest anticipates borrowings in excess of current levels, we believe such future borrowings and interest payments are probable based on the financing requirements for ships currently under contract. Our ongoing ability to employ hedge accounting is dependent on our ability to demonstrate that the hedges continue to be highly effective in offsetting the interest rate variability associated with the hedged interest payments. The effectiveness of these hedges is dependent on a variety of factors, including the amount of variable rate debt, the timing of borrowings (which is based on vessel construction payments), the interest reset terms, and the timing and frequency of interest payments.

If the Company de-designates a hedging relationship and discontinues hedge accounting, the Company evaluates the future settlements to determine whether there are any hedged interest rate payments that are improbable to occur. When such amounts are identified as being improbable, the balance pertaining to these amounts that is included in accumulated other comprehensive income is reversed through earnings immediately. When amounts are not identified as improbable, any balances recorded in accumulated other comprehensive income at the de-designation are recognized in earnings when the actual settlements under the interest rate swap occur.

Other interest rate swap agreements and the swaption agreement that are not designated as hedging instruments are marked to market and are recorded on the balance sheet at fair value. The changes in the fair value of these instruments are recorded in earnings.

We do not hedge foreign currency translation of assets or liabilities or foreign currency transactions or use financial instruments for trading or other speculative purposes.

Historically, the predecessor did not designate their interest rate swap agreements as hedging instruments in accordance with the requirements in accounting literature, and recognized changes in the fair value of the interest rate swaps in earnings.

Recent Accounting Pronouncements

In September 2006, the Financial Accounting Standards Board (“FASB”) issued SFAS No. 157, *Fair Value Measurements* (SFAS 157), which defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS 157 does not require any new fair value measurements, but provides guidance on how to measure fair value by providing a fair value hierarchy used to classify the source of the information. SFAS 157 is effective for fiscal years beginning after November 15, 2007. In February 2008, the FASB delayed for one year the effective date of adoption with respect to certain non-financial assets and liabilities. Seaspan intends to defer the adoption of SFAS 157 with respect to certain non-financial assets and liabilities as permitted. The Company is currently evaluating the potential impact of the partial adoption of SFAS 157 on its consolidated financial position, results of operations and cash flows.

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In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities- including an Amendment of FASB Statement No. 115* (“SFAS 159”), which allows an entity to choose to measure certain financial instruments and liabilities at fair value. Subsequent measurements for the financial instruments and liabilities an entity elects to fair value will be recognized in earnings. SFAS 159 also establishes additional disclosure requirements. SFAS 159 is effective for us beginning January 1, 2008. We are currently evaluating the potential impact of the adoption of SFAS 159 on our consolidated financial position, results of operations and cash flows.

Important Financial and Operational Terms and Concepts

We use a variety of financial and operational terms and concepts when analyzing our performance. These include the following:

Bunkers. Heavy fuel and diesel oil used to power a ship’s engines.

Charter. The hire of a ship for a specified period of time or a particular voyage to carry a cargo from a loading port to a discharging port. The contract for a charter is commonly called a charterparty.

Charterer. The party that hires a ship for a period of time or for a voyage.

Charterhire. A sum of money paid to the shipowner by a charterer for the use of a ship. Charterhire paid under a voyage charter is also known as “freight.”

Classification society. An independent organization that certifies that a ship has been built and maintained according to the organization’s rules for that type of ship and complies with the applicable rules and regulations of the country of the ship’s registry and the international conventions of which that country is a member. A ship that receives its certification is referred to as being “in-class.”

Dry-docking. The removal of a ship from the water for inspection and repair of those parts of a ship that are below the water line. During dry-dockings, which are required to be carried out periodically, certain mandatory classification society inspections are carried out and relevant certifications are issued. Dry-dockings for containerships are generally required once every five years, one of which must be a Special Survey.

Ship operating expenses. The costs of operating a ship, primarily consisting of crew wages and associated costs, insurance premiums, management fee, lubricants and spare parts, and repair and maintenance costs. Ship operating expenses exclude fuel cost, port expenses, agents’ fees, canal dues and extra war risk insurance, as well as commissions, which are included in “voyage expenses.”

Special survey. The inspection of a ship by a classification society surveyor that takes place every five years, as part of the recertification of the ship by a classification society.

Spot market. The market for immediate chartering of a ship, usually for single voyages.

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

Time charter. A charter under which the shipowner hires out a ship for a specified period of time. The shipowner is responsible for providing the crew and paying ship operating expenses while the charterer is responsible for paying the voyage expenses and additional voyage insurance. The shipowner is paid charterhire, which accrues on a daily basis.

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Voyage charter. A charter under which a shipowner hires out a ship for a specific voyage between the loading port and the discharging port. The shipowner is responsible for paying both ship operating expenses and voyage expenses. Typically, the charterer is responsible for any delay at the loading or discharging ports. The shipowner is paid freight on the basis of the cargo movement between ports.

Voyage expenses. Expenses incurred due to a ship's traveling from a loading port to a discharging port, such as fuel (bunkers) cost, port expenses, agents' fees, canal dues, extra war risk insurance and commissions.

Year Ended December 31, 2007 Compared with Year Ended December 31, 2006

The following discussion of our financial condition and results of operations is for the years ended December 31, 2007 and 2006. The consolidated financial statements have been prepared in accordance with GAAP and, except where otherwise specifically indicated, all amounts are expressed in U.S. dollars.

The following table presents our operating results for the years ended December 31, 2006 and 2007.

	Year Ended December 31, 2006 (as adjusted) (1)	Year Ended December 31, 2007
Statement of operations data (in thousands of dollars):		
Revenue	\$ 118,489	\$ 199,235
Operating expenses:		
Ship operating	27,869	46,174
Depreciation	26,878	50,162
General and administrative	4,911	6,006
Operating earnings	58,831	96,893
Other expenses (income):		
Interest expense	17,594	34,062
Interest income	(1,542)	(4,074)
Undrawn credit facility fee	2,803	3,057
Amortization of deferred charges	1,980	1,256
Write-off on debt refinancing	—	635
Change in fair value of financial instruments	908	72,365
Net earnings (loss)	<u>\$ 37,088</u>	<u>\$ (10,408)</u>
Common shares outstanding at year end:	47,522,350	57,541,933
Per share data (in dollars):		
Basic and diluted earnings (loss) per share	\$ 0.98	\$ (0.20)
Cash dividends paid per share	\$ 1.70	\$ 1.785
Statement of cash flows data (in thousands of dollars):		
Cash flows provided by (used in):		
Operating activities	\$ 71,363	\$ 113,168
Investing activities	(605,652)	(1,104,704)
Financing activities	610,798	1,022,443
Net increase in cash and cash equivalents	<u>\$ 76,509</u>	<u>\$ 30,907</u>
Selected balance sheet data (in thousands of dollars):		
Cash and cash equivalents	\$ 92,227	\$ 123,134
Vessels	1,198,782	2,424,253

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	Year Ended December 31, 2006	Year Ended December 31, 2007
	(as adjusted) ⁽¹⁾	
Fair value of financial instruments	10,711	—
Other assets	15,496	29,514
Total assets	\$ 1,317,216	\$2,576,901
Other liabilities	11,167	15,716
Fair value of financial instruments	15,831	135,617
Long-term debt	563,203	1,339,438
Other long-term liability	—	223,804
Shareholders' equity	727,015	862,326
Total liabilities and shareholders' equity	\$ 1,317,216	\$2,576,901
Other data:		
Number of vessels in operation at period end	23	29
Average age of fleet in years at period end	4.8	4.7
TEU capacity at period end	108,473	143,207
Average remaining initial term on outstanding charters	8.1	7.7
Fleet utilization	99.0%	99.0%

(1) Effective January 1, 2007, the Company adopted FSP AUG AIR-1, Accounting for Planned Major Maintenance Activities, which provides guidance on the accounting for planned major maintenance activities. Previously, the Company accounted for dry-dock activities using the accrue-in-advance method. The Company has adopted the deferral method of accounting for dry-dock activities whereby actual costs incurred are deferred and amortized on a straight line basis over the period until the next scheduled dry-dock activity. The Company has applied FSP AUG AIR-1 retrospectively, and, as a result, the results for the 142-day period ended December 31, 2005 and the year ended December 31, 2006 have been adjusted.

We began the year with 23 vessels in operation and took delivery of six newbuilding vessels during 2007 for a total of 29 vessels in operation at December 31, 2007. Operating days are the primary driver of revenue while ownership days are the driver for ship operating costs.

	Year Ended December 31,		Increase	
	2007	2006	Days	%
Operating days	9,731	6,057	3,674	60.7%
Ownership days	9,829	6,119	3,710	60.6%

Revenue

Revenue increased by 68.1%, or \$80.7 million, to \$199.2 million for the year ended December 31, 2007, compared with \$118.5 million for the year ended December 31, 2006, which was primarily due to the six vessels delivered during 2007 and a full year of operations in 2007 for the ten vessels delivered in 2006. The delivery of these six vessels contributed 1,433 of the 9,731 operating days, which increased revenue by \$33.6 million for the year ended December 31, 2007. We incurred 98 days of off-hire for the year, which impacted revenue by \$2.1 million. Vessel utilization was 99.0% for the year ended December 31, 2007, consistent with the year ended December 31, 2006.

Ship Operating Expenses

Ship operating costs increased by 65.7%, or \$18.3 million, to \$46.2 million for the year ended December 31, 2007, from \$27.9 million for the year ended December 31, 2006. The increase over the prior year is due to an increase in the number of ownership days from 6,119 in 2006 to 9,829 in 2007.

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Depreciation

Depreciation increased by 86.6%, or \$23.3 million, to \$50.2 million for the year ended December 31, 2007, from \$26.9 million for the year ended December 31, 2006. The increase was primarily due to a full year of amortization for the 2006 vessel deliveries and the impact of the 2007 vessel deliveries.

General and Administrative Expenses

General and administrative expenses increased by 22.3%, or \$1.1 million, to \$6.0 million for the year ended December 31, 2007, from \$4.9 million for the year ended December 31, 2006. This increase is primarily due to increased costs to support growth initiatives through strategic planning and investor relation activities. The increase is also due to \$0.3 million increase in share based compensation expense that reflected an increase in the share price on a year over year basis

Interest Expense

Interest expense increased by 93.6%, or \$16.5 million, to \$34.1 million for the year ended December 31, 2007, from \$17.6 million for the year ended December 31, 2006. The increase was due to the additional funds drawn under the operating credit facility to fund the six new operating vessels delivered during 2007 and the full year of operation for the ten vessels delivered in 2006. We have entered into interest rate swap agreements to reduce our exposure to market rate risks from changing interest rates on our LIBOR based payments on our facilities. The interest expense received or paid on these interest rate swaps are netted with or added to interest expense on our credit facilities.

The interest on our \$365.0 million revolving credit facility, \$218.4 million credit facility and \$920.0 million credit facility were capitalized to vessels under construction.

Undrawn Credit Facility Fee

During the year ended December 31, 2007, we incurred \$3.1 million in undrawn credit facility fees compared with \$2.8 million for the year ended December 31, 2006, an increase of 9.1%. The commitment fee for our \$1.3 Billion Credit Facility is 0.2625% of the applicable margin on the difference between our total credit facility amount and our principal amounts outstanding under the credit facility. The commitment fee on our \$365.0 million revolving credit facility and \$218.4 million credit facility is 0.3% per annum on the undrawn facility amount. The commitment fee on our \$920.0 million credit facility is 0.2% per annum on the undrawn credit facility amount. The commitment fees are expensed as incurred.

Interest Income

During the year ended December 31, 2007, we earned interest income of \$4.1 million compared with \$1.5 million for the year ended December 31, 2006 through investing excess cash balances in highly liquid securities with terms to maturity of three months or less.

Amortization of Deferred Charges

Amortization of deferred charges decreased 36.6%, or \$0.7 million, to \$1.3 million for the year ended December 31, 2007, from \$2.0 million for the year ended December 31, 2006.

Amortization of deferred charges relating to our financing fees decreased by 49.0%, or \$1.0 million, to \$1.0 million for the year ended December 31, 2007, from \$2.0 million for the year ended December 31, 2006. The decrease was due to the amortization of deferred financing fees on Tranche B of the original \$1.3 billion credit facility which expired on February 28, 2007. Financing fees are deferred and amortized over the terms of the individual credit facilities using the interest yield basis. The amortization of the deferred financing fees on the \$1.3 Billion Credit Agreement and Tranche A of the \$365.0 million revolving credit facility are expensed as incurred while the amortization of the deferred financing fees on Tranche B of the \$365.0 million revolving credit facility, the \$218.4 million term loan facility and the \$920.0 million credit facility are being capitalized to the vessels under construction.

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As a result of the adoption of FSP AUG AIR-1, we have adopted the deferral method of accounting for dry-dock activities whereby actual costs incurred are deferred and amortized on a straight line basis over the period until the next scheduled dry-dock activity. Amortization of deferred charges relating to dry-docking increased to \$0.2 million for the year ended December 31, 2007, from \$14,000.

Change in Fair Value of Financial Instruments

The change in fair value of financial instruments is \$72.4 million loss for the year ended December 31, 2007 compared to \$0.9 million loss for the year ended December 31, 2006. We experienced a significant decline in the fair value of our undesignated interest rate swaps due to significant decreases in short term LIBOR rates. The change in fair value of financial instruments is included in other expenses, which is not part of operating earnings and has no cash impact. The financial instruments consist entirely of fixed interest rate swaps and swaptions that we enter into to lock in the return on our acquisitions and provide predictable long term cash earnings and distributions to our shareholders. Certain of our interest rate swaps are accounted for as hedging instruments in accordance with the requirements in accounting literature. As a result, the effective changes in the fair value of our interest rate swap agreements that qualify for hedge accounting are excluded from earnings until settled. The change in fair value of financial instruments represents the ineffective portion of our interest rate swap agreements that are accounted for as hedging instruments and the change in fair value of the financial instruments that do not qualify for hedge accounting.

Year Ended December 31, 2006 Compared with Year Ended December 31, 2005

The following discussion of our financial condition and results of operations is for the years ended December 31, 2006 and 2005. The year ended December 31, 2005 includes the predecessor's 223 day operating period ended August 11, 2005 and 142 days of operations beginning on August 12, 2005, the date of completion of our initial public offering. The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") and, except where otherwise specifically indicated, all amounts are expressed in United States dollars.

The following table presents our operating results for the years ended December 31, 2005 and 2006.

	Year Ended December 31, 2005 ⁽¹⁾	Year Ended December 31, 2006 (as adjusted)
	(as adjusted) ⁽²⁾	(2)
Statement of operations data (in thousands of dollars):		
Revenue	\$ 74,960	\$ 118,489
Operating expenses:		
Ship operating	15,565	27,869
Depreciation	17,090	26,878
General and administrative	1,912	4,911
Operating earnings	40,393	58,831
Other expenses (income):		
Interest expense	16,262	17,594
Interest income	(141)	(1,542)
Undrawn credit facility fee	1,041	2,803
Amortization of deferred charges	1,176	1,980
Change in fair value of financial instruments	(7,308)	908
Net earnings	<u>\$ 29,363</u>	<u>\$ 37,088</u>
Common shares outstanding at year end:	35,991,600	47,522,350
Per share data (in dollars):		
Basic and diluted earnings (loss) per share	\$ 0.41	\$ 0.98
Cash dividends paid	\$ 0.23	\$ 1.70

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	Year Ended December 31, 2005 ⁽¹⁾	Year Ended December 31, 2006
	(as adjusted) ⁽²⁾	(as adjusted) ⁽²⁾
Statement of cash flows data (in thousands of dollars):		
Cash flows provided by (used in):		
Operating activities	\$ 43,404	\$ 71,363
Investing activities	(847,192)	(605,652)
Financing activities	818,649	610,798
Net increase in cash and cash equivalents	<u>\$ 14,861</u>	<u>\$ 76,509</u>
Selected balance sheet data (in thousands of dollars):		
Cash and cash equivalents	\$ 15,718	\$ 92,227
Vessels	621,163	1,198,782
Fair value of financial instruments	4,799	10,711
Other assets	9,298	15,496
Total assets	<u>\$ 650,978</u>	<u>\$ 1,317,216</u>
Other liabilities	4,226	11,167
Fair value of financial instruments	—	15,831
Long-term debt	122,893	563,203
Shareholders' equity	523,859	727,015
Total liabilities and shareholders' equity	<u>\$ 650,978</u>	<u>\$ 1,317,216</u>
Other data:		
Number of vessels in operation at period end	13	23
Average age of fleet in years at period end	1.9	4.8
TEU capacity at period end	63,719	108,473
Average remaining initial term on outstanding charters	9.2	8.1
Fleet utilization	100%	99.0%

(1) Includes the predecessor's 223 day operating period ended August 11, 2005.

(2) Effective January 1, 2007, the Company adopted FSP AUG AIR-1, Accounting for Planned Major Maintenance Activities, which provides guidance on the accounting for planned major maintenance activities. Previously, the Company accounted for dry-dock activities using the accrue-in-advance method. The Company has adopted the deferral method of accounting for dry-dock activities whereby actual costs incurred are deferred and amortized on a straight line basis over the period until the next scheduled dry-dock activity. The Company has applied FSP AUG AIR-1 retrospectively, and, as a result, the results for the 142-day period ended December 31, 2005 and the year ended December 31, 2006 have been adjusted.

We began the year with 13 vessels in operation that contributed 4,683 operating days for 2006 compared with 3,648 operating days in 2005. During the year, we took delivery of ten vessels consisting of six 4250 TEU vessels and four second hand 4800 TEU vessels. These additional deliveries contributed 1,374 operating days.

Revenue

Revenue for the period was based on contracted daily rates for each vessel. Charter revenue increased by 58.1%, or \$43.5 million, to \$118.5 million for the year ended December 31, 2006, from \$75.0 million for the year ended December 31, 2005. During the year ended December 31, 2005, ten vessels were delivered contributing \$25.4 million in revenue and 1,374 operating days. Our vessel utilization was 99.0% in 2006 which is comparable to our 2005 utilization of 100%.

Ship Operating Expenses

Ship operating costs increased by 79.0%, or \$12.3 million, to \$27.9 million for the year ended December 31, 2006, from \$15.6 million for the year ended December 31, 2005. The increase over the prior year is due to an increase in the number of ownership days from 3,648 in 2005 to 6,119 in 2006.

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Historically, the predecessor was responsible for and incurred all ship operating expenses. Subsequent to our initial public offering, our ship operating expenses, including crewing, dry-docking, victualling, stores, lube oils, communication expenses, repairs and maintenance, insurance and other expenses related to the technical management of the vessels, are borne by our Manager under our management agreement. Operating expenses for the period are calculated based on contracted daily rates for each vessel, as specified in our management agreement, multiplied by the number of days in which each ships operates in a year. Because these payments are fixed at a contracted daily rate, any volatility in actual ship operating expenses will be absorbed by our Manager. Certain extraordinary costs, however, are not covered by our contracted daily rate. At December 31, 2006, we had 23 vessels in operations which include the additional ten vessels delivered during the year.

Depreciation

Depreciation increased by 57.3%, or \$9.8 million, to \$26.9 million for the year ended December 31, 2006, from \$17.1 million for the year ended December 31, 2005. The increase was primarily due to a full year of amortization for the 2005 deliveries and the impact of the 2006 vessel deliveries.

General and Administrative Expenses

General and administrative expenses increased by 157.6%, or \$3.0 million, to \$4.9 million for the year ended December 31, 2006, from \$1.9 million for the year ended December 31, 2005 due to additional legal, accounting, treasury, rent, securities regulatory compliance, executive salaries, travel, board of directors fees, insurance, audit, agency fees, and other costs normally incurred by a publicly listed company.

Interest Expense

Interest expense increased by 8.2%, or \$1.3 million, to \$17.6 million for the year ended December 31, 2006, from \$16.3 million for the year ended December 31, 2005.

The increase was due to additional draw downs on our \$1.0 billion credit facility to fund the 2006 deliveries. We have entered into interest rate swap agreements to reduce our exposure to market rate risks from changing interest rates on our LIBOR based payments on our facilities. The interest expense received or paid on these interest rate swaps are netted with or added to interest expense on our credit facilities.

The interest on our \$365.0 million revolving credit facility and \$218.4 million credit facility were capitalized to the eight 2500 TEU vessels and four 5100 TEU vessels under construction.

Undrawn Credit Facility Fee

During the year ended December 31, 2006, we incurred \$2.8 million in undrawn credit facility fees compared with \$1.0 million for the year ended December 31, 2005, an increase of 169.3%. The commitment fee for our \$1.0 billion credit facility is 37.5% of the applicable margin on the difference between our total credit facility amount and our principal amounts outstanding under the credit facility. The commitment fee on our \$365.0 million revolving credit facility and \$218.4 million credit facility is 0.3% per annum on the undrawn facility amount. The commitment fees are expensed as incurred.

Interest Income

During the year ended December 31, 2006, we earned interest income of \$1.5 million compared with \$0.1 million for the year ended December 31, 2005 through investing excess cash balances in highly liquid securities with terms to maturity of three months or less.

Amortization of Deferred Charges

Amortization of deferred charges increased 68.4%, or \$0.8 million, to \$2.0 million for the year ended December 31, 2006, from \$1.2 million for the year ended December 31, 2005.

Amortization of deferred financing fees relating to our credit increased by 67.2%, or \$0.8 million, to \$2.0 million for the year ended December 31, 2006, from \$1.2 million for the year ended December 31, 2005. The

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increase was due to fees and other direct costs incurred for entering into our \$365.0 million revolving credit facility and \$218.4 million term loan facility. Financing fees are deferred and amortized over the terms of the individual credit facilities using the interest yield basis. The amortization of the deferred financing fees on the \$1.0 billion credit facility is expensed as incurred while the amortization of the deferred financing fees on the \$365.0 million revolving credit facility and \$218.4 million term loan facility are being capitalized to the vessels under construction.

As a result of the adoption of FSP AUG AIR-1, we have adopted the deferral method of accounting for dry-dock activities whereby actual costs incurred are deferred and amortized on a straight line basis over the period until the next scheduled dry-dock activity.

Change in Fair Value of Financial Instruments

The change in fair value of financial instruments is \$0.9 million loss for the year ended December 31, 2006 compared to \$7.3 million income for the year ended December 31, 2005. Certain of our interest rate swaps are accounted for as hedging instruments in accordance with the requirements in accounting literature. As a result, the effective changes in the fair value of our interest rate swap agreements that qualify for hedge accounting are excluded from earnings until settled. The change in fair value of financial instruments represents the ineffective portion of our interest rate swap agreements that are accounted for as hedging instruments and the change in fair value of the financial instruments that do not qualify for hedge accounting. The predecessor did not designate their interest rate swap agreements as hedging instruments in accordance with the requirements in accounting literature, and recognized changes in the fair value of the interest rate swaps in the earnings for the periods ended August 11, 2005 and December 31, 2004.

B. Liquidity and Capital Resources

Liquidity and Cash Needs

At December 31, 2007, our cash and cash equivalents totaled \$123.1 million. At December 31, 2007, we have drawn \$757.9 million of an available \$1.3 billion under our \$1.3 Billion Credit Agreement to fund the delivery of and pay certain installments for certain of our vessels.

There are restrictions on the amount that can be advanced to us under the \$1.3 Billion Credit Agreement based on the market value of the vessel or vessels in respect of which the advance is being made. This facility has a maturity date of May 11, 2014, except that we have the option to extend the facility maturity for one additional year under certain circumstances. For more information, please read “Our \$1.3 Billion Credit Facility.”

We entered into our \$365 Million Credit Agreement on May 19, 2006. This facility is split into two separate tranches, one to fund the acquisition of the 3500 TEU vessels and the second to fund the construction of eight of our ten 2500 TEU vessels. We are also able to use the facility for general corporate purposes in certain circumstances.

During the year ended December 31, 2007, we drew \$111.2 million of the \$283.0 million available in the second tranche under the \$365 Million Credit Agreement to fund the construction of the 2500 TEU vessels. No amounts to date have been drawn from the first tranche of this credit facility. For more information, please read “Our \$365 Million Credit Facility.”

On October 16, 2006, we entered into a credit facility for \$218.4 million. The proceeds of this facility are being used to partially finance the construction of the four 5100 TEU vessels that will be built by HHI. During the year ended December 31, 2007, we drew \$83.7 million available under this credit facility to fund the construction of the 5100 TEU vessels. For more information on this facility, please read “Our \$218.4 Million Credit Facility.”

On August 8, 2007, we entered into the \$920 Million Credit Agreement, the proceeds of which have been used to finance the construction of two of the ten 2500 TEU vessels under construction by Jiangsu, the four 4250 TEU vessels to be constructed by New Jiangsu and the eight 8500 TEU vessels to be constructed by HHI. After delivery of these vessels, we may use the facility for general corporate purposes. During the year ended December 31, 2007, we drew \$336.6 of the \$920 million available under this facility. See “Our \$920 Million Credit Facility” for more information on this facility.

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We also entered into the \$150 Million Credit Agreement on December 28, 2007 with two of our wholly-owned subsidiary companies, Seaspan Finance II Co. Ltd. and Seaspan Finance III Co. Ltd., as borrowers. We guaranteed the obligations of our subsidiaries under the terms of the agreement. The proceeds of the facility are available to finance construction of two of our 13100 TEU vessels; one of which is under construction by HHI and the other by HSHI. After delivery of these vessels, we may use the facility for general corporate purposes.

As of December 31, 2007, we drew \$50.0 million of the \$150 million available under this facility. For more information, please read “Our \$150 Million Credit Facility.”

Our primary short-term liquidity needs are to fund our operating expenses, including payments under our management agreement, and payment of our quarterly dividend. Our medium-term liquidity needs primarily relate to the purchase of the containerships we have contracted to purchase. Our long-term liquidity needs primarily relate to vessel acquisitions and debt repayment. We anticipate that our primary sources of funds for our short and medium-term liquidity needs will be our committed credit facility, new credit facilities, additional equity offerings as well as our cash from operations, while our long-term sources of funds will be from cash from operations and/or debt or equity financings. We believe that these sources of funds will be sufficient to meet our liquidity needs for the foreseeable future.

Our dividend policy will impact our future liquidity needs. Our board of directors has adopted a dividend policy to pay a regular quarterly dividend on our common and subordinated shares while reinvesting a portion of our operating cash flow in our business. Retained cash may be used to, among other things, fund vessel or fleet acquisitions, other capital expenditures and debt repayments, as determined by our board of directors. Our dividend policy reflects our judgment that by retaining a portion of our cash in our business over the long-term, we will be able to provide better value to our shareholders by enhancing our longer term dividend paying capacity. Although it is our goal to further grow our dividend through accretive acquisitions of additional vessels, there can be no assurance that we will be successful in meeting this goal. If our future liquidity needs are greater than currently anticipated, we could reduce or eliminate the cash available for distribution as dividends. In such event, our board of directors may change our dividend policy. Please read “Financial Information—Dividend Policy.”

As of December 31, 2007, the total purchase price of the 34 vessels that we have contracted to purchase was estimated to be approximately \$2.6 billion, which we expect to fund primarily from our credit facilities and from the sale of additional common shares. Our obligation to purchase the vessels we have contracted to purchase is not conditional upon our ability to obtain financing for such purchase.

All of the vessels that are currently chartered and that we will acquire are chartered to charterers under long-term time charters, and these charterers’ payments to us are and will be our sole source of operating cash flow. At any given time in the future, cash reserves of the charterers may be diminished or exhausted, and we cannot assure you that the charterers will be able to make charter payments to us. If the charterers are unable to make charter payments to us, our results of operations and financial condition will be materially adversely affected.

We have good commercial relations with each of our customers and we believe they will be able to meet their commitments under their charter agreements with us. Part of our business strategy is to grow our customer base. If our existing charters with CSCL Asia, HL USA, APM or COSCON were terminated, based on current charter rates, we believe we could recharter such vessels at rates higher than our existing rates over similar time periods, although we cannot assure you that this would be the case. If market rates decline and we recharter at lower rates, our results of operations and financial condition could be materially adversely affected.

Operating Activities Cash Flows

Net cash from operating activities increased by \$41.8 million, to \$113.2 million for the year ended December 31, 2007, from \$71.4 million for the year ended December 31, 2006. The increase was primarily attributable to the delivery of 6 additional vessels in 2007. Cash flow from operating activities for the year ended December 31, 2007 reflects net loss from operations of \$10.4 million, non-cash items of \$125.8 million and decrease in assets and liabilities of \$2.2 million.

The predecessor’s net cash flow from operating activities was exposed to fluctuations in operating expenses. Our operating expenses are borne by our Manager pursuant to our management agreements. We pay our

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Manager a contracted daily operating expense rate per vessel for technical services it provides to us. In return for providing us with strategic and administrative management, our Manager is entitled to reimbursement of all reasonable costs and expenses incurred by it and its affiliates in providing us with such services plus a monthly administrative services fee not to exceed \$6,000 per month. As such, we expect that our operating cash flow will increase at a stable incremental rate as the size of our fleet increases, with minor fluctuations for normal changes in working capital balances, vessel off-hire periods, such as dry-docking and repairs and maintenance activity and general and administrative expenses.

Net cash from operating activities was \$71.4 million during the year ended December 31, 2006, reflecting net earnings from operations of \$37.1 million, non-cash items of \$30.9 million and increase in assets and liabilities of \$3.3 million.

Net cash from operating activities for the year ended December 31, 2005 reflects net earnings of \$29.4 million, non-cash items of \$11.0 million and changes in assets and liabilities of \$3.1 million.

Investing Activities Cash Flows

Cash used in investing activities increased by \$499.1 million, to \$1.1 billion for the year ended December 31, 2007, from \$605.7 million for the year ended December 31, 2006. Cash used in investing activities for the year ended December 31, 2007 consisted solely of net cash payments for vessel deliveries, vessel construction costs, and acquisition of intangible assets. Please read “Results of Operations—Critical Accounting Estimates—Intangible Assets” in this Annual Report.

Cash used in investing activities was \$605.7 million for the year ended December 31, 2006, which consisted solely of net cash payments for vessel deliveries, vessel construction costs, and acquisition of intangible assets.

Cash used in investing activities was \$847.2 million for the year ended December 31, 2005. On completion of our initial public offering, we purchased ten vessels for \$664.0 million. On August 17, 2005, we purchased the CSCL Melbourne for \$52.7 million, on September 15, 2005, we purchased the CSCL Brisbane for \$52.7 million, and on October 18, 2005, we purchased the New Delhi Express for \$56.9 million. Prior to the IPO, the predecessor’s cash flow from investing activities consisted solely of net cash payments for vessel construction.

Financing Activities Cash Flows

Net cash from financing activities increased by \$411.6 million, to \$1.0 billion for the year ended December 31, 2007, from \$610.8 million for the year ended December 31, 2006. During the year ended December 31, 2007, we completed two public equity offerings. The April 2007 offering was of 5,475,000 common shares, including the additional 475,000 common shares issued pursuant to the underwriters’ exercise of their over-allotment options, for net proceeds of approximately \$154.4 million. The August 2007 offering was of 4,500,000, for net proceeds of approximately \$142.4 million. During the year, we borrowed \$424.9 million and \$600.3 million, respectively, from our credit facilities to fund the purchase of certain of our delivered vessels and to fund the installment payments and construction costs of the vessels under construction. We incurred another long-term liability of \$53.1 million for the deposits on vessels under construction for the vessels to be leased from Peony. We also made \$249.0 million of repayments under our \$1.3 Billion Credit Agreement to reduce our operating debt. We also incurred \$9.4 million in financing fees and paid cash dividends of \$94.3 million.

During the year ended December 31, 2006, we completed our public equity offering of 11,500,000 common shares including the additional 1,150,000 common shares issued pursuant to the underwriters’ exercise of their over-allotment option, for net proceeds of \$235.1 million. We incurred \$12.1 million in costs in connection with our public equity offering. During the year, we borrowed \$440.3 million from our credit facilities to fund the purchase of certain of our delivered vessels and to fund the installment payments and construction costs of the vessels under construction. We also incurred \$3.4 million in financing fees and paid cash dividends of \$61.2 million.

During the year ended December 31, 2005, we completed our initial public offering, issuing 35,715,100 common shares for net proceeds of \$710.5 million. On September 13, 2005, our underwriters exercised their over-allotment option and we issued an additional 276,500 common shares for net proceeds of \$5.8 million. We incurred

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\$45.3 million in costs in connection with our initial public offering. We also incurred an additional \$7.3 million in financing fees as a result of obtaining our credit facility and paid a cash dividend of \$8.3 million, or \$0.23 per share. During the year, we borrowed \$122.9 million from our credit facility to fund the purchase of the CSCL Melbourne, CSCL Brisbane and the New Delhi Express. Prior to the IPO, the predecessor's cash flow from financing activities included a reduction of restricted cash of \$11.5 million, issuance of long term debt of \$45.3 million, repayment of long term debt of \$11.2 million and repayment of amounts due to related part of \$21.4 million.

Ongoing Capital Expenditures and Dividends

The average age of the vessels in our operating fleet is less than five years; as such, no significant capital expenditures for dry-docking and maintenance have occurred in the past. During the first quarter of 2007, the CSCL Chiwan incurred approximately 9 days of off-hire for repairs to its rudder-horn.

Our Manager has included the cost of routine dry-docking within the technical services fee we pay pursuant to the management agreement. During 2007, three of our 4250 TEU vessels and three of our 4800 TEU vessels underwent their 5-year survey for a total of six dry-docks. There are no scheduled 5-year surveys in 2008.

The technical services fee does not cover extraordinary costs or expenses. We are insured for certain matters, but we cannot assure you that our insurance will be adequate to cover all of these matters. During 2007, we incurred approximately \$0.8 million of additional costs and expenses, which are not covered by the technical services fee. These costs include bunkers consumed during dry-docking and off-hire, repair costs and insurance deductibles.

We must make substantial capital expenditures over the long-term to preserve our capital base. If we do not retain funds in our business in amounts necessary to preserve our capital base over the long-term, we will not be able to continue to refinance our indebtedness or maintain our dividends. On an annual basis, we will likely need at some time in the future to retain funds in addition to such amount to provide reasonable assurance of maintaining our capital base over the long-term. We believe it is not possible to determine now, with any reasonable degree of certainty, when and how much of our operating cash flow we should retain in our business to preserve our capital base. We believe that the amounts we forecast to be able to retain in our business after the acquisition of our initial fleet will provide a substantial portion of our needs. There are a number of factors that will not be determinable for a number of years, but that will enter into our board of directors' future decisions regarding the amount of funds to be retained in our business to preserve our capital base, including the following:

- the remaining lives of our vessels;
- the returns that we generate on our retained cash flow, particularly the returns generated from investments in additional vessels (this will depend on the economic terms of any future acquisitions and charters, which are currently unknown);
- future market charter rates for our vessels, particularly with respect to our fleet when the vessels come off charter (this will depend on various factors, including: our existing charters are not expected to expire for approximately 5-12 years from their commencement; the existing charters are at rates substantially below current spot rates and short-term charter rates; but actual market charter rates when the existing charters expire are currently unknown);
- our future operating and interest costs, particularly after the expiration of the initial management fees and financing arrangements described in this Annual Report (our technical operating costs will be fixed until December 31, 2008 and will be subject to renegotiation thereafter; our initial financing costs are effectively hedged until at least February 2014; but future operating and financing costs are currently unknown);
- our future refinancing requirements and alternatives and conditions in the relevant financing and capital markets at that time; and
- unanticipated future events and other contingencies. Please read "Risk Factors."

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Our board of directors will periodically consider these factors in determining our need to retain funds rather than pay them out as dividends. Unless we are successful in making acquisitions with outside sources of financing, which add a material amount to our cash available for retention in our business or unless our board of directors concludes that we will likely be able to recharter our fleet upon expiration of existing charters at rates higher than the rates in our current charters, our board of directors will likely determine at some future date to reduce, or possibly eliminate, our dividend in order to be able to have reasonable assurance that it is retaining the funds necessary to preserve our capital base.

During the year ended December 31, 2007, we paid cash dividends of \$94.3 million, or \$1.785 per share. During the year ended December 31, 2006, we paid a cash dividend of \$61.2 million, or \$1.70 per share. During the year ended December 31, 2005, we paid a cash dividend of \$8.3 million or \$0.23 per share for the partial quarter ended September 30, 2005.

C. Research and Development

Not applicable.

D. Trend Information

In the containership charter market, there was significant upward movement in time charter rates in the period between the start of 2002 and the middle of 2005. Demand for containership capacity driven by increases in global container trade underpinned upward market movements, and the market recovered from the falls seen in 2001 to levels beyond previous market highs. Midway through 2005, containership charter rates began to fall as a result of increased capacity and falling freight rates, before stabilizing at the end of 2006.

The charter owner containership sector is also subject to the development of containership newbuilding prices, which reflect the cost of the acquisition of new containerships by owners from the shipyards. Since early 2003 newbuilding prices have risen substantially. The total newbuilding price for a theoretical 2750 TEU containership increased from \$29.5 million at the start of 2003 to \$53.0 million at the start of January 2008. Over the same period, for a theoretical 4700 TEU containership the newbuilding price rose from \$45.0 million to \$81.0 million, while the newbuilding price for a theoretical 6350 TEU containership increased from \$60.0 million to \$107.0 million. Economies of scale in containership building mean that the cost per TEU involved in building larger containerships is smaller than for ships with smaller TEU capacity.

E. Off-Balance Sheet Arrangements

At December 31, 2007, we do not have any off balance-sheet arrangements.

F. Contractual Obligations

On a pro forma basis our long-term undiscounted contractual obligations as of December 31, 2007, including amounts payable under our credit facility and interest rate swaps, consists of the following:

	Payments Due By Period				
	Total	Less Than 1 Year	1-3 years <i>(in thousands)</i>	3-5 years	More Than 5 Years
Long-term debt obligations	\$1,339,438	\$ —	\$ 4,715	\$ 50,574	\$1,284,149
Purchase obligations for additional vessels ⁽¹⁾	2,777,010	704,750	1,303,639	768,621	—
Fixed payments to the Manager for technical and administrative services under our management agreements ⁽²⁾	54,427	54,427	—	—	—
Total	<u>\$4,170,875</u>	<u>\$759,177</u>	<u>\$1,308,354</u>	<u>\$819,195</u>	<u>\$1,284,149</u>

(1) These obligations are for the 34 vessels that we have contracted to purchase and include the payments to be made on our behalf for the 5 vessels we have agreed to lease.

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- (2) The technical services portion of the fees are fixed through December 31, 2008 and includes payments for the vessels currently operating in our fleet at December 31, 2007 and fees for the vessels that we have contracted to purchase based on each of their contracted delivery dates. The administrative services portion of the fees is capped at \$6,000 per month, plus reimbursement for all reasonable costs and expenses incurred by our Manager and its affiliates in providing us with such services. For purposes of this table only, we have only included the fixed payments under our current management agreements which fix the technical services fee until December 31, 2008. The amounts presented above do not include reimbursements that may become payable to our Manager for administrative or strategic services provided.

Item 6. Directors, Senior Management and Employees

A. Directors and Senior Management

Our directors and executive officers as of the date of this annual report and their ages as of December 31, 2007 are listed below:

<u>Name</u>	<u>Age</u>	<u>Position</u>
Kyle Washington	37	Chairman of the Board of Directors
Gerry Wang	45	Chief Executive Officer and Director
Sai W. Chu	41	Chief Financial Officer
David Korbin	66	Director
Peter Lorange	64	Director
Peter S. Shaerf	53	Director
Milton K. Wong	68	Director
Barry R. Pearl	58	Director

Kyle Washington . Kyle Washington was appointed our Chairman of the Board in May 2005. He is also a Director and the Executive Chairman of the Board of SCLL and each of the VesselCos and he is a Director and Chairman of our Manager and certain of its operating subsidiaries. From 1998 to 2006, Mr. Washington was responsible for the overall corporate strategy of the Washington Marine Group and was active in developing senior level customer, supplier, competitor and governmental relationships. Within the Washington Marine Group, he was a Director and the Executive Chairman of Seaspan International Ltd., a marine transportation company that is involved in shipdocking, barging and shipyard enterprises. Mr. Washington has been a director of bioLytical Laboratories Inc. since 2005, a company that develops and manufactures a rapid HIV diagnostic product, and he is a principal of Copper Lion Capital, a \$100 million private equity fund he recently started. He was also Chairman of 2003 World Weightlifting Championships and is an active supporter of the Steve Nash Foundation. Mr. Washington is a graduate of the University of Montana with a degree in business administration.

Gerry Wang . Gerry Wang was appointed our Chief Executive Officer and Director in May 2005. Mr. Wang joined the Offshore Division of Seaspan International Ltd. in early 1990 and is currently a Director, Chief Executive Officer and President of SCLL and each of the VesselCos. Mr. Wang is also a Director and Chief Executive Officer of certain affiliates of our Manager. From 1986 to 1989, Mr. Wang was the business manager for China Merchants Group in Hong Kong. He graduated from Shanghai Maritime University in 1983 with a Bachelor's degree in Navigation, and in 1986, he earned a Master's degree in International Economics under the sponsorship program of the United Nations Economic and Social Council Asia Pacific. In 1993, he obtained his MBA degree from the University of British Columbia in Vancouver, BC, Canada.

Sai W. Chu . Sai W. Chu was appointed our Chief Financial Officer in June 2007. Mr. Chu was appointed Chief Financial Officer of Seaspan Ship Management Ltd., SCLL and Seaspan Crew Management Ltd. in May 2005 and each of the VesselCos in June 2005 after joining Seaspan Ship Management Ltd. as Corporate Controller in September 2004 and the Washington Marine Group as Corporate Controller in April 2004. Mr. Chu qualified as a Chartered Accountant in 1992 having articulated with KPMG LLP's Vancouver office and also qualified as a Certified Management Accountant in 1990. From 1995 to 1998, he was the Assistant Corporate Controller with Imperial Parking Limited, an integrated parking management company with operations in Asia and North America, which, at the time, was listed on the Toronto Stock Exchange. From 1998 to 1999, Mr. Chu was Manager, Financial Reporting, of BC Gas Inc. (now Terasen Inc.), a natural gas and oil transmission and distribution utility, which, at the time, was listed on the Toronto Stock Exchange. From 2000 to April 2004, he was Controller of Datawest Solutions Inc., a technology provider of banking and payment solutions, which, at the time, was listed on the Toronto Stock Exchange.

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David Korbin . David Korbin was appointed as a Director in August 2005. Mr. Korbin has been a Director of Ivanhoe Mines Ltd. (NYSE) since May 2006 and was appointed Chair of the audit committee for that company in May 2007. From 2001 to May 2007, he was a Director of E-Comm Emergency Communications for Southwest British Columbia Incorporated, serving as Chair of the board of directors from 2004 and as Chair of the audit committee from 2002 to 2003. From 1992 to 2000, he served as Director of the Vancouver General Hospital and then the Vancouver Hospital and Health Sciences Centre, serving as Chair of the Vancouver General Hospital audit committee from 1993 to 1994 and Chair of the Vancouver Hospital and Health Sciences Centre from 1995 to 1998. Mr. Korbin was qualified as a Chartered Accountant in 1966. For 16 of his 25 years in the accounting profession, he was managing partner of a number of smaller firms. From 1987 to 1990, Mr. Korbin was managing partner of the Vancouver office of Deloitte Haskins and Sells and from 1990 to 1992, he was managing partner of Deloitte Touche. Mr. Korbin was also on the National Board of both Deloitte Haskins and Sells and Deloitte Touche during his tenure as managing partner.

Peter Lorange . Peter Lorange was appointed as a Director in August 2005. Mr. Lorange has been President of IMD since July 1, 1993. He is Professor of Strategy and holds the Nestlé Chair. He was formerly President of the Norwegian School of Management in Oslo. Mr. Lorange was affiliated with the Wharton School, University of Pennsylvania for more than a decade in various assignments, including director for the Joseph H. Lauder Institute of Management and International Studies, and The William H. Wurster Center for International Management Studies, as well as The William H. Wurster Professor of Multinational Management. He has also taught at the Sloan School of Management (M.I.T.), IMEDE (now IMD), and the Stockholm School of Economics. Mr. Lorange serves on the board of directors of several corporations including: Christiania Eiendomsselskap A/S, StreamServe Inc., Preferred Global Health, Zaruma Resources Inc. and Omniwatt GmbH. He received his undergraduate education from the Norwegian School of Economics and Business, was awarded a Masters of Arts degree in Operations Management from Yale University, and his Doctor of Business Administration degree from Harvard University.

Peter S. Shaerf . Peter S. Shaerf was appointed as a Director in August 2005. Currently, Mr. Shaerf is a Managing Director at AMA Capital Partners LLC, a maritime investment bank based in New York. He started in the maritime industry over 33 years ago and has worked extensively as a broker of container and dry cargo vessels through The Commonwealth Group, a company he founded. From 1998 to April 2002, Mr. Shaerf was a Managing Director of Poseidon Capital, an independent maritime consulting and investment company. At AMA, he has continued developing relationships in the capital markets where he has worked primarily advising hedge funds and investors on a variety of maritime investments in both equity and distressed debt. Since May 2001, Mr. Shaerf has been a Director of General Maritime Corporation (NYSE). Since May 2002, he has been a director of TBS International (NASDAQ). He served as a board member of MC Shipping (AMEX) from 1993 to 2004 and Trailer Bridge (NASDAQ) from 2002 to 2007. He served four years as Vice-Chairman of the Government sponsored Short Sea Shipping Co-operative (SCOOP) from 2003 to 2007 and has recently been appointed Chairman of NYMAR (New York Maritime Inc.) a trade association formed to promote New York as a major maritime center. Mr. Shaerf received his B.A. in International Business Law from London Metropolitan University in London, England.

Milton K. Wong . Milton K. Wong was appointed as a Director in August 2005. Mr. Wong is also a director of The Pierre Elliot Trudeau Foundation, International Institute for Sustainable Development and the International Dragon Boat Festival. He is a past Director of Alcan and now serves on the advisory committee for the Rio Tinto Alcan Canada Forum. He founded M.K. Wong & Associates Ltd. ("MKW") in 1980 to provide investment counseling services to pension plans, foundations, mutual funds and individuals. MKW was acquired by HSBC in 1996. Currently, Mr. Wong is the non-executive chairman of the board of directors of HSBC Investments (Canada) Limited. He was appointed Chancellor Emeritus of Simon Fraser University in June 2005 after a six year term as Chancellor. He is a recipient of the Order of Canada and the Order of British Columbia and was awarded an Ernst & Young Lifetime Achievement Award in 2002. Mr. Wong received his Bachelor of Arts in Political Science from the University of British Columbia and was awarded an honorary Doctorate of Law from Simon Fraser University.

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Barry R. Pearl . Barry R. Pearl was appointed as a Director in October 2006. Mr. Pearl is a Principal of Kealine LLC, a private developer and operator of petroleum infrastructure facilities, and serves as a Director of Kayne Anderson Energy Development Company and Targa Resources Partners, L.P. Mr. Pearl served as President, Chief Executive Officer and Director of TEPPCO Partners, L.P. from May 2002 through 2005 and as President and Chief Operating Officer from February 2001 until his appointment as Chief Executive Officer. Mr. Pearl began his career with Champlin Petroleum Company in 1974, and served in a variety of staff financial and analysis positions until his appointment as Vice President and General Manager of Calnev Pipeline in 1982. Mr. Pearl joined Southern Pacific Pipelines in 1984 and served as Vice President, Operations, Senior Vice President, Business Development and Planning, and Senior Vice President and Chief Financial Officer. From 1998 through 2000, Mr. Pearl was Vice President and Chief Financial Officer of Maverick Tube Corporation. Mr. Pearl has been involved in a number of petroleum industry organizations, including service as Chairman of the Association of Oil Pipelines from 2004 through 2005. He received a Bachelor of Arts degree in Mathematics from Indiana University, and was awarded a Masters of Arts degree in Operations Research from Yale University and a Master of Business Administration degree from the University of Denver.

Directors and Officers of Our Manager

The following table provides information about the directors and officers of Seaspan Management Services Limited and officers of certain of its subsidiaries. As described below, our Manager and certain of its wholly-owned subsidiaries provide us with technical, administrative and strategic services, pursuant to the management agreements.

<u>Name</u>	<u>Age</u>	<u>Position</u>
Kyle Washington	37	Chairman of the Board of Directors and Director of our Manager
Gerry Wang	45	Director of our Manager and Director, President and Chief Executive Officer of Seaspan Ship Management Ltd.
Graham Porter	37	Managing Director, Deputy Chairman and Director of our Manager
Sai W. Chu	41	Chief Financial Officer of Seaspan Ship Management Ltd.
Peter Curtis	49	Vice President of Seaspan Ship Management Ltd.

Kyle Washington . Kyle Washington was appointed Director and Chairman of our Manager in August 2005.

Gerry Wang . Gerry Wang was appointed Director of our Manager in August 2005. He has been a Director of Seaspan Ship Management Ltd. since 2000 and was appointed President and Chief Executive Officer of in July 2004.

Graham Porter . Graham Porter was appointed Managing Director, Deputy Chairman and Director of our Manager in August 2005. Mr. Porter plays a key role in the overall strategic management services our Manager provides to us. Mr. Porter joined Seaspan International Ltd. in 1992 as part of the offshore heavy-lift and ocean towing division, and is currently a Director, Managing Director and Secretary of SCLL. In 2000, Mr. Porter was part of the senior management and equity team to form SCLL, established to own and operate deep-sea container vessels. Mr. Porter is also a director, Managing Director or Deputy Chairman of certain affiliates of our Manager. He graduated in 1992 with a degree in business, major in transportation and logistics and minor in accounting, from the University of British Columbia in Vancouver, BC, Canada.

Sai W. Chu . Sai W. Chu was appointed Chief Financial Officer of Seaspan Ship Management Ltd., SCLL, and Seaspan Crew Management Ltd. in May 2005 and each of the VesselCos in June 2005.

Peter Curtis . Peter Curtis was appointed Vice President of Seaspan Ship Management Ltd. in April 2001. He is responsible for the overall technical and commercial management of the vessels managed by Seaspan Ship Management Ltd., a subsidiary of our Manager. From 1981 to 1989, Mr. Curtis served in the South African Navy, where he attained the rank of Lt. Commander in charge of the submarine maintenance facility and design office. From 1989 to 1991, he joined a firm of consultants in Cape Town, working on offshore and naval architectural projects, such as offshore oil and gas as well as normal vessel type of projects. From 1991 to 1999, Mr. Curtis joined Safmarine, where he was responsible for the operations of a mixed fleet of containerships, handy-size and Cape-size bulkcarriers and also oversaw a number of new building programs. Prior to joining Seaspan Ship

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Management Ltd. in 2001, Mr. Curtis was based in Cyprus for two years with Columbia Ship Management as Technical Director. In 1981, he obtained a BSC Mechanical Engineering degree at Natal University in Durban, South Africa. In 1986, Mr. Curtis obtained his Master's degree in Naval Architecture from University College in London, England and in 2000, he obtained his B.Sc. in business from Stellenbosch University in Cape Town, South Africa.

B. Compensation

Each independent member of our board of directors and Peter Lorange receives an annual cash retainer of \$45,000 payable in equal quarterly installments and pro rated for the initial term. In addition, the chairperson of the Audit Committee receives an annual payment of \$15,000, the chairperson of the Compensation Committee receives an annual payment of \$5,000 and each member of the compensation and audit committee receives an annual payment of \$5,000. Each director is reimbursed for out-of-pocket expenses incurred while attending any meeting of the board of directors or any board committee. Except for Peter Lorange, who is an officer of our subsidiary companies, officers who also serve as directors will not receive compensation for their services as directors.

In October 2007, the board of directors approved a travel stipend payable to the independent directors and Peter Lorange effective as of January 1, 2008 in the amount of \$4,000 per board meeting if the eligible recipient travels transoceanic to attend the meeting in person and \$3,000 if the eligible recipient travels transcontinental to attend the meeting in person. The travel stipend will be paid to the independent directors and Peter Lorange in addition to the reimbursement of out-of-pocket expenses for attending board meetings.

Equity Incentive Plan

In December 2005, our board of directors and Peter Lorange adopted the Seaspan Corporation Stock Incentive Plan, or the Plan, under which our officers, employees and directors may be granted options, restricted stock, phantom shares, and other stock based awards as may be determined by our board of directors. A total of 1,000,000 shares of common stock were reserved for issuance under the Plan, which is administered by our board of directors. The Plan will expire 10 years from the date of its adoption.

On January 1, 2007, each of our independent directors was awarded an equity incentive award under this plan of 3,750 restricted stock, which vested on December 31, 2007. On January 1, 2008, each of our independent directors and Peter Lorange was awarded an equity incentive award under this plan of 3,750 restricted stock, which are to vest on December 31, 2008.

Our board of directors approved a grant of 7,000 restricted shares to our former Chief Financial Officer, Kevin M. Kennedy, who resigned from the Company in June 2007. This grant of restricted shares was made in accordance with our stock incentive plan and was subject to a three-year vesting period commencing May 10, 2007. Two thousand three hundred and thirty three of the restricted shares vested with Mr. Kennedy before his resignation was effective on June 8, 2007.

Our board of directors approved a grant of 15,000 phantom share units to our Chief Financial Officer, Sai W. Chu. The grant, made on June 8, 2007, was in accordance with our stock incentive plan, and one-third of the phantom share units will vest on each of January 1, 2008, January 1, 2009 and January 1, 2010.

In December 2007, our board of directors, also in accordance with our stock incentive plan, approved a grant to our Chief Executive Officer, Gerry Wang, of 135,000 phantom share units, with one-third vesting on each of December 21, 2008, December 21, 2009 and December 21, 2010.

During the years ended December 31, 2007 and 2006, we paid to our directors and executive officers (nine persons) aggregate cash compensation of approximately \$0.9 million and \$1.0 million respectively. We do not have a retirement plan for our officers or directors.

C. Board Practices

The Board consists of seven members. The Board is divided into three classes, with members of each class elected to hold office for a term of three years in accordance with the classification indicated below or until his or her successor is elected and qualifies. Peter S. Shaerf and Milton K. Wong have terms that expire in 2008 and have been nominated by the Board of Directors for re-election at the 2008 Annual Meeting of Shareholders. Directors Kyle Washington and David Korbin have terms expiring in 2009. Directors Gerry Wang, Peter Lorange and Barry R. Pearl have terms expiring in 2010.

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There are no service contracts between us and any of our directors providing for benefits upon termination of their employment or service.

The Board has determined that each of the current members of the Board, other than Kyle Washington, Gerry Wang and Peter Lorange, has no material relationship with Seaspac, either directly or as a partner, shareholder or officer of an organization that has a relationship with Seaspac, and is independent within the meaning of our director independence standards, which reflect the New York Stock Exchange, or NYSE, director independence standards as currently in effect and as they may be changed from time to time. As a result of his appointment as an officer of our subsidiary companies, Peter Lorange no longer meets our standard for independence.

The Board has the following two committees: Audit Committee and Compensation Committee. The membership of these committees during 2007 and the function of each of the committees are described below. The Audit Committee is currently comprised entirely of independent members. Of the four directors that make up the Compensation Committee, all but one, Peter Lorange, is independent. Both the Audit Committee and the Compensation Committee operate under a written charter adopted by the Board. All of the committee charters are available under "Corporate Governance" in the Investor Relations section of our website at www.seaspac.com. During 2007, the Board held eleven meetings, the Audit Committee held six meetings and the Compensation Committee held four meetings. Each director, with the exception of Peter Lorange who attended six Board meetings, attended at least 75% of the Board meetings (held during the period for which such person has been a director) during the last fiscal year. Each director, with the exception of Peter Lorange who attended one Compensation Committee meeting, attended at least 75% of the total number of committee meetings on which such person served (held during the periods for which such person served) during the last fiscal year.

Our Audit Committee is composed entirely of directors who satisfy applicable NYSE and SEC audit committee independence standards. In 2007, our Audit Committee members were David Korbin, Barry R. Pearl and Milton K. Wong. All members of the committee are financially literate and the Board has determined that Mr. Korbin qualifies as an audit committee financial expert. The Audit Committee assists the Board in fulfilling its responsibilities for general oversight of: the integrity of our consolidated financial statements; our compliance with legal and regulatory requirements; the independent auditors' qualifications and independence; and the performance of our internal audit function and independent auditors.

In 2007, our Compensation Committee included Peter Lorange, Peter S. Shaerf, Milton K. Wong and Barry R. Pearl. The Compensation Committee: reviews, evaluates, and approves our agreements, plans, policies and programs to compensate our officers and directors, produces a report on executive compensation each year and publishes the report in our annual report on Form 20-F, otherwise discharges the Board's responsibilities relating to compensation of our officers and directors, and performs such other functions as the Board may assign to the Committee from time to time.

Exemptions from NYSE Corporate Governance Rules

As a foreign private issuer, we are exempted from certain corporate governance rules that apply to domestic companies under NYSE listing standards. The following are the significant ways in which our corporate governance practices differ from those followed by domestic companies:

- we hold annual meetings of shareholders under the Business Corporations Act of the Republic of the Marshall Islands, similar to NYSE requirements;
- in lieu of a nominating committee, the full board of directors regulates nominations as set forth in our Bylaws; and
- in lieu of obtaining shareholder approval prior to the adoption of equity compensation plans, the full board of directors approves such adoption.

U.S. issuers are required to have a Compensation Committee that is comprised entirely of independent directors. Although as a foreign private issuer this rule does not apply to us, we have a Compensation Committee. Our Compensation Committee consists of four directors, three of whom satisfy NYSE standards for independence.

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D. Employees

We do not have any employees. Our Manager provides us with all of our staff and all of our other officers. Our Board of Directors has the authority to hire employees as it deems necessary.

E. Share Ownership

The following table sets forth information regarding beneficial ownership, as of March 7, 2008, of Seaspan common and subordinated shares by:

- each of our directors;
- each of our named executive officers; and
- all current Seaspan directors and executive officers as a group.

Name of Beneficial Owner	Common Shares	Percentage of	Subordinated Shares	Percentage of	Percentage of Total Common and Subordinated Shares
		Common Shares		Subordinated Shares	
Kyle Washington ⁽¹⁾	—	—	1,786,250	25.0%	3.1%
Gerry Wang ⁽²⁾	66,934	*	1,191,071	16.7%	2.2%
Sai W. Chu	13,835	*	—	—	*
David Korbin	11,250	*	—	—	*
Peter Lorange	41,250	*	—	—	*
Peter S. Shaerf	11,250	*	—	—	*
Milton K. Wong	27,500	*	—	—	*
Barry R. Pearl	5,000	*	—	—	*
All executive officers, directors and director nominees as a group (8 persons)	177,019	0.4%	2,977,321	41.7%	5.5%

(1) The number of subordinated shares shown for Mr. Washington includes those shares beneficially owned by The Kyle R. Washington Trust II.

(2) The number of common shares shown for Mr. Wang includes shares beneficially or directly owned by Gerry Wang, as well as by certain members of his immediate family and the Gerry Wang Family Trust. The number of subordinated shares shown for Mr. Wang includes those shares beneficially owned by 0731455 B.C. Ltd.

* Less than 1%.

Item 7. Major Shareholders and Related Party Transactions

A. Major Shareholders

The following table sets forth certain information regarding the beneficial ownership of our common and subordinated shares by each person known by us to be a beneficial owner of more than 5% of the common or subordinated shares.

Name of Beneficial Owner	Common Shares	Percentage of	Subordinated Shares	Percentage of	Percentage of Total Common and Subordinated Shares
		Common Shares		Subordinated Shares	
The Kyle R. Washington Trust II ⁽¹⁾	—	—	1,786,250	25.0%	3.1%
The Kevin Lee Washington Trust II ⁽²⁾	—	—	1,786,250	25.0%	3.1%
Tiger Container Shipping Company Limited ⁽³⁾	349,300	*	2,381,429	33.3%	4.7%
Neuberger & Berman L.P. ⁽⁴⁾	6,090,114	12.1%	—	—	10.6%
0731455 B.C. Ltd. ⁽⁵⁾	—	—	1,191,071	16.7%	2.1%

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- (1) This information is based on the Schedule 13D filed with the SEC on March 20, 2006 and on information provided to Seaspan by Kyle Washington on March 13, 2008.
- (2) This information is based on the Schedule 13D filed with the SEC on August 12, 2005 and on information provided to Seaspan by The Kevin Lee Washington Trust II on March 13, 2008.
- (3) Tiger Container Shipping Company Limited, a Cayman Islands company, is owned by Graham Porter, a managing director and director of our Manager. This information is based on the Schedule 13D filed with the SEC on August 12, 2005 and information provided to Seaspan by Tiger Container Shipping Limited on March 12, 2008.
- (4) Includes sole voting power as to 5,369,077 shares and shared dispositive power as to 6,090,114 shares. This information is based on the Schedule 13G/A filed with the SEC on February 12, 2008.
- (5) 0731455 B.C. Ltd., a British Columbia company, is owned by Gerry Wang, our chief executive officer and a member of our board of directors.

The major shareholders in our common shares have the same voting rights as other shareholders in our common shares.

As of December 31, 2007, 58,948 of our Class A common shares were held by 58 holders of record in the United States. As of December 31, 2007, 3,572,500 of our Class B common shares were held by 2 holders of record in the United States. As of December 31, 2007, 100% of our Class C common shares were held by our Manager.

We are not aware of any arrangements, the operation of which may at a subsequent date result in a change of control.

B. Related Party Transactions

We, our Manager and certain affiliates entered into various documents and agreements that effected the transactions relating to our formation, our initial public offering and the application of the proceeds from our initial public offering. These agreements were not the result of arm's-length negotiations and they, or any of the transactions that they provide for, may not have been effected on terms at least as favorable to the parties to these agreements as they could have obtained from unaffiliated third parties. All of the expenses incurred in connection with our initial public offering were paid from the proceeds of the offering. In accordance with our conflicts of interest policy, all material related party transactions will be subject to approval by a majority of the independent directors on our board of directors.

Registration Rights Agreement

In connection with our initial public offering, we agreed to register for resale on a shelf registration statement under the Securities Act of 1933, or Securities Act, and applicable state securities laws, any subordinated shares proposed to be sold by the holders of the subordinated shares (or the underlying common shares upon their conversion) upon expiration of a certain holding period if an exemption from the registration requirements is not otherwise available or advisable. These holders also have certain piggyback registration rights allowing them to participate in offerings by us to the extent that their participation does not interfere or impede with our offering. We are obligated to pay all expenses incidental to the registration, excluding underwriting discounts and commissions.

Management Related Agreements

For a description of our management agreements and omnibus agreement, please read "Item 4—B. Business Overview—Management Related Agreements."

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Sale of Subordinated Shares

Concurrently with our initial public offering, we sold 7,145,000 subordinated shares to members of the Washington family, or trusts set up on their behalf, to an entity owned by our chief executive officer, Gerry Wang, and to an entity owned by Graham Porter, a director of our Manager, at a purchase price per share equal to the initial public offering price of our common shares.

Item 8. Financial Information

A. Financial Statements and Other Financial Information

Please see Item 18 below.

Legal Proceedings

We have not been involved in any legal proceedings that may have, or have had a significant effect on our business, financial position, results of operations or liquidity, and we are not aware of any proceedings that are pending or threatened that may have a material effect on our business, financial position, results of operations or liquidity. From time to time, we may be subject to legal proceedings and claims in the ordinary course of business, principally personal injury and property casualty claims. We expect that these claims would be covered by insurance, subject to customary deductibles. Those claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.

Dividend Policy

Since our initial public offering, we have paid cumulative dividends of \$4.19 per share on our common and subordinated shares. In January 2008, we declared our quarterly dividend of \$0.475 per share on our common and subordinated shares effective for the fourth quarter 2007, which dividend was paid on February 15, 2008 to all shareholders of record on February 1, 2008. Declaration and payment of dividends is at the discretion of our board of directors and there can be no assurance we will not reduce or eliminate our dividend.

Our board of directors has adopted a dividend policy to pay a regular quarterly dividend on our common and subordinated shares while reinvesting a portion of our operating cash flow in our business. Retained cash flow may be used, among other things, to fund vessel or fleet acquisitions, create reserves for vessel replacement costs, other capital expenditures and debt repayments, as determined by our board of directors. Our dividend policy reflects our judgment that by retaining a portion of our cash flow in our business, we will be able to provide better value to our shareholders by enhancing our longer term dividend paying capacity. It is our goal to further grow our dividend through accretive acquisitions of additional vessels. There can be no assurance that we will be successful in meeting our goal. In the event our future liquidity needs are greater than currently anticipated, it could reduce the cash available for distribution as dividends. In such event, our board of directors may change our dividend policy. We cannot provide you with any assurances that our dividend will be increased or that we will even be able to maintain our current dividend.

As compensation for providing strategic services, our Manager received 100 incentive shares concurrently with our initial public offering. The purpose of the incentive shares is to incentivize our Manager to increase the amount of distributable cash flow per share. The incentive shares will share in incremental dividends only after quarterly dividends on the common and subordinated shares exceed \$0.485 per share as follows:

- first, 90% of incremental dividends to all common shares and subordinated shares, pro rata, and 10% of incremental dividends to the incentive shares, until each common and subordinated share has received a total of \$0.550 for that quarter;
- second, 80% of incremental dividends to all common shares and subordinated shares, pro rata, and 20% of incremental dividends to the incentive shares, until each common and subordinated share has received a total of \$0.675 for that quarter; and
- after that, 75% of the incremental dividends to all common shares and subordinated shares, pro rata, and 25% of incremental dividends to the incentive shares.

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There are a number of factors that could affect our dividends in the future. As a result of these factors, you may not receive dividends in the intended amounts or at all. These factors include, but are not limited to, the following:

- we may not have enough cash to pay dividends due to changes in our operating cash flow, capital expenditure requirements, working capital requirements and other cash needs;
- our ability to pay dividends is dependent upon the charter rates on new vessels and those obtained upon the expiration of our existing charters;
- while the dividend policy adopted by our board of directors contemplates the distribution of a substantial portion of our cash available to pay dividends, our board of directors could modify or revoke this policy at any time;
- even if our dividend policy is not modified or revoked, the actual amount of dividends distributed under the policy and the decision to make any distribution will remain at all times entirely at the discretion of our board of directors;
- the amount of dividends that we may distribute is limited by restrictions under our senior secured credit facilities and future indebtedness could contain covenants that are even more restrictive. In addition, our credit facility requires us to comply with various financial covenants, and prohibits the payment of dividends if an event of default has occurred and is continuing under our credit facility or if the payment of the dividend would result in an event of default;
- the amount of any cash reserves established by our board of directors;
- the amount of dividends that we may distribute is subject to restrictions under Marshall Islands law; and
- our shareholders have no contractual or other legal right to dividends, and we are not otherwise required to pay dividends.

Please read “Risk Factors—Risks Inherent In Our Business—We may not have sufficient cash from our operations to enable us to pay dividends on our shares following the payment of fees and expenses and the establishment of any reserves,” “—The amount of cash we have available for dividends on our shares will not depend solely on our profitability,” “—Over the long-term, we will be required to make substantial capital expenditures to preserve the operating capacity of our fleet, which could result in a reduction or elimination of our ability to pay dividends,” and “—We will be required to make substantial capital expenditures to complete the acquisition of our fleet that we have contracted to purchase and to expand the size of our fleet, which may cause our ability to pay dividends to be diminished, our financial leverage to increase or our shareholders to be diluted” for a more detailed description of various factors that could reduce or eliminate our ability to pay dividends.

B. Significant Changes

Not applicable.

Item 9. The Offer and Listing.

Our common stock is traded on the NYSE under the symbol “SSW.”

The following table sets forth the high and low prices for the common shares on the NYSE since the date of listing for the periods indicated.

	<u>High</u>	<u>Low</u>
August 9, 2005 to December 31, 2005	\$21.51	\$17.20
January 1, 2006 to December 31, 2006	23.20	19.51
January 1, 2007 to December 31, 2007	37.73	19.65
First quarter 2006	21.81	19.51

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	<u>High</u>	<u>Low</u>
Second quarter 2006	22.40	19.70
Third quarter 2006	22.97	19.90
Fourth quarter 2006	23.20	21.15
First quarter 2007	27.45	19.65
Second quarter 2007	32.77	26.80
Third quarter 2007	37.73	27.25
Fourth quarter 2007	33.09	23.50
September 2007	33.25	30.24
October 2007	33.09	30.31
November 2007	31.96	25.22
December 2007	28.04	23.50
January 2008	30.35	24.02
February 2008	31.40	28.10
March 2008 (March 1 through March 20)	28.65	26.50

Item 10. Additional Information

A. Share Capital

Under our Articles of Incorporation, our authorized shares consist of 200,000,000 common shares (referred to in our articles of incorporation as the Class A Common Shares), par value \$0.01 per share; 25,000,000 subordinated shares (referred to in our Articles of Incorporation as the Class B Common Shares), par value \$0.01 per share, 100 incentive shares (referred to in our Articles of Incorporation as the Class C Common Shares), par value \$0.01 per share, and 65,000,000 preferred shares (referred to in our articles of incorporation as the Preferred Shares), par value \$0.01 per share. As of March 7, 2008, 50,453,750 Class A common shares, 7,145,000 Class B common shares and 100 Class C common shares were issued and outstanding. As of March 7, 2008 there were no preferred shares issued and outstanding.

The rights, preferences and restrictions attaching to each class of our capital stock are described in the section entitled “Description of Capital Stock” of our Rule 424(b)(5) prospectus (File No. 333-137051), filed with the SEC on November 3, 2006 and hereby incorporated by reference into this Annual Report and there have been no changes since that date.

B. Memorandum and Articles of Association

Our Articles of Incorporation have previously been filed as exhibit 3.1 to Amendment No. 2 to Form F-1 (File No. 333-126762), filed with the SEC on August 4, 2005 and are hereby incorporated by reference into this Annual Report. Our Bylaws have previously been filed as exhibit 3.2 to Form F-1 (File No. 333-126762) filed with the SEC on July 21, 2005 and are hereby incorporated by reference into this Annual Report.

The necessary actions required to change the rights of shareholders and the conditions governing the manner in which annual general meetings and special meetings of shareholders are convoked are described in our Bylaws filed as exhibit 3.2 to Form F-1 (File No. 333-126762) filed with the SEC on July 21, 2005 and are hereby incorporated by reference into this Annual Report.

We have in place a rights agreement that would have the effect of delaying, deferring or preventing a change in control of Seaspan. The rights agreement has been filed as part of our Form 8-A (File No. 001-32591), filed with the SEC on August 2, 2005, and hereby incorporated by reference into this Annual Report.

There are no limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities imposed by the laws of the Republic of the Marshall Islands or by our Articles of Incorporation or Bylaws.

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C. Material Contracts

The following is a summary of each material contract, other than material contracts entered into in the ordinary course of business, to which we are a party, for the two years immediately preceding the date of this Annual Report:

(a) Underwriting Agreement among Seaspan Corporation, Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wachovia Capital Markets, LLC, Dahlman Rose & Company, LLC, DnB NOR Markets, Inc. and Fortis Securities LLC dated as of November 2, 2006, previously filed as Exhibit 1.1 to Form 6-K (File No. 1-32591) filed with the SEC on November 6, 2006 and is incorporated by reference into this Annual Report.

(b) Underwriting Agreement among Seaspan Corporation and Citigroup Global Markets Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Representatives of the Several Underwriters listed therein dated as of April 19, 2007, previously filed as Exhibit 1.1 to Form 6-K, filed with the SEC on April 20, 2007 and is incorporated by reference into this Annual Report.

(c) Underwriting Agreement among Seaspan Corporation and Citigroup Global Markets Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated as Representatives of the Several Underwriters listed therein dated as of August 14, 2007, previously filed as Exhibit 1.1 to Form 6-K, filed with the SEC on August 14, 2007 and is incorporated by reference into this Annual Report.

(d) Amended and Restated Management Agreement dated as of the 8th day of August, 2005 as amended and restated as of the 4th day of May, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd.

(e) Vessel Management Agreement for 2500 TEU / 3500 TEU Vessels dated as of the 18th day of May, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd.

(f) Vessel Management Agreement for 5100 TEU Vessels dated as of the 18th day of May, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd.

(g) Vessel Management Agreement for Two 2500 TEU K-Line Vessels / Four 4250 TEU CSAV Vessels / Eight 8500 COSCON Vessels dated as of the 28th day of September, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd.

(h) Vessel Management Agreement for Two 13100 TEU Vessels dated as of the 28th day of January 2008, among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisors Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd.

(i) Amended and Restated Credit Agreement between Seaspan Corporation and Arranged by Citigroup Global Markets Limited and Fortis Capital Corp., with Citigroup Global Markets Limited, Credit Suisse, Landesbank Hessen-Thüringen, DnB Nor Bank ASA, Fortis Capital Corp. as Mandated Lead Arrangers with Fortis Capital Corp. as Facility Agent dated as of May 11, 2007 (incorporated herein by reference to Exhibit 1.1 to the Company's Form 6-K (File No. 1-32591), filed with the SEC on May 23, 2007).

(j) Credit Facility Agreement providing for a Senior Secured Reducing Revolving Credit Facility of up to \$365,000,000 dated May 19, 2006, among Seaspan Corporation, DnB Nor Bank, ASA, as Sole Bookrunner, Administrative Agent and Security Agent, Credit Suisse and Fortis Capital Corp., as Mandated Lead Arrangers and Landesbank Hessen-Thüringen as documentation agent (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on June 12, 2006).

(k) Amendment No. 1 to Credit Facility Agreement providing for a Senior Secured Reducing Revolving Credit Facility of up to \$365,000,000, dated June 29, 2007, among Seaspan Corporation, DnB Nor Bank,

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ASA, as Sole Bookrunner, Administrative Agent and Security Agent, Credit Suisse and Fortis Capital Corp., as Mandated Lead Arrangers and Landesbank Hessen-Thüringen as documentation agent (incorporated herein by reference to the Company's Form 6-K/A (File No. 1-32591), filed with the SEC on October 10, 2007).

(l) Amendment No. 2 to Credit Facility Agreement providing for a Senior Secured Reducing Revolving Credit Facility of up to \$365,000,000, dated August 7, 2007 among Seaspan Corporation, DnB Nor Bank, ASA, as Sole Bookrunner, Administrative Agent and Security Agent, Credit Suisse and Fortis Capital Corp., as Mandated Lead Arrangers and Landesbank Hessen-Thüringen as documentation agent.

(m) U.S. \$218,400,000 Credit Facility Agreement dated October 16, 2006, among Seaspan Corporation, Sumitomo Mitsui Banking Corporation, Sumitomo Mitsui Banking Corporation Europe Limited, as Security Trustee and Sumitomo Mitsui Banking Corporation, Brussels Branch as Facility Agent (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on October 23, 2006).

(n) U.S. \$920,000,000 Reducing, Revolving Credit Facility dated August 8, 2007, among DnB Nor Bank ASA, Credit Suisse, The Export-Import Bank of China, Industrial and Commercial Bank of China Limited and Sumitomo Mitsui Banking Corporation, Brussels Branch (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on August 9, 2007).

(o) U.S. \$150,000,000 Reducing Revolving Credit Facility Agreement dated December 28, 2007, for Seaspan Finance II Co. Ltd., Seaspan Finance III Co. Ltd. as borrowers with Seaspan Corporation, as guarantor, arranged by Industrial and Commercial Bank of China Limited and with Industrial and Commercial Bank of China Limited as facility agent.

(p) U.S. \$291,200,000 Credit Facility Agreement for Seaspan Corporation as Borrower, arranged by Fortis Bank S.A./N.V., New York Branch and The Export-Import Bank of Korea with Fortis Bank S.A./N.V., New York Branch as Facility Agent and Security Trustee and Fortis Bank S.A./N.V., New York Branch as Swap Agent dated March 17, 2008.

(q) Lease Agreement between Peony Leasing Limited and Seaspan Finance I Co. Ltd. dated December 27, 2007 in respect of one 4520 TEU container carrier to be built at Samsung Heavy Industries Co., Ltd. with Hull No. 1851;

(r) Lease Agreement between Peony Leasing Limited and Seaspan Finance I Co. Ltd. dated December 27, 2007 in respect of one 4520 TEU container carrier to be built at Samsung Heavy Industries Co., Ltd. with Hull No. 1852;

(s) Lease Agreement between Peony Leasing Limited and Seaspan Finance I Co. Ltd. dated December 27, 2007 in respect of one 4520 TEU container carrier to be built at Samsung Heavy Industries Co., Ltd. with Hull No. 1853;

(t) Lease Agreement between Peony Leasing Limited and Seaspan Finance I Co. Ltd. dated December 27, 2007 in respect of one 4520 TEU container carrier to be built at Samsung Heavy Industries Co., Ltd. with Hull No. 1854;

(u) Lease Agreement between Peony Leasing Limited and Seaspan Finance I Co. Ltd. dated December 27, 2007 in respect of one 4520 TEU container carrier to be built at Samsung Heavy Industries Co., Ltd. with Hull No. 1855; and

(v) Amendment Agreement relating to Five Lease Agreements in respect of 4520 TEU Container Carriers to be Built at Samsung Heavy Industries Co., Ltd. with Hull Nos. 1851, 1852, 1853, 1854 and 1855, dated February 4, 2007, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.

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D. Exchange Controls

We are not aware of any governmental laws, decrees or regulations in the Republic of The Marshall Islands that restrict the export or import of capital, including foreign exchange controls, or that affect the remittance of dividends, interest or other payments to non-resident holders of our securities.

We are not aware of any limitations on the right of non-resident or foreign owners to hold or vote our securities imposed by the laws of the Republic of the Marshall Islands or our Articles of Incorporation and Bylaws.

E. Taxation

U.S. Federal Income Tax Considerations

The following discussion is based upon the provisions of the Code as in effect on the date of this Annual Report, existing final and temporary U.S. Treasury department regulations promulgated thereunder (“Treasury Regulations”), and current administrative rulings, pronouncements and judicial decisions, all of which are subject to change, possibly with retroactive effect. Changes in these authorities may cause the tax consequences to vary substantially from the consequences described below.

In addition, the following discussion is for general information purposes only and does not purport to be a comprehensive description of all of the U.S. federal income tax considerations applicable to us. Nor does this discussion comment on all aspects of U.S. federal income taxation which may be important to certain holders of our shares in light of their particular circumstances, such as holders subject to special tax rules (e.g., financial institutions, regulated investment companies, real estate investment trusts, insurance companies, traders in securities that have elected the mark-to-market method of accounting for their securities, persons liable for alternative minimum tax, broker-dealers, tax-exempt organizations, partnerships or other pass-through entities and their investors, or former citizens or long-term residents of the United States), persons that will hold our shares as part of a straddle, hedge, conversion, constructive sale, or other integrated transaction for U.S. federal income tax purposes, or persons that have a functional currency other than the U.S. dollar, all of whom may be subject to tax rules that differ significantly from those summarized below. If a partnership or other entity taxed as a pass-through entity holds our shares, the tax treatment of a partner will generally depend upon the status of the partner and upon the activities of the pass-through entity. If you are a partner in a pass-through entity holding our shares, you should consult your tax advisor to determine the appropriate tax treatment to you of the partnership’s ownership of our shares.

U.S. Federal Income Taxation of Our Company

Taxation of Operating Income

Unless exempt from U.S. federal income taxation under the rules discussed below, a foreign corporation that earns income from transportation beginning or ending in the United States is subject to U.S. federal income taxation under one of two alternative tax regimes: (i) the 4% gross basis tax or (ii) the net basis tax and branch profits tax.

The 4% Gross Basis Tax

We may be subject to a 4% U.S. federal income tax on the U.S. source portion of our gross income (without benefit of deductions) attributable to transportation that begins or ends (but not both) in the United States unless the exemption provided under Section 883 of the Code (the “Section 883 Exemption”) applies (as more fully described below under “The Section 883 Exemption”) and we file a U.S. federal income tax return to claim that exemption. For this purpose, gross income attributable to transportation (“Transportation Income”) includes income from the use, hiring or leasing of a vessel to transport cargo, or the performance of services directly related to the use of any vessel to transport cargo and thus includes time charter or bareboat charter income. The U.S. source portion of our Transportation Income is deemed to be 50% of the income attributable to voyages that begin or end (but not both) in the United States. Generally, no amount of the income from voyages that begin and end outside the

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United States is treated as U.S. source, and consequently none of the Transportation Income attributable to such voyages is subject to U.S. federal income tax. Although the entire amount of Transportation Income from voyages that begin and end in the United States would be U.S. source, we do not expect to have any Transportation Income from voyages that begin and end in the United States.

The Net Basis Tax and Branch Profits Tax

During our 2007 Year we did not have, and we do not expect to acquire, a fixed place of business in the United States. Nonetheless, if this were to change or we otherwise were treated as having such a fixed place of business involved in earning U.S. source Transportation Income, such Transportation Income may be treated as effectively connected with the conduct of a trade or business in the United States (“U.S. Effectively Connected Income”).

If we earn U.S. Effectively Connected Income, that income would be subject to U.S. federal corporate income tax (the highest statutory rate is currently 35%) unless the Section 883 Exemption (as discussed below) applies. The 4% U.S. federal income tax described above, however, is inapplicable to U.S. Effectively Connected Income.

Unless the Section 883 Exemption applies, a 30% branch profits tax imposed under Section 884 of the Code also would apply to any U.S. Effectively Connected Income earned by us, and a branch interest tax could be imposed on certain interest paid or deemed paid by us. Furthermore, on the sale of a ship that has produced U.S. Effectively Connected Income, we could be subject to the net basis corporate income tax and to the 30% branch profits tax with respect to our gain not in excess of certain prior deductions for depreciation that reduced U.S. Effectively Connected Income. Otherwise, we would not be subject to U.S. federal income tax with respect to gain realized on the sale of a ship, provided the sale is considered to occur outside of the United States under U.S. federal income tax principles.

The Section 883 Exemption

In general, the Section 883 Exemption provides that if a non-U.S. corporation satisfies the requirements of Section 883 of the Code and the Treasury Regulations thereunder (the “Section 883 Regulations”), it will not be subject to the 4% gross basis tax or the net basis tax and branch profits tax described above on its U.S. source Transportation Income attributable to voyages that begin or end (but not both) in the United States (“U.S. Source International Shipping Income”).

A non-U.S. corporation will qualify for the Section 883 Exemption if, among other things, it meets the following three requirements:

- (i) it is organized in a jurisdiction outside the United States that grants an equivalent exemption from tax to corporations organized in the United States (an “Equivalent Exemption”);
- (ii) it satisfies one of the following three ownership tests: (a) the more than 50% ownership test (the “50% Ownership Test”), (b) the controlled foreign corporation test (the “CFC Test”) or (c) the “Publicly Traded Test”; and
- (iii) it meets certain substantiation, reporting, and other requirements.

We are organized under the laws of the Republic of the Marshall Islands. The U.S. Treasury Department has recognized the Republic of the Marshall Islands as a jurisdiction that grants an Equivalent Exemption; therefore, we meet the first requirement for the Section 883 Exemption.

Regarding the second requirement for the Section 883 Exemption, we do not believe that we met the 50% Ownership Test or the CFC Test with respect to our 2007 Year and we do not expect to meet those tests in future years. The analysis of our ability to meet the Publicly Traded Test follows.

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The Publicly Traded Test

The Publicly Traded Test requires that one or more classes of equity representing more than 50% of the voting power and value in a non-U.S. corporation be “primarily and regularly traded” on an established securities market either in the United States or in a foreign country that grants an Equivalent Exemption. For this purpose, if one or more 5% shareholders own in the aggregate 50% or more of the vote and value of a class of equity, such class of equity will not be treated as primarily and regularly traded on an established securities market (the “5% Override Rule”). For purposes of applying the 5% Override Rule, a 5% shareholder is a shareholder holding, directly, indirectly or constructively, at least 5% of the vote and value of a class of equity (a “5% Shareholder”).

The Section 883 Regulations provide, in pertinent part, that stock of a foreign corporation will be considered to be “primarily traded” on an established securities market in a given country if the number of shares of each class of stock that are traded during any taxable year on all established securities markets in that country exceeds the number of shares in each such class that are traded during that year on established securities markets in any other single country. During our 2007 Year, our common shares were, and we expect that they will continue to be, “primarily traded” on the New York Stock Exchange.

Under the Section 883 Regulations, our shares will be considered to be “regularly traded” on an established securities market if one or more classes of our stock representing in the aggregate more than 50% of our outstanding stock, by voting power and value, will be listed on such market or markets (the “Listing Threshold”) and certain trading volume requirements are met or deemed met as described below. We believe our common shares listed on the New York Stock Exchange represented more than 50% of our outstanding stock by voting power and value during our 2007 Year. Therefore, we believe that we satisfied the Listing Threshold for our 2007 Year.

It is further required with respect to each class of stock relied upon to meet the Listing Threshold that: (i) such class of stock is traded on an established securities market, other than in minimal quantities, on at least 60 days during the taxable year or 1/6 of the days in a short taxable year; and (ii) the aggregate number of shares of such class of stock traded on such market during the taxable year is at least 10% of the average number of shares of such class of stock outstanding during such year or as appropriately adjusted in the case of a short taxable year. We believe we satisfied these trading frequency and volume tests for our 2007 Year and expect to continue to do so in the future.

As discussed above, if 50% or more of our common shares are owned by 5% Shareholders, our common shares will be treated as failing the Publicly Traded Test under the 5% Override Rule. To identify 5% Shareholders for purposes of applying the 5% Override Rule, the Section 883 Regulations permit us to rely on those persons that are identified on Schedule 13G and Schedule 13D filings with the SEC as having a 5% or more beneficial interest in our common shares. The Section 883 Regulations further provide that an investment company that is registered under the Investment Company Act of 1940, as amended, will not be treated as a 5% Shareholder for such purposes.

There is some uncertainty as to whether our common and subordinated shares should be treated as a single or two separate classes of stock for purposes of applying the 5% Override Rule. For our 2007 Year, regardless of whether they are treated as a single or two separate classes of stock for this purpose, we believe that we were not subject to the 5% Override Rule and therefore satisfied the Publicly Traded Test and qualified for the Section 883 Exemption. There can be no assurance that we will not be subject to the 5% Override Rule in the future, and there can be no assurance that we will qualify for the Section 883 Exemption at any time in the future.

U.S. Federal Income Taxation of U.S. Holders

As used herein, the term “U.S. Holder” means a beneficial owner of our common shares that is an individual U.S. citizen or resident, U.S. corporation or other U.S. entity taxable as a corporation, an estate the income of which is subject to U.S. federal income taxation regardless of its source, or a trust if a court within the United States is able to exercise primary jurisdiction over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust.

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Distributions

Subject to the discussion of PFICs below, any distributions made by us with respect to our common shares to a U.S. Holder will generally constitute dividends, which may be taxable as ordinary income or “qualified dividend income” as described in more detail below, to the extent of our current and accumulated earnings and profits, as determined under U.S. federal income tax principles. Distributions in excess of our earnings and profits will be treated first as a nontaxable return of capital to the extent of the U.S. Holder’s tax basis in his common shares on a dollar-for-dollar basis and thereafter as capital gain. Because we are not a U.S. corporation, U.S. Holders that are corporations generally will not be entitled to claim a dividends received deduction with respect to any distributions they receive from us. Dividends paid with respect to our common shares will generally be treated as “passive income” (or “passive category income” for taxable years beginning after December 31, 2006) or, in the case of certain types of U.S. Holders, “financial services income,” (which will be treated as “general category income” for taxable years beginning after December 31, 2006) for purposes of computing allowable foreign tax credits for U.S. federal income tax purposes.

Dividends paid on our common shares to a U.S. Holder who is an individual, trust or estate (a “U.S. Individual Holder”) will be treated as “qualified dividend income” that is taxable to such U.S. Individual Holder at preferential tax rates (through 2010) provided that: (i) such shares are readily tradable on an established securities market in the United States (such as the New York Stock Exchange on which our common shares are traded); (ii) we are not a PFIC for the taxable year during which the dividend is paid or the immediately preceding taxable year (which we do not believe we are, have been or will be); (iii) the U.S. Individual Holder has owned the shares for more than 60 days in the 121-day period beginning 60 days before the date on which the common shares become ex-dividend; and (iv) the U.S. Individual Holder is not under an obligation to make related payments with respect to positions in substantially similar or related property. There is no assurance that any dividends paid on our common shares will be eligible for these preferential rates in the hands of a U.S. Individual Holder. In the absence of legislation extending the term of the preferential tax rates for qualified dividend income, all dividends received by a taxpayer in tax years beginning January 1, 2011 or later will be taxed at rates applicable to ordinary income.

In addition, under legislation proposed in the U.S. Congress, the preferential rate of federal income tax currently imposed on qualified dividend income would be denied with respect to dividends received from a non-U.S. corporation unless the non-U.S. corporation is created or organized under the laws of a foreign country that has a comprehensive income tax system. The Marshall Islands imposes only limited taxes on corporations organized under its laws. Consequently, if this legislation were enacted the preferential tax rates imposed on qualified dividend income may no longer be applicable to dividends received from us. As of the date hereof, it is not possible to predict with any certainty whether this previously proposed legislation will be enacted.

Special rules may apply to any “extraordinary dividend” paid by us. An extraordinary dividend is, generally, a dividend equal to or in excess of 10 percent of a shareholder’s adjusted basis (or fair market value in certain circumstances) in a common share. If we pay an “extraordinary dividend” on our common shares that is treated as “qualified dividend income,” then any loss derived by a U.S. Individual Holder from the sale or exchange of such common shares will be treated as long-term capital loss to the extent of such dividend.

Any dividends paid on our common shares that are not eligible for the preferential rate of tax on qualified dividend income will be taxed as ordinary income to a U.S. Individual Holder. See below for special rules, however, that may be applicable in the event we are treated as a PFIC.

Consequences of Possible CFC Classification

If more than 50% of either the total combined voting power of our outstanding shares entitled to vote or the total value of all of our outstanding shares were owned, directly, indirectly or constructively, by citizens or residents of the United States, U.S. partnerships or corporations, or U.S. estates or trusts (as defined for U.S. federal income tax purposes), each of which owned, directly, indirectly or constructively, 10% or more of the total combined voting power of our outstanding shares entitled to vote (each, a “CFC Shareholder”), we could be treated as a controlled foreign corporation (“CFC”). CFC Shareholders are treated as receiving current distributions of their shares of certain income of the CFC (not including, under current law, certain undistributed earnings attributable to shipping income) without regard to any actual distributions and are subject to other burdensome U.S. federal income tax and administrative requirements but generally are not also subject to the requirements generally applicable to

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shareholders of a PFIC. Although we do not believe we are a CFC, U.S. persons purchasing a substantial interest in us should consider the potential implications of being treated as a CFC Shareholder in the event we become a CFC in the future.

Sale, Exchange or other Disposition of Common Shares

Subject to the discussion of PFICs, below, a U.S. Holder generally will recognize taxable gain or loss upon a sale, exchange or other disposition of our common shares in an amount equal to the difference between the amount realized by the U.S. Holder from such sale, exchange or other disposition and the U.S. Holder's tax basis in such shares. Subject to the discussion of extraordinary dividends above, such gain or loss will be treated as long-term capital gain or loss if the U.S. Holder's holding period is greater than one year at the time of the sale, exchange or other disposition. Such capital gain or loss will generally be treated as U.S.-source income or loss, as applicable, for U.S. foreign tax credit purposes. A U.S. Holder's ability to deduct capital losses is subject to certain limitations.

Consequences of Possible PFIC Classification

Special and adverse U.S. federal income tax rules apply to a U.S. Holder that owns an interest in a non-U.S. entity taxed as a corporation and classified as a PFIC for U.S. federal income tax purposes. In general, we will be treated as a PFIC with respect to a U.S. Holder if, for any taxable year in which such holder held our common shares, either (i) at least 75% of our gross income for such taxable year consists of passive income (e.g., dividends, interest, capital gains and rents derived other than in the active conduct of a rental business), or (ii) at least 50% of the average value of the assets held by us during such taxable year is attributable to assets that produce passive income or are held for the production of passive income.

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

While there are legal uncertainties involved in this determination, based on the composition of our assets, the source of our income, and the nature of our chartering activities and other operations, we do not believe that we are, nor do we expect to become, a PFIC. This determination is based principally on the position that at least a majority, if not all, of the gross income we derive from our time chartering and voyage chartering activities should constitute services income, rather than rental income. Correspondingly, such services income should not constitute passive income, and the assets that we own and operate in connection with the production of such income, in particular, at least a majority, if not all, the vessels, should not constitute passive assets for purposes of determining whether we are a PFIC. There is substantial legal authority supporting this position consisting of case law and IRS pronouncements concerning the characterization of income derived from time charters and voyage charters as services income for other tax purposes. However, in the absence of any legal authority specifically relating to the statutory provisions governing PFICs, the IRS or a court could disagree with this position. In addition, there is no assurance that the nature of our assets, income and operations will remain the same in the future. Moreover, the market value of our stock may be treated as reflecting the value of our assets at any given time. Therefore, a decline in the market value of our stock (which is not within our control) may impact the determination of whether we are a PFIC.

As discussed more fully below, if we were to be treated as a PFIC for any taxable year during which a U.S. Holder owns shares, that U.S. Holder generally will be subject to special rules (regardless of whether we continue thereafter to be a PFIC). Such a U.S. Holder would be subject to different taxation rules depending on whether the U.S. Holder makes an election (a "QEF Election") to treat us as a "Qualified Electing Fund." As an alternative to making a QEF Election, a U.S. Holder should be able to make a "mark-to-market" election with respect to our common shares, as discussed below.

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

If a U.S. Holder makes a timely QEF Election, which U.S. Holder we refer to as an “Electing Holder,” the Electing Holder must report each year for U.S. federal income tax purposes his pro rata share of our ordinary earnings and our net capital gain, if any, for our taxable year that ends with or within the taxable year of the Electing Holder, regardless of whether or not distributions were received from us by the Electing Holder. The Electing Holder’s adjusted tax basis in the common shares will be increased to reflect taxed but undistributed earnings and profits. Distributions of earnings and profits that had been previously taxed will result in a corresponding reduction in the adjusted tax basis in the common shares and will not be taxed again once distributed. An Electing Holder would generally recognize capital gain or loss on the sale, exchange or other disposition of our common shares. A U.S. Holder would make a QEF Election with respect to any year that we are a PFIC by filing one copy of IRS Form 8621 with his U.S. federal income tax return and a second copy in accordance with the instructions to such form.

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

Alternatively, if we were to be treated as a PFIC for any taxable year and, as we anticipate, our common shares were treated as “marketable stock,” a U.S. Holder would be allowed to make a “mark-to-market” election with respect to our common shares, provided the U.S. Holder completes and files IRS Form 8621 in accordance with the relevant instructions and related Treasury Regulations. If that election is made, the U.S. Holder generally would include as ordinary income in each taxable year the excess, if any, of the fair market value of the common shares at the end of the taxable year over such holder’s adjusted tax basis in the common shares. The U.S. Holder would also be permitted an ordinary loss in respect of the excess, if any, of the U.S. Holder’s adjusted tax basis in the common shares over the fair market value thereof at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. A U.S. Holder’s tax basis in his common shares would be adjusted to reflect any such income or loss amount. Gain realized on the sale, exchange or other disposition of our common units would be treated as ordinary income, and any loss realized on the sale, exchange or other disposition of the common shares would be treated as ordinary loss to the extent that such loss does not exceed the net mark-to-market gains previously included by the U.S. Holder.

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

Finally, if we were to be treated as a PFIC with respect to a U.S. Holder that does not make either a QEF Election or a mark-to-market election (a “Non-Electing Holder”), such U.S. Holder would be subject to special rules with respect to (1) any excess distribution (*i.e.*, the portion of any distributions received by the Non-Electing Holder on our common shares in a taxable year in excess of 125 percent of the average annual distributions received by the Non-Electing Holder in the three preceding taxable years, or, if shorter, the Non-Electing Holder’s holding period for the common shares), and (2) any gain realized on the sale, exchange or other disposition of our common shares. Under these special rules:

- the excess distribution or gain would be allocated ratably over the Non-Electing Holder’s aggregate holding period for the common shares;
- the amount allocated to the current taxable year and any taxable year prior to the year we were first treated as a PFIC with respect to the Non-Electing Holder would be taxed as ordinary income; and
- the amount allocated to each of the other taxable years would be subject to tax at the highest rate of tax in effect for the applicable class of taxpayer for that year, and an interest charge for the deemed deferral benefit would be imposed with respect to the resulting tax attributable to each such other taxable year.

If we are a PFIC and a Non-Electing Holder who is an individual dies while owning our shares, such holder’s successor generally would not receive a step-up in tax basis with respect to such shares.

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

A beneficial owner of our common shares (other than a partnership or other entity or arrangement treated as a partnership or pass-through entity) that is not a U.S. Holder is a Non-U.S. Holder.

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Distributions

Distributions we pay to a Non-U.S. Holder will not be subject to U.S. federal income tax or withholding tax if the Non-U.S. Holder is not engaged in a U.S. trade or business. If the Non-U.S. Holder is engaged in a U.S. trade or business, distributions we pay will be subject to U.S. federal income tax if those distributions are effectively connected with that Non-U.S. Holder's U.S. trade or business. However, distributions paid to a Non-U.S. Holder who is engaged in a trade or business may be exempt from taxation under an income tax treaty if the distributions are not attributable to a U.S. permanent establishment maintained by the Non-U.S. Holder.

Disposition of Shares

The U.S. federal income taxation of Non-U.S. Holders on any gain resulting from the disposition of our common shares is generally the same as described above regarding distributions. However, Non-U.S. Holders who are individuals can also be subject to tax on U.S. source gain resulting from the disposition of our common shares if they are present in the United States for 183 days or more during the taxable year in which those shares are disposed and meet certain other requirements.

Backup Withholding and Information Reporting

In general, dividend payments, or other taxable distributions, made within the United States will be subject to information reporting requirements and backup withholding tax if a U.S. Individual Holder:

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

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

If a Non-U.S. Holder sells shares to or through a U.S. office of a broker, the payment of the proceeds is subject to both U.S. backup withholding and information reporting unless the holder certifies that he is a non-U.S. person under penalties of perjury or otherwise establishes an exemption. If a holder sells his common shares through a non-U.S. office of a non-U.S. broker and the sales proceeds are paid outside of the United States, then information reporting and backup withholding generally will not apply to such payment. However, U.S. information reporting requirements (but not backup withholding requirements) will apply to a payment of sales proceeds, even if such payment is made outside of the United States, if a holder sells shares through a non-U.S. office of a broker that is a U.S. person or has certain other contacts with the United States.

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

Marshall Islands Tax Consequences

The following discussion is the opinion of Dennis J. Reeder, Reeder & Simpson, P.C., our counsel as to matters of the laws of the Republic of the Marshall Islands, and the current laws of the Republic of the Marshall Islands applicable to persons who do not reside in, maintain offices in or engage in business in the Republic of the Marshall Islands.

Because we do not, and we do not expect that we will, conduct business or operations in the Republic of the Marshall Islands, and because all documentation related to this offering will be executed outside of the Republic of the Marshall Islands, under current Marshall Islands law you will not be subject to Marshall Islands taxation or withholding on distributions, including upon a return of capital, we make to you as a shareholder. In addition, you will not be subject to Marshall Islands stamp, capital gains or other taxes on the purchase, ownership or disposition of common shares, and you will not be required by the Republic of the Marshall Islands to file a tax return relating to the common shares.

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

Canadian Federal Income Tax Consequences

The following discussion is the opinion of Blake, Cassels & Graydon, LLP, our counsel as to certain matters of Canadian law, as to the material Canadian federal income tax consequences under the Income Tax Act (Canada) (the Canada Tax Act), as of the date of this prospectus, that we believe are relevant to holders of common shares acquired in this offering who are, at all relevant times, for the purposes of the Canada Tax Act and the Canada-United States Tax Convention 1980 (the Canada-U.S. Treaty) resident only in the United States and who deal at arm's length with us (U.S. Resident Holders). A holder that is a United States limited liability company may not be considered resident in the United States for purposes of the Canada-U.S. Treaty; accordingly, such holders should consult their own tax advisors.

Subject to the assumptions below, under the Canada Tax Act, no taxes on income (including taxable capital gains and withholding tax on dividends) are payable by U.S. Resident Holders in respect of the acquisition, holding, disposition or redemption of our shares. This opinion is based upon the assumptions that we are not a resident in Canada and such U.S. Resident Holders do not have, and have not had, for the purposes of the Canada-U.S. Treaty, a permanent establishment or fixed base in Canada to which such shares pertain and, in addition, do not use or hold and are not deemed or considered to use or hold such shares in the course of carrying on a business in Canada. We will not be resident in Canada in a taxation year if our principal business is the operation of ships that are used primarily in transporting passengers or goods in international traffic, all or substantially all of our gross revenue for the year consists of gross revenue from the operation of ships in transporting passengers or goods in that international traffic, and we were not granted articles of continuance in Canada before the end of the year. Income earned in Canada by a non-resident corporation from the operation of a ship in international traffic, and gains realized from the disposition of ships used principally in international traffic, are not included in a non-resident corporation's income for Canadian tax purposes where the corporation's country of residence grants substantially similar relief to a Canadian resident. For a further discussion, separate from this opinion, of the tax consequences of us becoming a resident in Canada, please read "Risk Factors—Tax Risks."

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

F. Dividends and Paying Agents

Not applicable.

G. Statements by Experts

Not applicable.

H. Documents on Display

Documents concerning us that are referred to herein may be inspected at the offices of Seaspan Ship Management Ltd. at 2600-200 Granville Street, Vancouver, British Columbia. Those documents electronically filed via the Electronic Data Gathering, Analysis, and Retrieval (or *EDGAR*) system may also be obtained from the SEC's website at www.sec.gov or from the SEC public reference room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Further information on the operation of the public reference rooms may be obtained by calling the SEC at 1-800-SEC-0330. Copies of documents can be requested from the SEC public reference rooms for a copying fee.

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Item 11. Quantitative and Qualitative Disclosures About Market Risk

We are exposed to market risk from changes in interest rates. We use interest rate swaps to manage interest rate price risks, but do not use these financial instruments for trading or speculative purposes.

Interest Rate Risk

As of December 31, 2007, our floating-rate borrowings totaled \$1.3 billion, of which we had entered into interest rate swap agreements to fix the rates on a notional principal of \$1.4 billion. These interest rate swaps have a \$135.6 million in the counterparties' favor.

The tables below provide information about our financial instruments at December 31, 2007 that are sensitive to changes in interest rates. See note 8 to our consolidated financial statements included elsewhere herein, which provides additional information with respect to our existing debt agreements. The information in this table is based upon our credit facilities.

	Principal Repayment Dates					
	2008	2009	2010	2011	2012	Thereafter
	(dollars in thousands)					
Credit Facility:						
Bearing interest at variable interest rates	—	—	4,715	5,027	45,547	1,284,149

(1) Represents principal payments on our credit facility that bears interest at variable rates for which we have entered into interest rate swap agreements to fix the LIBOR.

Pursuant to the credit facility agreements, at December 31, 2007 we entered into interest rate swap agreements to fix LIBOR at per annum interest rates on notional loan balances. The Company has designated certain of these interest rate swaps as hedging instruments in accordance with the requirements in FASB Statement No. 133, *Accounting for Derivative Instruments and Certain Hedging Activities*, as amended, as follows:

	Fixed LIBOR	Notional Amount as at December 31, 2007	Maximum notional amount ⁽¹⁾	Effective Date	Ending Date
Interest rate swap	4.6325%	\$ 663,399	\$ 663,399	September 15, 2005	July 16, 2012
Interest rate swap	5.6400%	254,382	714,500	August 31, 2007	August 31, 2017
Interest rate swap	5.2500%	82,303	200,000	September 29, 2006	June 23, 2010
Interest rate swap	5.5150%	59,700	59,700	February 28, 2007	July 31, 2012
Interest rate swap	5.3150%	53,523	106,800	August 15, 2006	August 28, 2009
Interest rate swap	5.2600%	43,250	106,800	July 3, 2006	February 26, 2021 ⁽²⁾
Interest rate swap	5.6000%	—	200,000	June 23, 2010	December 23, 2021

In addition, the Company has the following interest rate swaps that are not designated as hedges:

	Fixed LIBOR	Notional Amount as at December 31, 2007	Maximum notional amount ⁽¹⁾	Effective Date	Ending Date
Interest rate swap	5.2000%	\$ 96,000	\$ 96,000	December 18, 2006	October 2, 2015
Interest rate swap	5.4200%	69,122	438,462	September 6, 2007	May 31, 2024
Interest rate swap	5.0275%	49,080	158,000	May 31, 2007	September 30, 2015
Interest rate swap	5.1700%	17,820	55,500	April 30, 2007	May 29, 2020
Interest rate swap	5.1750%	—	663,399	July 16, 2012	July 15, 2016
Interest rate swap	5.8700%	—	620,390	August 31, 2017	November 30, 2025
Interest rate swap	5.4975%	—	59,700	July 31, 2012	July 31, 2019
Interest rate swap	5.5950%	—	106,800	August 29, 2009	August 28, 2020

(1) Over the term of the interest rate swaps, the notional amounts increase and decrease. These amounts represent the peak notional amount during the term of the swap.

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- (2) The Company has entered into a swaption agreement with a bank (Swaption Counterparty) whereby the Swaption Counterparty has the option to require the Company to enter into an interest rate swap to pay LIBOR and receive a fixed rate of 5.26%. This is a European option and is open for a two hour period on February 26, 2014 after which it expires. The notional amount of the underlying swap is \$106,800,000 with an effective date of February 28, 2014 and an expiration of February 26, 2021. If the Swaption Counterparty exercises the swaption, the underlying swap effectively offsets the Company's 5.26% pay fixed LIBOR swap from February 28, 2014 to February 26, 2021.

For the interest rate swap agreements that have been designated as hedging instruments in accordance with the requirements in the accounting literature, the changes in the fair value of these interest rate swaps are reported in accumulated other comprehensive income. The fair value will change as market interest rates change. Interest expense is adjusted to include amounts payable or receivable under the interest rate swaps. The ineffective portion of the interest rate swaps are recognized immediately in net income. Other interest rate swap agreements and derivative instruments that are not designated as hedging instruments are marked to market and are recorded on the balance sheet at fair value. The changes in the fair value of these instruments are recorded in earnings.

Counterparties to these financial instruments expose us to credit-related losses in the event of nonperformance; however, counterparties to these agreements are major financial institutions, and we consider the risk of loss due to nonperformance to be minimal. We do not require collateral from these institutions. We do not hold and will not issue interest rate swaps for trading purposes.

Item 12. Description of Securities Other than Equity Securities

Not applicable.

PART II

Item 13. Defaults, Dividend Arrearages and Delinquencies

None.

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

None.

Item 15. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As required by Rules 13a-15 and 15d-15 under the Securities Exchange Act of 1934, as amended, or the Exchange Act, management has evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Disclosure controls and procedures refer to controls and other procedures designed to ensure that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding our required disclosure. In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management was required to apply its judgment in evaluating and implementing possible controls and procedures.

Based on the foregoing, our Chief Executive Officer and Chief Financial Officer have concluded that, as of December 31, 2007, the end of the period covered by this report, our disclosure controls and procedures were effective.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting.

Internal control over financial reporting refers to a process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer and effected by our Board of Directors, management and other personnel, 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 and includes those policies and procedures that:

- pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and members of our board of directors; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on our financial statements.

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting also can be circumvented by collusion or improper override.

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Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process, and it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Management evaluated the effectiveness of our internal control over financial reporting as of December 31, 2007 using the framework set forth in the report of the Treadway Commission's Committee of Sponsoring Organizations.

Based on the foregoing, management has concluded that our internal control over financial reporting was effective as of December 31, 2007.

The effectiveness of our internal controls over financial reporting as of December 31, 2007 has been audited by KPMG LLP, the independent registered public accounting firm that audited our December 31, 2007 consolidated annual financial statements, as stated in their report which is included herein.

Changes in Internal Control over Financial Reporting

Management has evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, whether any changes in our internal control over financial reporting that occurred during our last fiscal year have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

During 2007, we have retained an expert advisor in connection with our financial reporting of hedging transactions in accordance with FAS 133. There was no other change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal controls over financial reporting.

Item 16A. Audit Committee Financial Expert

The Board has determined that director and Chair of the Audit Committee, David Korbin, qualifies as an audit committee financial expert and is independent under applicable NYSE and SEC standards.

Item 16B. Code of Ethics

We have adopted Standards for Business Conduct that include a Code of Ethics for all employees and directors. This document is available under "Corporate Governance" in the Investor Relations section of our website (www.seaspancorp.com). We also intend to disclose any waivers to or amendments of our Standards of Business Conduct or Code of Ethics for the benefit of our directors and executive officers on our website. We will provide a hard copy of our Code of Ethics free of charge upon written request of a shareholder. Please contact Sai W. Chu for any such request.

Item 16C. Principal Accountant Fees and Services

Our principal accountant for 2007 was KPMG LLP, Chartered Accountants.

Fees Incurred by Seaspan for KPMG LLP's Services

In 2006 and 2007, the fees rendered by the auditors were as follows:

	<u>2006</u>	<u>2007</u>
Audit Fees	\$394,000	\$506,000
Audit-Related Fees	32,000	—
Tax Fees	45,000	57,000
All Other Fees	—	—
	<u>\$471,000</u>	<u>\$563,000</u>

Audit Fees

Audit fees for 2007 include fees related to our public offerings of our common shares completed in April and August 2007 in addition to our annual audit, quarterly reviews and accounting consultation. Audit fees for 2006 include fees related to our public offering of our common shares completed in November 2006 in addition to our annual audit, quarterly reviews and accounting consultations.

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Audit-Related Fees

Audit-related fees for 2006 are for Sarbanes-Oxley Act of 2002 compliance consultation.

Tax Fees

Tax fees for 2007 and 2006 are primarily for tax consultation services.

The Audit Committee has the authority to pre-approve permissible audit-related and non-audit services not prohibited by law to be performed by our independent auditors and associated fees. Engagements for proposed services either may be separately pre-approved by the Audit Committee or entered into pursuant to detailed pre-approval policies and procedures established by the Audit Committee, as long as the Audit Committee is informed on a timely basis of any engagement entered into on that basis. The Audit Committee separately pre-approved all engagements and fees paid to our principal accountant in 2006 and 2007.

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

Not applicable.

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

Not applicable.

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PART III

Item 17. Financial Statements

Not applicable.

Item 18. Financial Statements

The following financial statements, together with the report of KPMG LLP, Chartered Accountants thereon, are filed as part of this Annual Report:

	<u>Page</u>
SEASPAN CORPORATION (PREDECESSOR)	
Report of Independent Registered Public Accounting Firm	F-1
Balance Sheets as of December 31, 2004 and August 11, 2005	F-2
Predecessor Combined Statement of Operations and Owners' Equity (Deficiency) for the year ended December 31, 2004 and the 223 Day Period Ended August 11, 2005	F-3
Predecessor Combined Statement of Cash Flows for the year ended December 31, 2004 and the 223 Day Period Ended August 11, 2005	F-4
Notes to the Financial Statements	F-5
SEASPAN CORPORATION	
Management's Statement of Responsibilities	F-18
Report of Independent Registered Public Accounting Firm	F-19
Report of Independent Registered Public Accounting Firm	F-21
Consolidated Balance Sheets as of December 31, 2006 and 2007	F-22
Consolidated Statements of Earnings for the Period from Date of Incorporation on May 3, 2005 to December 31, 2005 and the Years Ended December 31, 2006 and 2007	F-23
Consolidated Statements of Shareholders' Equity for the Period from Date of Incorporation on May 3, 2005 to December 31, 2005 and the Years Ended December 31, 2006 and 2007	F-24
Consolidated Statements of Cash Flows for the Period from Date of Incorporation on May 3, 2005 to December 31, 2005 and the Years Ended December 31, 2006 and 2007	F-26
Consolidated Notes to the Financial Statements	F-27

All other schedules for which provision is made in the applicable accounting regulations of the SEC are not required, are inapplicable or have been disclosed in the Consolidated Notes to the Financial Statements and therefore have been omitted.

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Item 19. Exhibits

The following exhibits are filed as part of this Annual Report:

<u>Exhibit Number</u>	<u>Description</u>
1.1	Amended and Restated Articles of Incorporation of Seaspan Corporation (incorporated herein by reference to Exhibit 3.1 to the Company's Amendment No. 2 to Form F-1 (File No. 333-126762), filed with the SEC on August 4, 2005).
1.2	Bylaws of Seaspan Corporation (incorporated herein by reference to Exhibit 3.2 to the Company's Registration Statement on Form F-1 (File No. 333-126762), filed with the SEC on July 21, 2005).
2.1	Specimen of Share Certificate of Seaspan Corporation (incorporated herein by reference to Exhibit 4.1 to the Company's Registration Statement on Form F-1 (File No. 333-126762), filed with the SEC on July 21, 2005).
2.2	Registration Rights Agreement (incorporated herein by reference to Exhibit 10.1 to the Company's Amendment No. 2 to Form F-1 (File No. 333-126762), filed with the SEC on August 4, 2005).
2.3	Form of Shareholders Rights Agreement (incorporated herein by reference to Exhibit 10.7 to the Company's Amendment No. 2 to Form F-1 (File No. 333-126762), filed with the SEC on August 4, 2005).
4.1	Underwriting Agreement (incorporated herein by reference to Exhibit 1.1 to the Company's Form 6-K (File No. 1-32591), filed with the SEC on November 6, 2006).
4.2	Underwriting Agreement (incorporated herein by reference to Exhibit 1.1 to the Company's Form 6-K (File No. 1-32591), filed with the SEC on April 20, 2007).
4.3	Underwriting Agreement (incorporated herein by reference to Exhibit 1.1 to the Company's Form 6-K (File No. 1-32591) filed with the SEC on August 14, 2007).
4.4	Seaspan Corporation Stock Incentive Plan (incorporated herein by reference to Exhibit 4.2 to the Company's Form 20-F (File No. 1-32591), filed with the SEC on March 17, 2006).
4.5	Amended and Restated Management Agreement among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd. dated as of May 4, 2007 (incorporated herein by reference to Exhibit 99.1 to the Company's Form 6-K/A (File No. 1-32591), filed with the SEC on October 10, 2007).
4.6	Vessel Management Agreement for 2500 TEU / 3500 TEU Vessels dated as of the 18 th day of May, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd. (incorporated herein by reference to Exhibit 99.3 to the Company's Form 6-K/A (File No. 1-32591) filed with the SEC on October 10, 2007).
4.7	Vessel Management Agreement for 5100 TEU Vessels dated as of the 18 th day of May, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd. (incorporated by reference to Exhibit 99.2 to the Company's Form 6-K/A (File No. 1-32591) filed with the SEC on October 10, 2007).
4.8	Vessel Management Agreement for Two 2500 TEU K-Line Vessels / Four 4250 TEU CSAV Vessels / Eight 8500 COSCON Vessels dated as of the 28 th day of September, 2007 among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd. (incorporated by reference to Exhibit 99.1 to the Company's Form 6-K (File No. 1-32591) filed with the SEC on October 29, 2007).

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Exhibit Number	Description
4.9*	Vessel Management Agreement for Two 13100 TEU Vessels among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Advisory Services Limited, Seaspan Ship Management Ltd. and Seaspan Crew Management Ltd. dated as of May 4, 2007.
4.10	Omnibus Agreement by and among Seaspan Corporation, Seaspan Management Services Limited, Seaspan Ship Management Ltd., Seaspan Advisory Services Limited, Norsk Pacific Steamship Company Limited and Seaspan International Ltd. (incorporated herein by reference to Exhibit 10.8 to the Company's Registration Statement on Form F-1 (File No. 333-126762), filed with the SEC on July 21, 2005).
4.11	Employment Agreement between Gerry Wang and Seaspan Ship Management Ltd. (incorporated herein by reference to Exhibit 10.3 to the Company's Registration Statement on Form F-1 (File No. 333-126762), filed with the SEC on July 21, 2005).
4.12	Employment Agreement between Graham Porter and Seaspan Advisory Services Limited (incorporated herein by reference to Exhibit 10.4 to the Company's Registration Statement on Form F-1 (File No. 333-126762), filed with the SEC on July 21, 2005).
4.13	Form of Indemnification Agreement between Seaspan Corporation and each of Kyle Washington, Gerry Wang, Kevin M. Kennedy, David Korbin, Peter Shaerf, Peter Lorange, Milton K. Wong, Barry R. Pearl, Sai W. Chu, Christa L. Scowby and Ken Low (incorporated herein by reference to Exhibit 10.10 to the Company's Registration Statement on Form F-1 (File No. 333-126762), filed with the SEC on July 21, 2005).
4.14	Amended and Restated Credit Agreement between Seaspan Corporation and Arranged by Citigroup Global Markets Limited and Fortis Capital, with Citigroup Global Markets Limited, Credit Suisse, Landesbank Hessen-Thüringen, DnB Nor Bank ASA, Fortis Capital Corp. as Mandated Lead Arrangers with Fortis Capital Corp. as Facility Agent, dated as of May 11, 2007 (incorporated herein by reference to Exhibit 1.1 to the Company's Form 6-K (File No. 1-32591), filed with the SEC on May 23, 2007).
4.15	Credit Facility Agreement providing for a Senior Secured Reducing Revolving Credit Facility of up to \$365,000,000, dated May 19, 2006, among Seaspan Corporation, DnB Nor Bank, ASA, as Sole Bookrunner, Administrative Agent and Security Agent, Credit Suisse and Fortis Capital Corp., as Mandated Lead Arrangers and Landesbank Hessen- Thüringen as documentation agent (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on June 12, 2006).
4.16	Amendment No. 1 to Credit Facility Agreement providing for a Senior Secured Reducing Revolving Credit Facility of up to \$365,000,000, dated June 29, 2007, among Seaspan Corporation, DnB Nor Bank, ASA, as Sole Bookrunner, Administrative Agent and Security Agent, Credit Suisse and Fortis Capital Corp., as Mandated Lead Arrangers and Landesbank Hessen- Thüringen as documentation agent (incorporated herein by reference to the Company's Form 6-K/A (File No. 1-32591), filed with the SEC on October 10, 2007).

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Exhibit Number	Description
4.17*	Amendment No. 2 to Credit Facility Agreement providing for a Senior Secured Reducing Revolving Credit Facility of up to \$365,000,000 dated August 7, 2007 among Seaspan Corporation, DnB Nor Bank, ASA, as Sole Bookrunner, Administrative Agent and Security Agent, Credit Suisse and Fortis Capital Corp., as Mandated Lead Arrangers and Landesbank Hessen- Thüringen as documentation agent.
4.18	U.S. \$218,400,000 Credit Facility Agreement, dated October 16, 2006, among Seaspan Corporation, Sumitomo Mitsui Banking Corporation, Sumitomo Mitsui Banking Corporation Europe Limited, as Security Trustee and Sumitomo Mitsui Banking Corporation, Brussels Branch as Facility Agent (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on October 23, 2006).
4.19	U.S. \$920,000,000 Reducing, Revolving Credit Facility, dated August 8, 2007, among DnB Nor Bank ASA, Credit Suisse, The Export-Import Bank of China, Industrial and Commercial Bank of China Limited and Sumitomo Mitsui Banking Corporation, Brussels Branch (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on August 9, 2007).
4.20*	U.S. \$150,000,000 Reducing Revolving Credit Facility Agreement dated December 28, 2007, for Seaspan Finance II Co. Ltd. and Seaspan Finance III Co. Ltd. as borrowers with Seaspan Corporation, as guarantor, arranged by Industrial and Commercial Bank of China Limited with Industrial and Commercial Bank of China Limited as facility Agent.
4.21*	U.S. \$291,200,000 Credit Facility Agreement for Seaspan Corporation as Borrower, arranged by Fortis Bank S.A./N.V., New York Branch and The Export-Import Bank of Korea with Fortis Bank S.A./N.V., New York Branch as Facility Agent and Security Trustee and Fortis Bank S.A./N.V., New York Branch as Swap Agent dated March 17, 2008.
4.22*	Lease Agreement in respect of one 4520 TEU Container Carrier to be Built at Samsung Heavy Industries Co., Ltd. with Hull No. 1851 dated December 27, 2007, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.
4.23*	Lease Agreement in respect of one 4520 TEU Container Carrier to be Built at Samsung Heavy Industries Co., Ltd. with Hull No. 1852 dated December 27, 2007, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.
4.24*	Lease Agreement in respect of one 4520 TEU Container Carrier to be Built at Samsung Heavy Industries Co., Ltd. with Hull No. 1853 dated December 27, 2007, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.
4.25*	Lease Agreement in respect of one 4520 TEU Container Carrier to be Built at Samsung Heavy Industries Co., Ltd. with Hull No. 1854 dated December 27, 2007, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.
4.26*	Lease Agreement in respect of one 4520 TEU Container Carrier to be Built at Samsung Heavy Industries Co., Ltd. with Hull No. 1855 dated December 27, 2007, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.
4.27*	Amendment Agreement relating to Five Lease Agreements in respect of 4520 TEU Container Carriers to be Built at Samsung Heavy Industries Co., Ltd. with Hull Nos. 1851, 1852, 1853, 1854 and 1855, dated February 4, 2008, among Peony Leasing Limited and Seaspan Finance I Co. Ltd.

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<u>Exhibit Number</u>	<u>Description</u>
4.28	Form of Securities Indenture (incorporated herein by reference to Exhibit 4.2 to the Company's Registration Statement on Form F-3 (File No. 333-137051), filed with the SEC on September 1, 2006).
8.1*	Subsidiaries of Seaspan Corporation.
11.1	Code of Ethics (incorporated herein by reference to Exhibit 11.1 to the Company's Form 20-F (File No. 1-32591), filed with the SEC on March 17, 2006).
11.2	Compensation Committee Annual Report (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on March 15, 2007).
11.3	Audit Committee Annual Report (incorporated herein by reference to the Company's Form 6-K (File No. 1-32591), filed with the SEC on March 15, 2007).
12.1*	Rule 13a-14(a)/15d-14(a) Certification of Seaspan's Chief Executive Officer.
12.2*	Rule 13a-14(a)/15d-14(a) Certification of Seaspan's Chief Financial Officer.
13.1*	Seaspan Corporation Certification of Gerry Wang, Chief Executive Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
13.2*	Seaspan Corporation Certification of Sai W. Chu, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

* Filed herewith.



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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Directors of Seaspn Corporation

We have audited the accompanying predecessor combined balance sheets of the predecessor to Seaspn Corporation as of August 11, 2005 and December 31, 2004 and the related predecessor combined statements of operations and owner's equity (deficiency) and cash flows for the 223 day period ended August 11, 2005 and for the year ended December 31, 2004. These combined financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these combined financial statements based on our audits.

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

In our opinion, the predecessor combined financial statements referred to above present fairly, in all material respects, the financial position of the predecessor to Seaspn Corporation as of August 11, 2005 and December 31, 2004 and the results of their operations and their cash flows for the 223 day period ended August 11, 2005 and for the year ended December 31, 2004 in accordance with U.S. generally accepted accounting principles.

/s/ KPMG LLP

Chartered Accountants

Vancouver, Canada

February 22, 2006

KPMG LLP, a Canadian limited liability partnership is the Canadian member firm of KPMG International, a Swiss cooperative.

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SEASPAN CORPORATION

Predecessor Combined Balance Sheets
(Expressed in thousands of United States dollars)

	December 31,	August 11,
	2004	2005
Assets		
Current assets:		
Cash and cash equivalents	\$ 4,066	\$ 3,209
Restricted cash (note 3)	4,544	16,059
Accounts receivable	1,929	125
Inventories	438	878
Due from related parties (note 4(a))	1,655	1,084
Prepaid expenses	626	961
	<u>13,258</u>	<u>22,316</u>
Vessels (note 5)	454,862	466,112
Deferred financing fees and other (note 6)	8,201	8,548
	<u>\$ 476,321</u>	<u>\$496,976</u>
Liabilities and Owner's Equity (Deficiency)		
Current liabilities:		
Accounts payable and accrued liabilities (note 9(a))	\$ 5,028	\$ 4,249
Deferred revenue	453	1,108
Due to related party (note 4(b))	64,822	43,393
Current portion of long-term debt	19,773	26,203
	<u>90,076</u>	<u>74,953</u>
Long-term debt (note 7)	376,999	405,495
Fair value of interest rate swaps	18,860	11,552
Other long-term liabilities	24	—
	<u>485,959</u>	<u>492,000</u>
Owner's equity (deficiency)	(9,638)	4,976
	<u>\$ 476,321</u>	<u>\$496,976</u>
Commitments and contingent obligations (note 10)		
Subsequent events (notes 1 and 14)		

See accompanying notes to predecessor combined financial statements.

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SEASPAN CORPORATION

Predecessor Combined Statements of Operations and Owner's Equity (Deficiency)
(Expressed in thousands of United States dollars)

	Year ended December 31, 2004	223 day period ended August 11, 2005
Revenue	\$ 35,933	\$ 40,157
Operating expenses:		
Ship operating	7,157	7,733
Depreciation	8,808	9,904
General and administrative	207	218
	<u>16,172</u>	<u>17,855</u>
Operating earnings	19,761	22,302
Other expenses (earnings):		
Interest (note 8)	11,804	14,563
Amortization of deferred financing fees	222	450
Write off on debt refinancing (note 6)	3,135	—
Change in fair value of interest rate swaps	(1,416)	(7,308)
Other	(53)	(17)
	<u>13,692</u>	<u>7,688</u>
Net earnings	6,069	14,614
Owner's equity (deficiency), beginning of period	(15,707)	(9,638)
Owner's equity (deficiency), end of period	<u>\$ (9,638)</u>	<u>\$ 4,976</u>

See accompanying notes to predecessor combined financial statements.

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SEASPAN CORPORATION

Predecessor Combined Statements of Cash Flows
(Expressed in thousands of United States dollars)

	Year ended December 31, 2004	223 day period ended August 11, 2005
Cash provided by (used in):		
Operating activities:		
Net earnings	\$ 6,069	\$ 14,614
Items not involving cash:		
Depreciation	8,808	9,904
Amortization of deferred financing fees	222	450
Change in fair value of interest rate swaps	(1,416)	(7,308)
Accrued interest capitalized to interest rate swaps	801	—
Write-off on debt refinancing	3,135	—
Change in non-cash operating working capital (note 9(b))	921	1,629
Cash from operating activities	<u>18,540</u>	<u>19,289</u>
Investing activities:		
Vessels	(7,475)	(20,939)
Due from related parties	(1,217)	—
Other	—	—
Cash used in investing activities	<u>(8,692)</u>	<u>(20,939)</u>
Financing activities:		
Change in restricted cash	611	(11,515)
Issuance of long-term debt	300,318	45,267
Repayment of long-term debt	(269,629)	(11,215)
Due to related party	—	(21,429)
Repayment of due to related party	(32,061)	571
Financing fees incurred	(7,054)	(862)
Other long-term liabilities	(464)	(24)
Cash from (used in) financing activities	<u>(8,279)</u>	<u>793</u>
Increase (decrease) in cash and cash equivalents	1,569	(857)
Cash and cash equivalents, beginning of period	2,497	4,066
Cash and cash equivalents, end of period	<u>\$ 4,066</u>	<u>\$ 3,209</u>

Supplementary information (note 9(c))

See accompanying notes to predecessor combined financial statements.

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SEASPAN CORPORATION

Notes to Predecessor Combined Financial Statements
(Tabular amounts expressed in thousands of United States dollars)

Year ended December 31, 2004
223 day period ended August 11, 2005

1. General:

Seaspan Corporation was incorporated in the Marshall Islands for the purpose of acquiring ten containerships (the "Vessels") from ten existing Republic of Cyprus incorporated wholly owned subsidiaries of Seaspan Container Lines Limited ("SCLL") and to enter into agreements to acquire 13 additional vessels from 13 other Cyprus incorporated wholly owned subsidiaries of SCLL on completion of their construction, which completion is scheduled to occur between 2005-2007. The subsidiaries of SCLL that currently own the Vessels and Seaspan Corporation are collectively referred to as the "Company" in these predecessor combined financial statements. The primary activity of each of the entities included in the Company is the ownership and operation of the Vessels which are engaged in the deep-sea container transportation business. At August 11, 2005, the initial fleet that the Company owned, or had rights and obligations related to the acquisition of, consisted of eight 4250 Twenty-foot Equivalent Unit ("TEU") containerships and two 8500 TEU containerships. These predecessor combined financial statements have been prepared to reflect the combined financial position, results of operations and cash flows of the legal entities that owned the Vessels, and represent the predecessor to Seaspan Corporation which will acquire the Vessels pursuant to the terms of the acquisition agreements entered into between Seaspan Corporation and each predecessor owner (note 14).

The following table sets out the details of the ten legal entities and the Vessels included in these predecessor combined financial statements:

<u>Vessel Group / Company Name</u>	<u>Vessel name</u>	<u>Commencement of charter</u>	<u>Size (TEUs)</u>
<i>CSG I Vessel Companies:</i>			
CSCL Hamburg Shipping	CSCL Hamburg	July 2001	4250
CSCL Chiwan Shipping	CSCL Chiwan	September 2001	4250
CSCL Ningbo Shipping	CSCL Ningbo	June 2002	4250
CSCL Dalian Shipping	CSCL Dalian	September 2002	4250
CSCL Felixstowe Shipping	CSCL Felixstowe	October 2002	4250
<i>CSG II Vessel Companies:</i>			
Clorina Marine	CSCL Oceania	December 2004	8500
Elia Shipping	CSCL Africa	January 2005	8500
<i>CSG III Vessel Companies:</i>			
Vancouver Shipping	CSCL Vancouver	February 2005	4250
Tofino Shipping	CSCL Sydney	April 2005	4250
Nootka Shipping	CSCL New York	May 2005	4250

Commencement of charter is the month in which the Vessel commenced revenue generating operations.

2. Significant accounting policies:

(a) Basis of accounting:

These predecessor combined financial statements are prepared in accordance with accounting principles generally accepted in the United States and combine the financial position, results of operations and cash flows of the legal entities comprising the Company as discussed in note 1. Owner's

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SEASPAN CORPORATION

Notes to Predecessor Combined Financial Statements—(Continued)
(Tabular amounts expressed in thousands of United States dollars)

Year ended December 31, 2004

223 day period ended August 11, 2005

equity (deficiency) represents the interest of SCLL in the net carrying value of the assets and liabilities of the Company. All inter-entity transactions and balances have been eliminated.

These predecessor combined financial statements include the general and administrative expenses incurred by the predecessor in their operations. The Company believes these general and administrative expenses reflect the cost reasonable to present the results of operations of the predecessor. However, the financial position, results of operations and cash flows of the Company are not indicative of those that would have been achieved had the Company owned and operated the Vessels as an independent publicly listed entity during the periods, as Seaspan Corporation will incur additional administrative expenses, including legal, accounting, treasury, rent, securities regulatory compliance and other costs normally incurred by a listed public entity. Accordingly, the predecessor combined financial statements do not purport to be indicative of future financial position, results of operations or cash flows of Seaspan Corporation.

Seaspan Corporation currently estimates that actual costs of general and administrative expenses will significantly increase from historical levels when all of the contracted fleet of 23 vessels are in operation.

(b) Foreign currency translation:

The functional and reporting currency is the United States dollar. Transactions incurred in other currencies are translated into United States dollars using the exchange rate at the time of the transaction. Monetary assets and liabilities as of the functional reporting date are translated into United States dollars using exchange rates at that date. Exchange gains and losses are included in net earnings. For the periods presented in the predecessor combined statements of operations, exchange gains and losses were not significant.

(c) Cash equivalents:

Cash equivalents include highly liquid securities with terms to maturity of three months or less when acquired.

(d) Inventories:

Inventories represented lubricant oils on board the Vessels carried at the lower of cost or replacement cost. Cost is determined substantially on a first-in first-out basis. The cost of spare parts and supplies to operate the Vessels are expensed as incurred.

(e) Vessels:

Vessels are carried at cost and include capitalized interest during construction and other construction, design, supervision and pre-delivery costs.

Depreciation is provided on a straight-line basis over the estimated useful life of each Vessel. No charge for depreciation is made until each Vessel is put into operation.

The carrying value of the Vessels is evaluated when events or circumstances indicate that there has been a possible impairment in value, which would occur in the period when the net carrying value was no longer expected to be recovered from future estimated cash flows. Such evaluations include comparison of current and anticipated operating cash flows, assessment of future operations and other

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relevant factors. To the extent that the carrying value of the Vessels exceeded the undiscounted estimated future cash flows, the Vessels would be written down to their fair value.

Normal repair and maintenance costs, including such costs incurred during drydocking, are expensed as incurred.

Drydocking costs, which improve or extend the useful life of the Vessels, are capitalized as incurred and depreciated prospectively over the period to the next scheduled drydocking. The time between scheduled drydockings is five years. As each of the Vessels was put into service in the last five years, no drydocking costs have been capitalized or depreciated in the periods presented.

(f) Deferred financing fees:

Deferred financing fees represent the unamortized costs incurred on issuance of long-term debt. Amortization is provided on the interest-yield basis over the term of the underlying obligation.

(g) Income taxes:

All income from shipping activities arising out of the ownership of vessels registered in the Republic of Cyprus is exempt from taxation in Cyprus.

The owner of the vessel is responsible for all taxes, fees or other levies charged by countries other than the Republic of Cyprus on vessels due to having cargo on board. Under charter party agreements, this responsibility has been assumed by the charterer. Accordingly, any such taxes, fees or levies have not been recognized in these predecessor combined financial statements. Any such taxes paid by the Company, as a result of the charterer's failure to pay, will be recognized when the Company's obligation is determinable.

(h) Revenue recognition:

Revenue from charter hire services is recognized as services are rendered and collection is reasonably assured. Any expected losses on shipping contracts are provided for as they become known. Cash received in excess of earned revenue is recorded as deferred revenue.

(i) Derivatives instruments:

Interest rate swap agreements have been entered into to reduce the Company's exposure to market risks from changing interest rates. Derivatives and hedging activities are accounted for in accordance with FASB Statement No. 133, "*Accounting for Derivative Instruments and Certain Hedging Activities*", as amended, which requires that all derivative instruments be recorded on the balance sheet at their respective fair values. The Company recognizes the interest rate swap agreements on the balance sheet at their fair value. As the interest rate swap agreements have not been designated as hedging instruments in accordance with the requirements in accounting literature, changes in the fair value of the interest rate swap are reported in current period earnings. The fair value will change as market interest rates change.

The Company does not hedge foreign currency translation of assets or liabilities or foreign currency transactions or use financial instruments for trading or other speculative purposes.

(j) Guarantees:

The Company recognizes the fair value of the obligation under guarantees and indemnification arrangements that the underlying legal entities have issued. Conditions that are subject to the guarantee

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are monitored to identify whether the charge against the Vessels has a material fair value or it is probable that a loss has occurred. Any such losses would be recognized when estimable. In the future, the existing guarantees and indemnification arrangements will no longer be applicable as they will be discharged upon the completion of Seaspan Corporation's offering.

(k) Use of estimates:

The preparation of combined financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the combined balance sheet dates and the reported amounts of revenue and expenses during the reporting periods. Areas where accounting judgments and estimates are significant to the Company include the assessment of the Vessel lives and the recoverability of the carrying value of Vessels, which are subject to future market events. Actual results could differ from those estimates.

3. Restricted cash:

Certain of the Company's bank accounts are subject to restrictions under the credit agreements, which give priority to principal and interest payments and limit the amount of cash available for operations.

4. Related party transactions:

(a) Due from related parties:

The balance due from related parties is for funds advanced to entities with common ownership, to fund current operating costs of the Vessels. The amounts are intended to be repaid in the ordinary course of business.

(b) Due to related party:

The amount is due to SCLL, the Company's parent. It is non-interest bearing, unsecured and has no fixed terms of repayment.

(c) Related party transactions:

For Vessels under construction during the period, Seaspan Ship Management Limited ("SSML") provided management supervision, insurance arrangements, accounting and treasury, and provisioning services in the amount of \$90,000 (2004—\$620,000). For Vessels operating or that began operations during the period, SSML provided technical management services, in the amount of \$573,000 (2004—\$474,000) and Seaspan Crew Management Limited provided crew management services, in the amount of \$113,000 (2004—\$113,000). These transactions are in the normal course of operations and are measured at the exchange amount, which is the amount of consideration established and agreed to by the related parties. SSML and SCLL have also negotiated supplier and builder rebates. To August 11, 2005, substantially all supplier rebates have related to vessels under construction. These supplier rebates have been recognized by the Company as a reduction to the capital cost of the applicable Vessel when earned. Included in accounts receivable at August 11, 2005 is nil (2004—\$1,852,000) of supplier rebates that are receivable from construction suppliers. Builder rebates, based on fleet volume discounts, are for the account of SCLL.

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5. Vessels:

<u>December 31, 2004</u>	<u>Cost</u>	<u>Accumulated depreciation</u>	<u>Net book value</u>
Vessels	\$301,996	\$ 23,922	\$278,074
Deposits on vessels	176,788	—	176,788
	<u>\$478,784</u>	<u>\$ 23,922</u>	<u>\$454,862</u>

<u>August 11, 2005</u>	<u>Cost</u>	<u>Accumulated depreciation</u>	<u>Net book value</u>
Vessels	\$499,939	\$ 33,827	\$466,112

At December 31, 2004, four of the legal entities within the Company had entered into ship building contracts with Samsung Heavy Industries Co. Ltd. (“Samsung”) for the construction of three 4250 TEU and one 8500 TEU containership by Samsung. Terms of the ship building contracts required a deposit in payment of 90% of the construction costs prior to commencing construction, with the balance due upon delivery of the Vessel. At May 27, 2005, all four of these Vessels have been delivered.

The deposit includes advances to Samsung for the construction of the Vessels under the terms of the ship building contracts, capitalized interest and other construction, supervision, design and pre-delivery costs. As security for the deposits, Samsung provided Irrevocable Letters of Refundment Guarantee (the “Refundment Guarantees”) issued by a bank, covering 90% of the contract value. The Refundment Guarantees have been assigned to the bank under terms of the credit facilities (note 7).

6. Deferred financing fees and other:

	<u>December 31, 2004</u>	<u>August 11, 2005</u>
Deferred financing fees, beginning of year	\$ 4,828	\$ 8,201
Costs incurred	7,075	862
Amortization capitalized	(344)	(65)
Amortization expensed	(222)	(450)
Write-off on debt refinancing	(3,136)	—
Deferred financing fees, end of year	<u>\$ 8,201</u>	<u>\$ 8,548</u>

During 2004, the Company refinanced certain long-term debt facilities, as described in note 7. For accounting purposes, these refinancings constituted, in part, modifications and, in part, extinguishments of the original debt instruments. As a result, during 2004, previously capitalized costs of \$2,450,000 and costs incurred during 2004 of \$686,000 were expensed.

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7. Long-term debt:

	December 31,	August 11,
	<u>2004</u>	<u>2005</u>
Bank term loans:		
CSG I Vessel Companies	\$ 165,000	\$158,815
CSG II Vessel Companies	130,000	126,000
CSG III Vessel Companies	96,772	102,383
Junior loans:		
CSG I Vessel Companies	—	12,500
CSG II Vessel Companies	5,000	20,000
CSG III Vessel Companies	—	12,000
	<u>396,772</u>	<u>431,698</u>
Current portion	19,773	26,203
	<u>\$ 376,999</u>	<u>\$405,495</u>

(a) Bank term loans—CSG I Vessel Companies:

The five CSG I Vessel Companies (see note 1) jointly entered into a loan agreement to finance the ownership of five deep-sea Vessels. During the year ended December 31, 2004, the CSG I Vessel Companies refinanced their long-term debt facilities. The original facilities were repaid with financing received under substantially the same terms as the former debt, but at revised interest rates and with different principal repayment terms and with certain different lenders.

The bank term loans for the CSG I Vessel Companies are comprised of five loans, one for each CSG I Vessel Company. Each term loan bears interest at the LIBOR plus 1.4% per annum. The CSG I Vessel Companies have entered into interest rate swap agreements to reduce their exposure to market risks from changing interest rates (note 12(c)). The CSG I Vessel Companies have the option, after providing notice, to prepay the loans at any time, together with accrued interest in increments of \$200,000 per loan.

Each bank term loan is repayable as to principal and interest in forty quarterly installments to approximately November 2014 with a remaining balance of \$9,050,000 per loan.

As at August 11, 2005, the principal repayments due for the next five years and thereafter are:

2005	\$ 8,250
2006	8,250
2007	8,250
2008	8,250
2009	22,625
Thereafter	<u>103,190</u>
	<u>\$ 158,815</u>

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The bank term loans are secured by mortgages on the Vessels owned by the CSG I Vessel Companies (the “CSG I Vessels”), assignments of the charter party agreements with China Shipping (Group) Company (“CSG”) and assignments of the retention and earnings bank accounts of each CSG I Vessel Company. The credit agreements also provide restrictions against the use of funds in these bank accounts, which give priority to principal and interest payments and limit the amount of cash available for operations.

The CSG I Vessel Companies future charter revenues are protected by a loss of earnings and/or charter hire insurance policies. These policies have been assigned to the bank as security for the loans.

Subsequent to August 11, 2005, the bank term loans were repaid (note 14).

(b) Junior loans—CSG I Vessel Companies:

Each CSG I Vessel Company has entered into a junior loan facility of \$5,000,000 that may be drawn at any time before October 30, 2005.

Each junior loan bears interest at the LIBOR plus 4.0% per annum. The CSG I Vessel Companies have the option, after providing written notice, to prepay the loan at any time, together with accrued interest in increments of \$200,000 per loan. Once the junior facilities are drawn upon, principal and interest payments are repayable in forty consecutive installments commencing three months after first drawdown of funds.

The junior loans are secured by a second priority on the following: mortgages on the CSG I Vessels and assignments of the charter party agreements with CSG. The junior loans also have a second priority on certain bank accounts and on the insurance proceeds of the CSG I Vessels.

The CSG I Vessel Companies’ future charter revenue are protected by a loss of earnings and/or charter hire insurance policies. These policies will have a second priority assignment to the bank as security for the junior loans.

Subsequent to August 11, 2005, the CSG I Junior loans were repaid.

(c) Bank term loans—CSG II Vessel Companies

The two CSG II Vessel Companies (see note 1) jointly entered into a loan agreement to finance the construction and ownership of two deep-sea container vessels. During the year ended December 31, 2004, the CSG II Vessel Companies refinanced their long-term debt facility. The original facilities were repaid with the proceeds from the new debt facility, under substantially the same terms as the former debt, but at reduced interest rates and with different principal repayment terms and with certain different lenders.

The bank term loans for the CSG II Vessel Companies are comprised of two loans, one for each CSG II Vessel Company. Each bank term loan bears interest at the aggregate of the LIBOR plus 1.25% per annum. The CSG II Vessel Companies have entered into interest rate swap agreements to reduce their exposure to market risks from changing interest rates (note 12(c)). The CSG II Vessel Companies have the option, after providing notice, to prepay the loans at any time, together with accrued interest in increments of \$200,000 per loan.

Interest only payments are accrued quarterly until three months after the vessel delivery dates, after which time the bank term loans are repayable in forty quarterly installments to approximately January 2015.

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As at August 11, 2005, the principal repayments due for the next five years and thereafter are:

2005	\$ 8,000
2006	8,000
2007	8,000
2008	8,000
2009	8,000
Thereafter	86,000
	<u>\$ 126,000</u>

The bank term loans are secured by mortgages on the Vessels owned by the CSG II Vessel Companies (the “CSG II Vessels”), assignments of the charter party agreements with CSG after the vessel launch date and assignments of the ship building contracts and Refundment Guarantees prior to vessel deliveries. The loans are also secured by assignments of certain bank accounts, insurance proceeds of the CSG II Vessel Companies and a pledge of shares.

The CSG II Vessel Companies’ future charter revenues are protected by a loss of earnings and/or charter hire insurance policies. These policies have been assigned to the bank as security for the loans.

Subsequent to August 11, 2005, the CSG II bank term loans were repaid.

(d) Junior loans—CSG II Vessel Companies:

Each CSG II Vessel Company has entered into a junior loan facility of \$10,000,000 that may be drawn in two installments. The delivery drawing of \$5,000,000 may be drawn at any time before July 31, 2005 to partially settle the delivery installment due to Samsung (note 5) and the post-delivery drawing of \$5,000,000 may be drawn at anytime before November 12, 2005.

Each junior loan bears interest at the LIBOR plus 4.0% per annum. The CSG II Vessel Companies have agreed to enter into interest rate swap agreements to reduce their exposure to market risks from changing interest rates (note 12(c)). The CSG II Vessel Companies have the option, after providing written notice, to prepay the loans at any time, together with accrued interest in increments of \$200,000 per loan.

Once the junior facility is drawn upon, principal and interest payments are repayable in twenty-seven consecutive installments commencing three months after vessel deliveries.

The junior loans are secured by second priority on the following; mortgages on the CSG II Vessels, assignments of the charter party agreements with CSG after the CSG II Vessel launch dates, assignments of the ship building contracts and Refundment Guarantees prior to CSG II Vessel deliveries. The junior loans also have a second priority on certain bank accounts and on the insurance proceeds of the CSG II Vessel Companies and a pledge of shares.

The CSG II Vessel Companies’ future charter revenues are protected by a loss of earnings and/or a charter hire insurance policies. These policies will have a second priority assignment to the bank as security for the junior loans.

Subsequent to August 11, 2005, the CSG II Junior loans were repaid (note 14).

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(e) Bank term loans—CSG III Vessel Companies:

The bank term loans that relate to the CSG III Vessel Companies (see note 1) are drawn under a credit agreement comprising seven loans, one for each of the CSG III Vessel Companies, and for each of Burrard Shipping Company Limited, Nanaimo Shipping Company Limited, Spruce Shipping Company Limited and Hemlock Shipping Company Limited, companies under common control that are excluded from these predecessor combined financial statements.

During the year ended December 31, 2004, the CSG III Vessel Companies modified their original debt instruments but at reduced interest rates and with different principal repayment terms.

The bank term loans for each CSG III Vessel Company are available in two tranches. Tranche A, with an available limit of \$32,362,500, may be drawn upon at any time prior to deliveries. Upon deliveries, the amount of Tranche A funds outstanding must be the lesser of 75% of the vessel construction cost or the available limit. Tranche B, with an available limit of \$2,157,500, may only be drawn upon after vessel deliveries and at the lesser of 5% of the vessel construction cost or the available limit. Tranche A bears interest at the aggregate of the LIBOR, a 0.8% pre-delivery margin and a 0.3725% exposure fee until vessel deliveries and at the aggregate of the commercial interest reference rate of 4.63% and an exposure rate of 0.3725% after vessel deliveries. Tranche B bears interest at the LIBOR plus a 2.0% post delivery margin after vessel deliveries. The CSG III Vessel Companies have the obligation to enter into an interest swap agreements, on Tranche B, after deliveries, to reduce their exposure to market risks from changing interest rates. The CSG III Vessel Companies also have the option, after providing notice, to prepay the loans at any time, together with accrued interest, in increments of \$1,000,000 per loan.

Interest only payments are to be payable quarterly, settled by way of additional drawdown, on the Tranche A bank term loans until the vessel delivery dates. Tranche A of the bank term loans are repayable in forty-eight quarterly installments beginning on the second quarter day after the vessel delivery dates, except if the Vessel delivery dates are a quarter day, then repayment begins on the next quarter day. Quarter days are March 15, June 15, September 15 and December 15. Interest only payments are to be payable quarterly, settled by way of additional drawdown, on the Tranche B of the bank term loans until four years and three months after the vessel delivery dates, at which time the outstanding balance on Tranche B of \$2,157,500 is due and payable.

As at August 11, 2005, the principal repayments due for the next five years and thereafter are:

2005	\$ 8,051
2006	8,051
2007	8,051
2008	8,051
2009	8,051
Thereafter	62,128
	<u>\$ 102,383</u>

The term loans are secured by mortgages on the Vessels to be owned by the CSG III Vessel Companies (the “CSG III Vessels”), assignments of the charter party agreements with CSG after the CSG III Vessel launch date and assignments of the ship building contracts and the Refundment Guarantees

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prior to CSG III Vessel deliveries. The loans are also secured by assignments of certain bank accounts, insurance proceeds of the CSG III Vessel Companies and a pledge of shares.

The CSG III Vessel Companies' future charter revenues are to be protected by a loss of earnings and/or charter hire insurance policies. These policies will be assigned to the bank as security for the loans.

Under this credit agreement, the CSG III Vessel Companies are jointly liable with Burrard Shipping Company Limited, Nanaimo Shipping Company Limited, Spruce Shipping Company Limited and Hemlock Shipping Company Limited, companies under common control, for the repayment of term loans totaling up to approximately \$294,951,138 at August 11, 2005.

(f) Junior loans—CSG III Vessel Companies:

The junior loans for the CSG III Vessel Companies are drawn under a credit agreement comprising seven loans, one for each of the CSG III Vessel Companies, and one for each of Burrard Shipping Company Limited, Nanaimo Shipping Company Limited, Spruce Shipping Company Limited and Hemlock Shipping Company Limited, companies under common control that are excluded from the predecessor combined financial statements.

Each junior loan facility of \$4,000,000 will be drawn at the time of delivery of the CSG III Vessels to partially settle the delivery installment due to Samsung (note 5).

Each junior loan bears interest at the LIBOR plus 4.0% per annum. The CSG III Vessel Companies have agreed to enter into interest rate swap agreements to reduce their exposure to market risks from changing interest rates. The CSG III Vessel Companies have the option, after providing written notice, to prepay the loans at any time, together with accrued interest in increments of \$500,000 per loan.

Once the junior facilities are drawn upon, principal and interest payments are repayable in thirty seven consecutive installments commencing three months after vessel deliveries.

The junior loans are secured by a second priority on the following; mortgages on the CSG III Vessels, assignments of the charter party agreements with CSG after the CSG III Vessel launch date, assignments of the ship building contracts and Refundment Guarantees prior to CSG III Vessel deliveries. The junior loans also have a second priority on certain bank accounts and on the insurance proceeds of the CSG III Vessel Companies.

The CSG III Vessel Companies' future charter revenues are protected by a loss of earnings and/or a charter hire insurance policies. These policies will have a second priority assignment to the bank as security for the loans.

Under this credit agreement, the CSG III Vessel Companies are jointly liable with Burrard Shipping Company Limited, Nanaimo Shipping Company Limited, Spruce Shipping Company Limited and Hemlock Shipping Company Limited, companies under common control, for the repayment of the junior loans totaling \$20,000,000.

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8. Interest expense:

The Company capitalizes interest cost to deposits on Vessels as a component of the cost of construction in progress. The following is a summary of interest cost incurred on long-term debt during each of the years presented:

	December 31, 2004	August 11, 2005
Interest costs incurred	\$ 17,286	\$ 15,715
Less: interest capitalized	(5,482)	(1,152)
Interest expense	<u>\$ 11,804</u>	<u>\$ 14,563</u>

9. Other information:

(a) Accounts payable and accrued liabilities:

The principal components of accounts payable and accrued liabilities in the predecessor combined balance sheets are:

	December 31, 2004	August 11, 2005
Trade accounts	\$ 1,792	\$ 1,067
Accrued interest	2,553	2,248
Other accrued liabilities	683	934
	<u>\$ 5,028</u>	<u>\$ 4,249</u>

(b) Working capital:

The net change in non-cash operating working capital items related to operating activities set out in the predecessor combined statements of cash flows consists of:

	December 31, 2004	August 11, 2005
Cash provided by (used in):		
Accounts receivable	\$ (31)	\$ 2,528
Inventories	49	(440)
Prepaid expenses	(149)	(335)
Accounts payable and accrued liabilities	1,297	(779)
Deferred revenue	(245)	655
	<u>\$ 921</u>	<u>\$ 1,629</u>

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(c) Supplementary information to the predecessor combined statements of cash flows consists of:

	December 31,	August 11,
	2004	2005
Interest paid, excluding interest capitalized	\$ 10,745	\$ 14,572
Non-cash transactions:		
Reclassification of deposits on Vessels to Vessels	74,000	176,788
Accrued and capitalized interest costs, including amortization of deferred financing fees	5,826	216

10. Commitments and contingent obligations:

The Company is a member of a protection and indemnity association under which multiple parties' risks are insured and the Company could be liable for calls, or premiums, in amounts based not only on our own claim records but also the claim records of all other members of the protection and indemnity associations through which we receive indemnity insurance coverage for tort liability. The Company accounts for such calls as contingent obligations and will recognize its obligation when the amount of any liability under the call arrangement can be reasonably estimated. Calls are included in estimated annual premiums which are billed annually. To date, no calls for additional annual premium payments have been made.

11. Charter party:

The Company is committed under charter party agreements with CSG as follows:

Vessel name	Time charter	Commencement of charter	Options	Daily hire rate
	(years)		(years)	
CSCL Hamburg	10	July 2001	2	\$18.0
CSCL Chiwan	10	September 2001	2	18.0
CSCL Ningbo	10	June 2002	2	19.9
CSCL Dalian	10	September 2002	2	19.9
CSCL Felixstowe	10	October 2002	2	19.9
CSCL Oceania	12	December 2004	3	29.5
CSCL Africa	12	January 2005	3	29.5
CSCL Vancouver	12	February 2005	—	17.0
CSCL Sydney	12	April 2005	—	17.0
CSCL New York	12	May 2005	—	17.0

The Company is committed under the charter party agreements with CSG to supply the Vessel on a full-time basis for a fixed daily charter rate. The charter party agreements obligate the Company to certain performance criteria over the term of the agreement.

12. Financial instruments:

(a) Concentration of credit risk:

CSG is the Company's sole customer at August 11, 2005.

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(b) Fair value:

The carrying value of cash and cash equivalents, restricted cash, accounts receivable, due from related parties and accounts payable and accrued liabilities in the balance sheet approximate their fair values because of their short term to maturity. The carrying value of long-term debt and other long-term liabilities, recalculated at current interest rates, approximates their carrying value. The fair value of the due to related party is not readily determinable due to the related party relationship and the lack of a market for such instruments.

The fair value of the interest rate swap agreements is recognized on the predecessor combined balance sheet.

(c) Interest rate risk management agreement:

The Company uses derivative financial instruments, consisting of interest rate swap agreements, to manage its exposure to adverse movements in interest rates.

Pursuant to the credit agreement related to the CSG I and CSG II Vessel Companies (note 7) at August 11, 2005, certain legal entities within the Company have entered into interest rate swap agreements to fix the LIBOR at per annum interest rates on notional loan balances as follows:

<u>Vessel companies</u>	<u>Notional amount</u>	<u>Fixed LIBOR</u>	<u>Ending date</u>
CSG I	\$ 165,000	5.974%	November 9, 2014
CSG II—bank loans	65,000	4.350%	December 5, 2012
CSG II—junior loans	5,000	4.430%	December 6, 2011

13. Guarantee:

As described in notes 7(e) and (f), the CSG III Vessel Companies are jointly liable under credit agreements underlying the bank term loans and junior loans with four subsidiaries of SCLL that are not included in these predecessor combined financial statements.

14. Subsequent event:

On August 12, 2005, Seaspan Corporation completed an initial public offering, selling 28,570,000 common shares for gross proceeds of \$599,970,000 and 7,145,000 subordinated shares for proceeds of \$150,045,000. These proceeds were used to acquire the Vessels described in note 1, as well as repay all outstanding debt, accrued interest and swap obligations on the Vessels.

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MANAGEMENT'S STATEMENT OF RESPONSIBILITIES

The management of Seaspan Corporation (the "Company") is responsible for the preparation of the accompanying consolidated financial statements and the preparation and presentation of information in the Annual Report. The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States and are considered by management to present fairly the financial position and operating results of the Company.

The Company maintains various systems of internal controls to provide reasonable assurance that transactions are appropriately authorized and recorded, that assets are safeguarded and that financial reports are properly maintained to provide accurate and reliable financial statements.

The Company's audit committee is comprised entirely of non-management directors and is appointed by the Board of Directors annually. The committee meets periodically with the Company's management and independent auditors to review the financial statements and the independent auditors' report.

The consolidated financial statements have been reviewed by the audit committee, which has recommended their approval by the Board of Directors. The Company's independent auditors, KPMG LLP, have examined the financial statements and their report follows.

/s/ Gerry Wang
Chief Executive Officer

/s/ Sai W. Chu
Chief Financial Officer

March 17, 2008

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors of Seaspan Corporation

We have audited Seaspan Corporation's ("the Company") internal control over financial reporting as of December 31, 2007, based on the criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the section entitled "Management's Annual Report on Internal Control over Financial Reporting" included in Management's Discussion and Analysis. Our responsibility is to express an opinion the Company's internal control over financial reporting based on our audit.

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

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

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

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In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2007, based on the criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of the Company as of December 31, 2007 and 2006, and the related consolidated statements of operations, shareholders' equity and cash flows for the years then ended and for the period from the date of incorporation on May 3, 2005 to December 31, 2005, and our report dated March 17, 2008 expressed an unqualified opinion on those consolidated financial statements.

/s/ KPMG LLP

Chartered Accountants

Vancouver, Canada

March 17, 2008

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors of Seaspan Corporation

We have audited the accompanying consolidated balance sheets of Seaspan Corporation (“the Company”) as of December 31, 2007 and 2006 and the related consolidated statements of operations, shareholders’ equity and cash flows for each of the years then ended and for the period from the date of incorporation on May 3, 2005 to December 31, 2005. These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2007 and 2006 and the results of its operations and its cash flows for the years then ended and for the period from the date of incorporation on May 3, 2005 to December 31, 2005 in conformity with US generally accepted accounting principles.

As discussed in Note 3(p) to the consolidated financial statements, the Company adopted FSP AUG AIR-1, *Accounting for Planned Major Maintenance Activities*, in 2007.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company’s internal control over financial reporting as of December 31, 2007, based on the criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated March 17, 2008 expressed an unqualified opinion on the effectiveness of the Company’s internal control over financial reporting.

/s/ KPMG LLP

Chartered Accountants

Vancouver, Canada

March 17, 2008

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SEASPAN CORPORATION

Consolidated Balance Sheets

(Expressed in thousands of United States dollars)

December 31, 2007 and 2006

	<u>2007</u>	<u>2006</u> (As adjusted - note 3(p))
Assets		
Current assets:		
Cash and cash equivalents	\$ 123,134	\$ 92,227
Accounts receivable	2,527	641
Prepaid expenses	4,657	3,787
	<u>130,318</u>	<u>96,655</u>
Vessels (note 5)	2,424,253	1,198,782
Deferred charges (note 6)	17,240	7,879
Other assets (note 7)	5,090	3,189
Fair value of financial instruments	—	10,711
	<u>\$2,576,901</u>	<u>\$1,317,216</u>
Liabilities and Shareholders' Equity		
Current liabilities:		
Accounts payable and accrued liabilities (note 11(a))	\$ 8,516	\$ 5,607
Deferred revenue	7,200	5,560
	<u>15,716</u>	<u>11,167</u>
Long-term debt (note 8)	1,339,438	563,203
Other long-term liability (note 12(d))	223,804	—
Fair value of financial instruments	135,617	15,831
Shareholders' equity:		
Share capital (note 9)		
Class A common shares; \$0.01 par value; 200,000,000 shares authorized; 50,396,833 shares issued and outstanding		
Class B common shares; \$0.01 par value; 25,000,000 shares authorized; 7,145,000 shares issued and outstanding		
Class C common shares; \$0.01 par value; 100 shares authorized; 100 shares issued and outstanding		
Preferred shares; \$0.01 par value; 65,000,000 shares authorized; none issued and outstanding	575	475
Additional paid in capital	1,046,412	748,410
Deficit	(122,317)	(17,658)
Accumulated other comprehensive loss	(62,344)	(4,212)
	<u>862,326</u>	<u>727,015</u>
	<u>\$2,576,901</u>	<u>\$1,317,216</u>

Commitments and contingent obligations (note 12)

Subsequent events (note 14)

See accompanying notes to consolidated financial statements.

Approved on behalf of the Board:

/s/ Gerry Wang

Director

/s/ David Korbin

Director

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SEASpan CORPORATION

Consolidated Statements of Earnings

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

	Year ended December 31,	Year ended December 31,	Period from date of incorporation on May 3, 2005 to December 31, 2005
	<u>2007</u>	<u>2006</u> (As adjusted - note 3(p))	<u>2005</u> (As adjusted - note 3(p))
Revenue	\$ 199,235	\$ 118,489	\$ 34,803
Operating expenses:			
Ship operating (note 4(a))	46,174	27,869	7,832
Depreciation	50,162	26,878	7,186
General and administrative	6,006	4,911	1,694
	<u>102,342</u>	<u>59,658</u>	<u>16,712</u>
Operating earnings	96,893	58,831	18,091
Other expenses (income):			
Interest expense	34,062	17,594	1,699
Interest income	(4,074)	(1,542)	(124)
Undrawn credit facility fees	3,057	2,803	1,041
Amortization of deferred charges (note 6)	1,256	1,980	726
Change in fair value of financial instruments	72,365	908	—
Financing fee write-off (note 6)	635	—	—
	<u>107,301</u>	<u>21,743</u>	<u>3,342</u>
Net earnings (loss)	<u>\$(10,408)</u>	<u>\$ 37,088</u>	<u>\$ 14,749</u>
Weighted-average shares used in computation of basic and diluted earnings per share (in thousands)	53,008	37,692	35,992
Earnings (loss) per share, basic and diluted	<u>\$ (0.20)</u>	<u>\$ 0.98</u>	<u>\$ 0.41</u>

See accompanying notes to consolidated financial statements.

flow hedging instruments	—	—	—	—	—	—	(9,011)	(9,011)	(9,011)
									<u>\$ 28,077</u>
Dividends on common shares	—	—	—	—	—	(61,217)	—	(61,217)	
Balance, December 31, 2006	<u>40,377,250</u>	<u>7,145,000</u>	<u>100</u>	<u>\$ 475</u>	<u>\$ 748,410</u>	<u>\$ (17,658)</u>	<u>\$ (4,212)</u>	<u>\$ 727,015</u>	

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SEASPAN CORPORATION

Consolidated Statements of Shareholders' Equity, Continued
(Expressed in thousands of United States dollars, except number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

	Number of common shares			Common shares	Additional paid-in capital	Retained earnings (deficit) (As adjusted - note 3(p))	Accumulated other comprehensive income (loss)	Total shareholders' equity (As adjusted - note 3(p))	Total comprehensive income (loss) (As adjusted - note 3(p))
	Class A	Class B	Class C						
Balance, December 31, 2006	40,377,250	7,145,000	100	\$ 475	\$ 748,410	\$ (17,658)	\$ (4,212)	\$ 727,015	
Class A common shares issued on secondary offering (note 9)	9,975,000	—	—	100	309,864	—	—	309,964	
Fees and expenses in connection with issuance of common shares	—	—	—	—	(13,202)	—	—	(13,202)	
Share-based compensation expenses (note 10):									
Restricted Class A common shares and phantom share units issued	44,583	—	—	—	1,340	—	—	1,340	
Net loss	—	—	—	—	—	(10,408)	—	(10,408)	(10,408)
Other comprehensive net loss:									
Change in fair value of financial instruments designated as cash flow hedging instruments	—	—	—	—	—	—	(58,132)	(58,132)	(58,132)
									<u>\$ (68,540)</u>
Dividends on common shares	—	—	—	—	—	(94,251)	—	(94,251)	
Balance, December 31, 2007	<u>50,396,833</u>	<u>7,145,000</u>	<u>100</u>	<u>\$ 575</u>	<u>\$1,046,412</u>	<u>\$(122,317)</u>	<u>\$ (62,344)</u>	<u>\$ 862,326</u>	

See accompanying notes to consolidated financial statements.

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SEASPAN CORPORATION

Consolidated Statements of Cash Flows

(Expressed in thousands of United States dollars)

	Year ended December 31, 2007	Year ended December 31, 2006 (As adjusted - note 3(p))	Period from date of incorporation on May 3, 2005 to December 31, 2005 (As adjusted - note 3(p))
Cash provided by (used in):			
Operating activities:			
Net earnings (loss)	\$ (10,408)	\$ 37,088	\$ 14,749
Items not involving cash:			
Depreciation	50,162	26,878	7,186
Share-based compensation (note 10)	1,340	1,182	—
Amortization of deferred charges (note 6)	1,256	1,980	726
Write-off on debt refinancing (note 6)	635	—	—
Change in fair value of financial instruments	72,365	908	—
Changes in assets and liabilities:			
Prepaid expenses and accounts receivable	(2,756)	(2,076)	(2,352)
Other assets and deferred charges	(3,975)	(1,538)	(420)
Accounts payable and accrued liabilities	2,909	4,140	1,467
Deferred revenue	1,640	2,801	2,759
Cash from operating activities	<u>113,168</u>	<u>71,363</u>	<u>24,115</u>
Financing activities:			
Common shares issued, net of share issue costs (note 9)	296,762	235,114	710,493
Draws on credit facilities (operating vessels) (note 8)	424,912	279,574	122,893
Draws on credit facilities (vessels under construction) (note 8)	600,323	160,736	—
Other long-term liability	53,106	—	—
Repayment of credit facility	(249,000)	—	—
Financing fees incurred (note 6)	(9,409)	(3,409)	(7,252)
Dividends on common shares	(94,251)	(61,217)	(8,278)
Cash from financing activities	<u>1,022,443</u>	<u>610,798</u>	<u>817,856</u>
Investing activities:			
Expenditures for operating vessels	(447,089)	(502,363)	(162,237)
Deposits on vessels under construction	(657,380)	(101,974)	—
Vessels acquired at completion of initial public offering (note 2)	—	—	(664,016)
Intangible assets	(235)	(1,315)	—
Cash used in investing activities	<u>(1,104,704)</u>	<u>(605,652)</u>	<u>(826,253)</u>
Increase in cash and cash equivalents	30,907	76,509	15,718
Cash and cash equivalents, beginning of period	92,227	15,718	—
Cash and cash equivalents, end of period	<u>\$ 123,134</u>	<u>\$ 92,227</u>	<u>\$ 15,718</u>

Supplementary information (note 11(b))

See accompanying notes to consolidated financial statements.

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SEASPAN CORPORATION

Notes to Consolidated Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

1. General:

Seaspan Corporation was incorporated on May 3, 2005 in the Marshall Islands. These consolidated financial statements are for years ended December 31, 2007 and 2006 and for the period from the date of incorporation on May 3, 2005 to December 31, 2005, includes 142 days of operations from the date of the initial public offering (IPO) on August 12, 2005.

Seaspan Corporation was formed for the purpose of acquiring 10 containerships (the Initial Fleet) from ten existing Republic of Cyprus incorporated wholly owned subsidiaries (collectively, the Predecessor) of Seaspan Container Lines Limited (SCLL) and to enter into an agreement (the Asset Purchase Agreement) to acquire 13 additional containerships from 13 other Cyprus incorporated wholly owned subsidiaries of SCLL (all 13 subsidiaries collectively referred to as VesselCos) on completion of their construction, which completion was scheduled to occur between 2005 - 2007 (all 23 containerships collectively referred to as the Contracted Fleet). Subsequent to the completion of the IPO, Seaspan Corporation has also entered into agreements to acquire other containerships. The primary activity of Seaspan Corporation is the ownership and operation of the containerships which are engaged in the deep-sea container transportation business.

During the year ended December 31, 2007, Seaspan Corporation incorporated Seaspan Finance I Co. Ltd., Seaspan Finance II Co. Ltd., and Seaspan Finance III Co. Ltd., for the purpose of entering into financing lease and credit facility agreements in connection with the construction of certain containerships. These entities are fully consolidated in the financial statements as at and for the year ended December 31, 2007. In these consolidated financial statements, the Company refers to Seaspan Corporation and its wholly owned subsidiaries.

2. Initial public offering:

On August 12, 2005, the Company completed an IPO and issued 28,570,000 common shares and 7,145,000 subordinated shares for gross proceeds of \$599,970,000 and \$150,045,000 respectively. On August 12, 2005, the Company also issued 100 incentive shares to Seaspan Advisory Services Limited, a wholly-owned subsidiary of Seaspan Management Services Limited. On September 13, 2005, the underwriters exercised their overallotment option and the Company issued an additional 276,500 common shares for gross proceeds of \$5,806,500.

The proceeds received by the Company from the IPO and the use of those proceeds are summarized as follows:

Proceeds received:	
Sale of 28,570,000 common shares and 7,145,000 subordinated shares at \$21.00 per share	\$750,015
Sale of 276,500 common shares at \$21.00 per share	5,807
	<u>\$755,822</u>

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

2. Initial public offering (continued):

Use of proceeds from sale of common shares:	
Purchase of Initial Fleet	\$664,016
Underwriting and structuring fees paid to third parties	37,847
Repayment of advances from SCLL	1,411
Professional fees and other offering expenses to third parties	7,483
Credit facility costs	7,252
Partial funding of purchase price of the CSCL Melbourne	34,671
Working capital	3,142
	<u>\$755,822</u>

3. Summary of significant accounting policies:

(a) Basis of presentation:

This summary of significant accounting policies is presented to assist in understanding the consolidated financial statements. The consolidated financial statements and notes are representations of the Company's management, which is responsible for their integrity and objectivity. These accounting policies conform to accounting principles generally accepted in the United States and have been consistently applied in the preparation of the consolidated financial statements.

(b) Principles of consolidation:

The accompanying consolidated financial statements include the accounts of Seaspan Corporation and its majority owned subsidiaries (collectively, the Company). In accordance with the Financial Accounting Standards Board (FASB) Interpretation No. 46(R), *Consolidation of Variable Interest Entities* (FIN 46R), the Company also consolidates any variable interest entities (VIE's) of which it is the primary beneficiary, as defined. All significant intercompany balances and transactions have been eliminated in consolidation.

(c) Foreign currency translation:

The functional and reporting currency of the Company is the United States dollar. Transactions incurred in other currencies are translated into United States dollars using the exchange rate at the time of the transaction. Monetary assets and liabilities as of the financial reporting date are translated into United States dollars using exchange rates at that date. Exchange gains and losses are included in net earnings.

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

3. Summary of significant accounting policies (continued):

(d) Cash equivalents:

Cash equivalents include highly liquid securities with terms to maturity of three months or less when acquired.

(e) Vessels:

Vessels purchased on completion of the IPO are carried at the historical carrying value of the Predecessor which includes capitalized interest during construction and other construction, design, supervision and pre-delivery costs.

Vessels purchased pursuant to the Asset Purchase Agreement are recorded at their cost to the Company, reflecting the predetermined purchase price in the agreement.

Vessels acquired in the secondhand market are recorded at their cost to the Company which consists of the purchase price, acquisition and delivery costs.

Deposits, installment payments, interest, financing costs, construction design, supervision costs, and other pre-delivery costs incurred during the construction period for vessels under construction are recorded as vessel deposits.

Depreciation is provided on a straight-line basis over the estimated useful life of each vessel, which is approximately 30 years from the date of completion. The Company calculates depreciation based on the remaining useful life and the expected salvage value of the vessel.

The carrying value of the vessels is evaluated when events or circumstances indicate that there has been a possible impairment in value, which would occur in the fiscal period when the net carrying value was no longer expected to be recovered from future estimated cash flows. Such evaluations include comparison of current and anticipated operating cash flows, assessment of future operations and other relevant factors. To the extent that the carrying value of the vessels exceeds the undiscounted estimated future cash flows, the vessels would be written down to their fair value.

(f) Intangible assets:

For certain vessels where the Company provides lubricants for the operation of such vessels, the Company has a contractual right to have the vessel returned with the same level and complement of lubricants. This contractual right is recorded as an intangible asset and included in other assets at the historical fair value of the lubricants at the time of delivery. Intangible assets are tested for impairment annually or more frequently due to events or changes in circumstances that indicate the asset might be impaired. An impairment loss is recognized when the carrying amount of the intangible asset exceeds its fair value.

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

3. Summary of significant accounting policies (continued):

(g) Deferred financing fees:

Deferred financing fees represent the unamortized costs incurred on issuance of credit facilities. Amortization is provided on the interest-yield basis over the term of the underlying obligation.

(h) Income taxes:

There are no taxes on income in the jurisdiction in which the Company is incorporated. The Company is not subject to taxes on income in any other jurisdiction where the Company operates.

The owner of the vessel is responsible for all taxes, fees or other levies charged by countries other than Hong Kong on vessels due to having cargo on board. Under charter party agreements, this responsibility has been assumed by the charterer. Taxes, fees or levies charged by Hong Kong are included in technical services, as part of the management agreement (note 4(a)). Any such taxes paid by the Company, as a result of the charterer's failure to pay, will be recognized when the Company's obligation is determinable.

(i) Revenue recognition:

Revenue from charter hire services is recognized as services are rendered and collection is reasonably assured. Any expected losses on shipping contracts are provided for as they become known. Cash received in excess of earned revenue is recorded as deferred revenue.

(j) Derivative financial instruments:

The Company's hedging policies permit the use of various derivative financial instruments to manage interest rate risk. Interest rate swap and swaption agreements have been entered into to reduce the Company's exposure to market risks from changing interest rates. Derivatives and hedging activities are accounted for in accordance with FASB Statement No. 133, *Accounting for Derivative Instruments and Certain Hedging Activities*, as amended, which requires that all derivative instruments be recorded on the balance sheet at their respective fair values. The Company recognizes the interest rate swap and swaption agreements on the balance sheet at their fair value.

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

3. Summary of significant accounting policies (continued):

(j) Derivative financial instruments (continued):

To qualify for hedge accounting, derivatives must be highly effective at reducing the risk associated with the exposure being hedged and must be formally designated as a hedge at the inception of the hedging relationship. The Company considers a hedge to be highly effective if the change in fair value of the derivative hedging instrument is within 80% to 125% of the opposite change in the fair value of the hedged item attributable to the hedged risk. For interest rate swap agreements that are formally designated as cash flow hedges, the changes in the fair value of these interest rate swaps are recorded in other comprehensive income and are reclassified to earnings when the hedged transaction is reflected in earnings. Ineffective portions of the hedges are recognized in earnings as they occur. Actual cash receipts and/or payments and related accruals on derivatives related to hedges are recorded as adjustments to the interest income or interest expense associated with the hedged item.

During the life of the hedge, the Company formally assesses whether each derivative designated as a hedging instrument continues to be highly effective in offsetting changes in the fair value or cash flows of hedged items. If it is determined that a hedge has ceased to be highly effective, the Company will discontinue hedge accounting prospectively.

If the Company de-designates a hedging relationship and discontinues hedge accounting, the Company evaluates the future settlements to determine whether there are any hedged interest rate payments that are improbable to occur. When such amounts are identified as being improbable, the balance pertaining to these amounts that is included in accumulated other comprehensive income is reversed through earnings immediately. When amounts are not identified as improbable, any balances recorded in accumulated other comprehensive income at the de-designation are recognized in earnings when the actual settlements under the inter rate swap occur.

(k) Share-based compensation:

Share-based compensation awards are accounted for using the fair value method of accounting in accordance with FAS No. 123 (R), *Share-Based Payment*. Share based awards may include options, restricted shares, phantom shares and other share-based awards. The fair value of the share-based awards is based on the market value of the Company's common shares at the grant date. Compensation costs for share-based awards are recognized over the requisite service period.

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

3. Summary of significant accounting policies (continued):

(l) Earnings per share:

In accordance with SFAS No. 128, *Earnings Per Share*, basic earnings per common share is based on net income divided by the weighted-average number of common shares outstanding during the period excluding non-vested stock. Diluted earnings per common share include the dilutive effect of stock options and non-vested stock awards granted using the treasury stock method.

(m) Use of estimates:

The preparation of consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the balance sheet dates and the reported amounts of revenue and expenses during the reporting fiscal periods. Areas where accounting judgments and estimates are significant to the Company include the assessment of the vessel lives and the recoverability of the carrying value of vessels, which are subject to future market events. Actual results could differ from those estimates.

(n) Comparative figures:

Certain of the figures presented have been reclassified for comparative purposes to conform to the financial statement presentation adopted for the current year.

(o) Recent accounting pronouncements:

In September 2006, the Financial Accounting Standards Board (“FASB”) issued SFAS No. 157, *Fair Value Measurements* (SFAS 157), which defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS 157 does not require any new fair value measurements, but provides guidance on how to measure fair value by providing a fair value hierarchy used to classify the source of the information. SFAS 157 is effective for fiscal years beginning after November 15, 2007. In February 2008, the FASB delayed for one year the effective date of adoption with respect to certain non-financial assets and liabilities. Seaspan intends to defer the adoption of SFAS 157 with respect to certain non-financial assets and liabilities as permitted. The Company is currently evaluating the potential impact of the partial adoption of SFAS 157 on its consolidated financial position, results of operations and cash flows.

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

3. Summary of significant accounting policies (continued):

(o) Recent accounting pronouncements (continued):

In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities- including an Amendment of FASB Statement No. 115* (SFAS 159), which allows an entity to choose to measure certain financial instruments and liabilities at fair value. Subsequent measurements for the financial instruments and liabilities an entity elects to fair value will be recognized in earnings. SFAS 159 also establishes additional disclosure requirements. SFAS 159 is effective for the Company beginning January 1, 2008. The Company is currently evaluating the potential impact of the adoption of SFAS 159 on its consolidated financial position, results of operations and cash flows.

(p) Accounting for dry-dock activities:

Effective January 1, 2007, the Company adopted FSP AUG AIR-1, *Accounting for Planned Major Maintenance Activities*, which provides guidance on the accounting for planned major maintenance activities. Previously, the Company accounted for dry-dock activities using the Accrue-in-advance method. The Company has adopted the deferral method of accounting for dry-dock activities whereby actual costs incurred are deferred and amortized on a straight line basis over the period until the next scheduled dry-dock activity.

The Company has applied FSP AUG AIR-1 retrospectively, resulting in the adjustment of 2006 and 2005 results. The impact of this adjustment on the consolidated financial statements is as follows:

	As previously reported	Adjustment	As adjusted
As at December 31, 2006:			
Deferred charges	\$ 7,809	\$ 70	\$ 7,879
Other assets	1,315	1,874	3,189
Deficit, December 31, 2006	<u>(19,602)</u>	<u>1,944</u>	<u>(17,658)</u>
For the year ended December 31, 2006:			
Ship operating expenses	\$ 29,407	\$ (1,538)	\$ 27,869
Amortization of deferred charges	1,966	14	1,980
Net earnings	35,564	1,524	37,088
Earnings per share, basic and diluted	<u>0.94</u>	<u>0.04</u>	<u>0.98</u>
As at December 31, 2005:			
Retained earnings, December 31, 2005	<u>\$ 6,051</u>	<u>\$ 420</u>	<u>\$ 6,471</u>
Period from date of incorporation on May 3, 2005 to December 31, 2005:			
Ship operating expenses	\$ 8,252	\$ (420)	\$ 7,832
Net earnings	14,329	420	14,749
Earnings per share, basic and diluted	<u>0.40</u>	<u>0.01</u>	<u>0.41</u>

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

4. Related party transactions:

(a) Management Agreement:

Seaspan Management Services Limited (the Manager) is owned by a group of individuals through companies and two trusts who also own the Company's 7,145,000 Class B common shares issued and outstanding, representing a 12.4% voting interest in the Company as at December 31, 2007.

The Management Agreement was entered into on August 8, 2005 for the provision of certain technical, strategic and administrative services for fees. In connection with entering into the agreement to provide the Company with strategic services, the Company previously issued 100 incentive shares to the Manager. The incentive shares are entitled to a share of incremental dividends, based on specified sharing ratios, once dividends on the Company's common and subordinated shares reach certain specified targets beginning with the first target of \$0.485 per share per quarter. At December 31, 2007, the incentive shares do not have rights to incremental dividends.

Under the Management Agreement, the Manager provides services to the Company for fees which are fixed through December 31, 2008 and thereafter will be subject to renegotiation every three years as follows:

- Technical Services—The Manager is responsible for providing ship operating expenses to the Company in exchange for a fixed fee per day per vessel as described below. The technical services fee does not include certain extraordinary items.
- Administrative and Strategic Services—The Manager provides administrative and strategic services to the Company for the management of the business for a fixed fee of \$72,000 per year. The Company will also reimburse all reasonable expenses incurred by the Manager in providing these services to the Company.

On May 4, 2007, the Management Agreement (the Amended Management Agreement) was amended and restated to include the second hand vessels chartered to A.P. Moller Mærsk A/S (the Mærsk vessels). Under the original Management Agreement, the Manager provides technical, strategic and administrative services (the Services) to the Company for the 23 vessels that made up the Company's contracted fleet at the time of the IPO (the IPO vessels). These Services will continue to be provided to the Company under the Amended Management Agreement for the IPO vessels, Mærsk vessels, and any other new build or second hand vessel that the Company may, with the prior approval of the Manager, add to the Amended Management Agreement.

Under the Amended Management Agreement, for vessels other than the IPO vessels, the Company will fund at its own expense pre-delivery purchases and services to ensure the seaworthiness and readiness for service and will pay all fees associated with the classification society or registration of the vessel under the relevant flag.

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4. Related party transactions (continued):

(a) Management Agreement (continued):

On May 18, 2007 and September 28, 2007, the Company entered into separate Management Agreements with the Manager to provide technical services for the vessels that it has acquired to date other than those in its initial contracted fleet or the Mærsk Vessels. Under these Management Agreements, the Company pays to the Manager an initial technical services fee for the management of those vessels once the relevant vessel is delivered. The initial technical service fee under each of the Management Agreements, as summarized below, is fixed through December 31, 2008 and thereafter will be subject to renegotiation every three years:

Date of Management Agreement	Vessels subject to Management Agreement	Initial Technical Services Fees (per vessel per day)
May 4, 2007 (Amended Management Agreement)	<ul style="list-style-type: none"> • IPO vessels <li style="padding-left: 20px;">- 4250 TEU <li style="padding-left: 20px;">- 8500 TEU <li style="padding-left: 20px;">- 9600 TEU • Mærsk vessels <li style="padding-left: 20px;">- 4800 TEU 	\$ 4,500 6,000 6,500 5,750
May 18, 2007 (2500/3500 Management Agreement)	<ul style="list-style-type: none"> • Two 3500 TEU vessels constructed by Zhejiang Shipbuilding Co. Ltd. • Eight of the ten 2500 TEU vessels being constructed by Jiangsu Yangzijiang Shipbuilding Co., Ltd., or Jiangsu 	4,200 4,000
May 18, 2007 (5100 Management Agreement)	<ul style="list-style-type: none"> • Four 5100 TEU vessels that will be constructed by Hyundai Heavy Industries Co., Ltd., or HHI 	4,800
September 28, 2007 (2500/4250/8500 Management Agreement)	<ul style="list-style-type: none"> • Two 2500 TEU vessels that will be constructed by Jiangsu • Four 4250 TEU vessels being constructed by Jiangsu New Yangzi Shipbuilding Co., Ltd., or New Jiangsu • Eight 8500 TEU vessels that will be constructed by HHI 	4,200 4,725 6,000

For vessels operating or that began operations during the year ended December 31, 2007, the Manager provided technical services at a cost of \$47,956,500 (2006—\$28,811,500; 2005—\$8,251,000) to the Company. During the year ended December 31, 2007, \$2,566,000 (2006—\$1,538,000; 2005—\$420,000) of dry-dock activities, that forms a portion of the technical services fee, was paid to the Manager.

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4. Related party transactions (continued):

(a) Management Agreement (continued):

During the year ended December 31, 2007, the Manager provided fixed fee administrative and strategic services at a cost of \$72,000 (2006—\$72,000; 2005—\$27,871), and the Company reimbursed expenses incurred by the Manager in the amount of \$1,526,000 (2006 - \$836,064; 2005—\$313,628).

These transactions are in the normal course of operations and are measured at the exchange amount, which is the amount of consideration established and agreed to by the related parties.

(b) Due to/from related parties:

As at December 31, 2007, \$1,584,000 (2006—\$1,116,000) is due to related parties for reimbursement of administrative and strategic services expenses, supervision services, dry-dock costs paid and acquisition costs paid on the Company's behalf. As at December 31, 2007, \$73,000 (2006—\$204,000; 2005—nil) is due to related parties for amounts collected from or deducted by charterers by the Company on the behalf of related parties. These amounts are included in accounts payable and are to be repaid in the ordinary course of business. As at December 31, 2007, \$2,135,000 (2006—nil) is due from related parties.

5. Vessels:

		Accumulated	Net book
December 31, 2007	Cost	depreciation	value
Vessels	\$1,577,801	\$ 84,226	\$1,493,575
Deposits on vessels under construction	930,678	—	930,678
	<u>\$2,508,479</u>	<u>\$ 84,226</u>	<u>\$2,424,253</u>

		Accumulated	Net book
December 31, 2006	Cost	depreciation	value
Vessels	\$1,130,712	\$ 34,064	\$1,096,648
Deposits on vessels under construction	102,134	—	102,134
	<u>\$1,232,846</u>	<u>\$ 34,064</u>	<u>\$1,198,782</u>

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5. Vessels (continued):

During the year, the Company capitalized interest costs of \$19,030,000 (December 31, 2006 and 2005 - \$2,411,000 and nil, respectively) as deposits on vessels.

6. Deferred charges:

	<u>Dry-docking</u> (As adjusted - note 3(p))	<u>Financing</u> fees	<u>Total</u> (As adjusted - note 3(p))
December 31, 2005	—	6,526	6,526
Cost incurred	84	3,409	3,493
Amortization expensed	(14)	(1,966)	(1,980)
Amortization capitalized	—	(160)	(160)
December 31, 2006	70	7,809	7,879
Cost incurred	2,309	9,409	11,718
Amortization expensed	(253)	(1,003)	(1,256)
Amortization capitalized	—	(466)	(466)
Write-off on debt refinancing	—	(635)	(635)
December 31, 2007	<u>\$ 2,126</u>	<u>\$15,114</u>	<u>\$ 17,240</u>

During the year ended December 31, 2007, the Company refinanced the \$1.0 billion credit facility, as described in note 8. As a result, \$635,000 of previously deferred costs incurred in connection with the \$1.0 billion credit facility were expensed.

7. Other assets:

	<u>December 31,</u> <u>2007</u>	<u>December 31,</u> <u>2006</u> (As adjusted - note 3(p))
Prepaid expenses	\$ 3,540	\$ 1,874
Intangible assets	1,550	1,315
Other assets	<u>\$ 5,090</u>	<u>\$ 3,189</u>

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8. Long-term debt:

	December 31,	December 31,
	2007	2006
Long-term debt (operating vessels):		
\$1.3 billion revolving credit facility (2006 - \$1.0 billion credit facility)	\$ 640,259	\$ 464,347
Long-term debt (operating vessels)	<u>\$ 640,259</u>	<u>\$ 464,347</u>
Long-term debt (vessels under construction):		
\$1.3 billion revolving credit facility (2006 - \$1.0 billion credit facility)	\$ 117,631	\$ —
\$920.0 million revolving credit facility	336,607	—
\$365.0 million revolving credit facility	111,207	35,420
\$218.4 million credit facility	83,734	63,436
\$150.0 million revolving credit facility	50,000	—
Long-term debt (vessels under construction)	<u>\$ 699,179</u>	<u>\$ 98,856</u>
Long-term debt	<u>\$1,339,438</u>	<u>\$ 563,203</u>

(a) \$1.3 billion revolving credit facility:

On May 11, 2007, the Company amended and restated its \$1.0 billion credit facility dated August 8, 2005. The amended and restated credit agreement is a \$1.3 billion single-tranche senior secured seven-year revolving credit facility (the \$1.3 billion revolving credit facility). The borrowings of this facility may be used to finance vessel acquisitions, to refinance vessels already acquired by the Company and for general corporate purposes. The facility maturity date is May 11, 2014, except that the Company has the option to extend the facility maturity for one additional year under certain circumstances.

The Company's obligations under the \$1.3 billion revolving credit facility are secured by the following, among other things:

- First and second priority mortgages on the 23 vessels in the Company's initial contracted fleet as well as the four 4800 TEU vessels which the Company purchased from A. P. Møller-Mærsk A/S between October and December 2006; and
- First-priority assignment of earnings related to the above noted vessels, including time charter revenues, and a first-priority assignment of any insurance proceeds.

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8. Long-term debt (continued):

(a) \$1.3 billion revolving credit facility (continued):

Until August 11, 2012, the Company will be able to borrow up to \$1.3 billion without adding additional collateral provided that the total outstanding balance remains below 70% of the market value of the vessels that are collateralized. In certain circumstances and for a certain period of time, even if the Company's loan to value ratio exceeds 70%, the Company can borrow under the facility so long as the loan to value ratio does not exceed 80% (the Overadvance Loan).

Beginning on August 11, 2012, the maximum facility amount will be reduced by \$32.5 million per quarter until May 11, 2014, when the outstanding loan balance will be due and payable. If the facility is extended for one additional year, then in addition to the previous mentioned reduction beginning on May 11, 2014, the maximum facility amount will be reduced by \$65.0 million per quarter until May 11, 2015, when the outstanding loan balance will be due and payable. The Company has the right, subject to certain conditions, to add additional vessels to the collateral package to preserve access to the full amount of the facility.

The Company may prepay all loans without penalty, other than breakage costs in certain circumstances. The Company is required to prepay a portion of the outstanding loans under certain circumstances, including the sale or loss of a vessel where the ratio of the loan to market value of the remaining collateral vessels exceeds a certain percentage. Amounts prepaid in accordance with these provisions may be reborrowed, subject to certain conditions. The amended and restated credit agreement requires payment of interest at a rate per annum, calculated as LIBOR plus 0.7% per annum. In the case of an Overadvance Loan, the interest rate is LIBOR plus 1.0% per annum.

The \$1.3 billion revolving credit facility requires payment of a commitment fee of 0.2625% per annum calculated on the undrawn, uncanceled portion of the facility.

The \$1.3 billion revolving credit facility contains certain financial covenants including but not limited to covenants requiring the Company to maintain a minimum tangible net worth, and interest and principal coverage ratios.

(b) \$365.0 million revolving credit facility:

On May 19, 2006, the Company entered into a \$365.0 million senior secured revolving credit facility agreement (the \$365.0 million revolving credit facility) with certain lenders.

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8. Long-term debt (continued):

(b) \$365.0 million revolving credit facility (continued):

The \$365.0 million revolving credit facility is divided into two Tranches: Tranche A, in the maximum amount of \$82.0 million and Tranche B, in the maximum amount of \$283.0 million. No amounts have been drawn on Tranche A. Tranche B is being used to partially fund the purchase of our eight 2500 TEU vessels being constructed by Jiangsu Yangzijiang Shipbuilding in China. Both Tranche A and Tranche B will be divided into several advances.

The \$365.0 million revolving credit facility requires payment of interest at a rate per annum, calculated as LIBOR plus 0.850% per annum for the first six years after the delivery date of the last delivered vessel in each Tranche and LIBOR plus 0.925% per annum thereafter. The Company has entered into hedging arrangements to manage the interest rate exposure from the floating rate under the facility.

The \$365.0 million revolving credit facility requires payments of a commitment fee of 0.3% per annum on the average undrawn facility amount.

Beginning six months from the delivery date of the last vessel securing Tranche A of the facility, but no later than March 31, 2008, the principal amount borrowed under Tranche A will be reduced semiannually by amounts ranging from 2.2% to 3.5% of the amount borrowed until the maturity date, at which time Tranche A will terminate. A final payment of approximately 47% of the amount borrowed is required upon termination of the tranche. Beginning six months from the delivery date of the last vessel securing Tranche B of the facility, but no later than April 30, 2010, the principal amount borrowed under Tranche B will be reduced semiannually by amounts ranging from 2.1% to 3.3% of the amounts borrowed until the maturity date, at which time Tranche B will terminate. A final payment of approximately 49% of the amount borrowed is required upon termination of Tranche B.

Tranche A of the facility has a maturity date of the tenth anniversary of the delivery date of the last vessel or July 31, 2017, whichever is earlier. Tranche B of the facility has a maturity date of the tenth anniversary of the delivery date of the vessel or August 31, 2019, whichever is earlier.

The \$365.0 million revolving credit facility is secured by the following, among others:

- A first priority mortgage on the collateral vessels funded by the \$365.0 million revolving credit facility;
- An assignment of the Company's time charters and earnings related to the collateral vessels;

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8. Long-term debt (continued):

(b) \$365.0 million revolving credit facility (continued):

- An assignment of the insurance on each of the vessels that are subject to a mortgage;
- An assignment of the Company's shipbuilding contracts; and
- A pledge of our retention accounts.

The credit facility contains certain financial covenants including covenants requiring the Company to maintain a minimum tangible net worth, and interest and principal coverage ratios.

(c) \$218.4 million credit facility:

On October 16, 2006, the Company entered into a credit facility for \$218.4 million (the \$218.4 million credit facility). The proceeds of this facility are being used to partially finance the construction of the four 5100 TEU vessels that will be built by Hyundai Heavy Industries Co., Ltd. in South Korea. The credit facility requires payment of interest at a rate per annum, calculated as LIBOR plus 0.6% per annum.

The \$218.4 million credit facility requires payments of commitment fees of 0.3% per annum calculated on the undrawn portion of the facility.

Beginning thirty six months from the delivery date of the last vessel securing the \$218.4 million credit facility, the principal amount borrowed under the facility will be reduced in eighteen semi-annual payments by amounts ranging from 2.7% and 3.3% of the amount borrowed until the maturity date. A final repayment of approximately 45% of the amount borrowed is required upon the final maturity date.

The facility maturity date is the anniversary date falling twelve years after the scheduled delivery date of the fourth 5100 TEU vessel delivered or December 23, 2021, whichever is earlier.

The \$218.4 million credit facility is secured by the following, among others:

- A first priority mortgage on the collateral vessels funded by the \$218.4 million credit facility;
- An assignment of the Company's time charters and earnings related to the collateral vessels;
- An assignment of the insurance on each of the vessels that are subject to a mortgage;
- An assignment of the Company's shipbuilding contracts; and
- A pledge of our retention accounts.

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8. Long-term debt (continued):

(c) \$218.4 million credit facility (continued):

The \$218.4 million credit facility contains certain financial covenants including covenants requiring the Company to maintain a minimum tangible net worth, and interest and principal coverage ratios.

(d) \$920.0 million revolving credit facility:

On August 8, 2007, the Company entered into a secured reducing revolving \$920.0 million credit facility (the \$920.0 million revolving credit facility).

The proceeds of this facility may be used by the Company to partially finance the construction of two of the Company's 2500 TEU vessels that will be built by Jiangsu Yangzijiang Shipbuilding Co., Ltd., four of the Company's 4250 TEU vessels under construction by Jiangsu New Yangzi Shipbuilding Co., Ltd. and the Company's eight 8500 TEU vessels that will be built by Hyundai Heavy Industries Co., Ltd. After delivery of the vessels, the Company may use this facility for general corporate purposes.

The final maturity date for the \$920.0 million revolving credit facility is the earlier of the twelfth anniversary of the delivery date of the last collateral vessel delivered and December 31, 2022. The Company's obligations under this credit agreement are secured by, among other things, assignments of ship building contracts and refund guarantees for the vessels, assignments of time charters, earnings and any charter guarantee for the vessels, assignments of insurances for the vessels, mortgages of the vessels and an assignment of a management agreement for the vessels.

Under the \$920.0 million revolving credit facility, the Company may borrow up to the lesser of \$920.0 million and 65% of the vessel delivered costs (as defined in the credit agreement) provided that amounts borrowed in respect of vessel delivered costs that are not covered by the amount of the refund guarantees for the vessels may not exceed \$1,250,000 per vessel. The facility will be proportionately reduced to the extent that not all vessels are delivered to the Company by June 30, 2011. Commencing on the earlier of 36 months after the delivery date of the last vessel and June 30, 2014, the facility will reduce by eighteen consecutive semi-annual reductions in the amounts and on the dates set out in a schedule to the credit agreement, and on each such date the Company must prepay the amount of the outstanding loan that exceeds the amount of the reduced facility. The outstanding loans under the facility must be paid in full by the final maturity date.

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8. Long-term debt (continued):

(d) \$920.0 million revolving credit facility (continued):

The Company may prepay all loans without penalty, other than breakage costs in certain circumstances. Amounts prepaid voluntarily may be re-borrowed up to the amount of the facility, subject to the required reductions in the \$920.0 million revolving credit facility. The Company will be required to prepay a portion of the outstanding loans in certain circumstances, including the sale or loss of a vessel or the cancellation of a ship building contract where the Company elects not to substitute another vessel within the time period and on the terms set out in the credit agreement. The Company may also remove a vessel from the facility upon prepayment of the relevant portion of the outstanding loans and substitute another vessel within the time period prescribed and on the terms set out in the \$920.0 million revolving credit facility. Amounts prepaid in the circumstance of a sale, loss or removal of a vessel or cancellation of a ship building contract may only be re-borrowed in certain limited circumstances.

The \$920.0 million revolving credit facility requires payment of interest on the outstanding loans at a rate calculated as LIBOR plus 0.5% per annum. The \$920.0 million revolving credit facility also requires payment of a commitment fee of 0.2% per annum calculated on the undrawn, uncanceled portion of the facility. Prior to delivery of a vessel, interest and commitment fees associated with the loans for a vessel may be added to the outstanding loan balance.

The credit facility contains certain financial covenants including covenants requiring the Company to maintain a minimum tangible net worth and interest and principal coverage ratios.

(e) \$150.0 million revolving credit facility:

On December 28, 2007, the Company entered into a secured reducing revolving \$150.0 million credit facility (the \$150.0 million revolving credit facility).

The proceeds of this facility are being used by the Company to finance the construction of two of the Company's 13100 TEU vessels, one of which will be built by Hyundai Heavy Industries Co., Ltd., and the other by Hyundai Samho Heavy Industries Co., Ltd.

The final maturity date for the \$150.0 million revolving credit facility is the earlier of the twelfth anniversary of the delivery date of the last vessel delivered and October 17, 2023. The Company's obligations under this credit agreement are or will be secured by, among other things, assignments of ship building contracts and refund guarantees for the vessels, assignments of time charters, earnings and any charter guarantee for the vessels, assignments of insurances for the vessels, mortgages of the vessels and an assignment of a management agreement for the vessels.

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8. Long-term debt (continued):

(e) \$150.0 million revolving credit facility (continued):

Under this facility, the Company may borrow up to the lesser of \$150.0 million and 65% of the vessel delivered costs (as defined in the credit agreement) provided that amounts borrowed in respect of vessel delivered costs that are not covered by the amount of the refund guarantees for the vessels may not exceed \$2,500,000 per vessel. The facility will be proportionately reduced to the extent that not all vessels are delivered to the Company by October 27, 2011. Commencing on the earlier of 6 months after the delivery date of the last vessel and April 27, 2012, the facility will reduce by eighteen consecutive semi-annual reductions in the amounts and on the dates set out in a schedule to the credit agreement, and on each such date the Company must prepay the amount of the outstanding loan that exceeds the amount of the reduced facility. The outstanding loans under the facility must be paid in full by the final maturity date.

The Company may prepay all loans without penalty, other than breakage costs in certain circumstances. Amounts prepaid voluntarily may be re-borrowed up to the amount of the facility, subject to the required reductions in the facility. The Company will be required to prepay a portion of the outstanding loans in certain circumstances, including the sale or loss of a vessel or the cancellation of a ship building contract where the Company elects not to substitute another vessel within the time period and on the terms set out in the credit agreement. The Company may also remove a vessel from the facility upon prepayment of the relevant portion of the outstanding loans and substitute another vessel within the time period prescribed and on the terms set out in the \$150.0 million revolving credit facility. Amounts prepaid in the circumstance of a sale, loss or removal of a Vessel or cancellation of a ship building contract may only be re-borrowed in certain limited circumstances.

The \$150.0 million revolving credit facility requires payment of interest on the outstanding loans at a rate calculated as LIBOR plus 0.8% per annum. The \$150.0 million revolving credit facility also requires payment of a commitment fee of 0.2% per annum calculated on the undrawn, uncanceled portion of the facility.

The credit facility contains certain financial covenants including covenants requiring the Company to maintain a minimum tangible net worth and interest and principal coverage ratios.

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8. Long-term debt (continued):

(f) Minimum repayments:

As at December 31, 2007, minimum repayments for the balances outstanding with respect to the credit facilities are as follows:

2008	\$ —
2009	—
2010	4,715
2011	5,027
2012	45,547
Thereafter	1,284,149
	<u>\$1,339,438</u>

9. Share capital:

Class A common shares carry certain rights and class B common shares are subordinated to the class A common shares for the fiscal period from the completion of the IPO to any quarter after September 30, 2008 where (*i*) the Company has paid quarterly dividends of an amount at least equal to \$0.425 per share on both class A and class B common shares for the immediately preceding four-quarter fiscal period and (*ii*) the cash generated from operations available to pay the dividends during such four-quarter fiscal period equaled, on a quarterly basis, at least \$0.425 per share on all of the Company's common shares calculated on a fully diluted basis during that fiscal period (the Subordination Fiscal period).

During the Subordination Fiscal period, subject to the discretion of the Board of Directors, the Company intends to pay a regular quarterly dividend on the class A common shares of \$0.425 per share, plus any arrears in the payment of the \$0.425 per share amount from prior quarters, before class B common shares are entitled to any dividends from operating surplus. The class A common shares will accrue arrears during the Subordination Fiscal period.

The class B common shares are subordinated shares and may not receive any dividends from the Company's operating surplus, until the class A common shares have received a quarterly dividend of \$0.425 per share and any arrears in the payment of the \$0.425 per share amount from prior quarters. The class B common shares will not accrue arrears. The class B shares will convert to class A common shares on a one-for-one basis after the expiration of the Subordination Fiscal period, as defined in the articles of incorporation.

The class C common shares are incentive shares that are entitled to share in incremental dividends if certain target dividend levels have been met. The class C common shares will not convert to class A common shares.

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9. Share capital (continued):

On August 12, 2005 the Company purchased 10 vessels from the Predecessor. The Initial Fleet was recorded at the Predecessor's historical carrying value, as the Company was formed by SCLL to succeed the Predecessor's business upon completion of the IPO. As a result, the excess of the purchase price of the Initial Fleet over the historical carrying value was recorded as a charge to shareholders' equity.

The following table summarizes the reduction to the Initial Fleet's purchase price and the charge to shareholders' equity:

Purchase price of the Initial Fleet paid in cash	\$ 664,016
Vessels at historical carrying value of Predecessor	(466,112)
Charge to share capital	<u>\$ 197,904</u>

On November 8, 2006, the Company completed a secondary offering and issued 11,500,000 common shares at \$21.50 per share. The net proceeds of \$235,114,000 from this offering were used to fund a portion of the purchase price of the undelivered vessels that the Company had contracted to purchase and for working capital and other general corporate purposes.

On April 24, 2007, the Company completed an equity offering and issued 5,000,000 common shares at \$29.45 per share. On April 30, 2007, an additional 475,000 common shares were issued to the underwriters as part of the over-allotment option granted to them by the Company. The net proceeds of \$154,361,000 from this offering were used to fund vessel acquisitions.

On August 17, 2007, the Company completed an equity offering and issued 4,500,000 common shares at \$33.05 per share. The net proceeds of \$142,401,000 from this offering were used to repay indebtedness under the \$1.3 billion revolving credit facility.

10. Share-based compensation:

In December 2005, the Company's board of directors adopted the Seaspan Corporation Stock Incentive Plan (the Plan), under which our officers, employees and directors may be granted options, restricted stock, phantom shares, and other stock-based awards as may be determined by the Company's board of directors. A total of 1,000,000 shares of common stock were reserved for issuance under the Plan, which is administered by the Company's board of directors. The Plan expires 10 years from the date of its adoption.

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10. Share-based compensation (continued):

Under the plan, the Company granted the following share-based awards during the year ended December 31, 2007:

- (a) 18,750 restricted Class A common shares to its independent directors as compensation for services for 2007. These shares vested on December 31, 2007.
- (b) 2,333 Class A common shares to the former Chief Financial Officer as additional compensation for services for 2007.
- (c) 15,000 phantom share units to the Chief Financial Officer as compensation for services. One third of the award vests on each of January 1, 2008, January 1, 2009, and January 1, 2010. On January 1, 2008, 5,000 common shares were issued in exchange for the cancellation of the 5,000 vested phantom share units.
- (d) 135,000 phantom share units to the Chief Executive Officer as compensation for services. One third of the award vests on each of December 21, 2008, December 21, 2009 and December 21, 2010.

During the year ended December 31, 2007, the following share-based awards vested:

- (e) On January 1, 2007, one third of the phantom share units issued to the Chief Executive Officer as compensation for services, vested. 33,167 Class A common shares were issued in exchange for the cancellation of the 33,167 vested phantom share units. The 66,333 phantom share units outstanding as at December 31, 2007 are expected to be settled in Class A common shares in exchange for the cancellation of the phantom share units as they vest. On January 1, 2008, 33,167 common shares were issued in exchange for the cancellation of the 33,167 vested phantom share units.
- (f) On January 1, 2007, one third of the 14,500 restricted Class A common shares issued to the former Chief Financial Officer as compensation for services vested. The remaining two thirds of the 14,500 restricted Class A common shares issued were cancelled as the grantee is no longer in the service of the Company.

Under the plan, the Company granted the following share-based awards during the year ended December 31, 2006:

- (i) 16,250 restricted Class A common shares to its independent directors as compensation for services for 2006. These shares vested on December 31, 2006.
- (ii) 14,500 restricted Class A common shares to the former Chief Financial Officer as compensation for services. One third of the award vests on each of January 1, 2007, January 1, 2008, and January 1, 2009.
- (iii) 99,500 phantom share units to the Chief Executive Officer as compensation for services. One third of the award vests on each of January 1, 2007, January 1, 2008, and January 1, 2009.

No awards were issued under the plan in 2005.

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10. Share-based compensation (continued):

Share based awards are summarized as follows:

	Restricted shares		Phantom share units	
	Number of	W.A. grant	Number of	W.A. grant
	shares	date FV	shares	date FV
December 31, 2005	—	\$ —	—	\$ —
Granted	30,750	21.32	99,500	22.40
Vested	(16,250)	20.35	—	—
December 31, 2006	14,500	22.40	99,500	22.40
Granted	21,083	24.43	150,000	25.10
Vested	(25,916)	24.43	(33,167)	22.40
Cancelled	(9,667)	22.40	—	—
December 31, 2007	—	\$ —	216,333	\$ 24.27

The above share-based awards are recognized as compensation costs over the requisite service period in the consolidated income statement based on the fair value of the award on the date of grant. During 2007, the Company recognized a total of \$1,514,000 (2006 - \$1,182,000 - 2005 - nil) share-based compensation expenses. As at December 31, 2007, there was \$4,359,000 (2006 - \$1,702,000) of total unrecognized compensation costs relating to the outstanding share based awards, which is expected to be recognized over the term of the awards.

11. Other information:

(a) Accounts payable and accrued liabilities:

The principal components of accounts payable and accrued liabilities are:

	December 31,	December 31,
	2007	2006
Due to related parties (note 4(b))	\$ 1,657	\$ 1,320
Accrued interest	3,735	2,165
Other accrued liabilities	3,124	2,122
	<u>\$ 8,516</u>	<u>\$ 5,607</u>

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SEASPAN CORPORATION

Notes to Financial Statements

(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

11. Other information (continued):

- (b) Supplementary information to the statement of cash flows consists of:

	December 31,	December 31,	December 31,
	2007	2006	2005
Interest paid	\$ 34,038	\$ 18,021	\$ 1,390
Interest received	4,099	1,500	—
Undrawn credit facility fee paid	1,473	2,320	1,034
Non-cash transactions:			
Other long-term liability for vessels under construction	170,698	—	—
Fair value of interest rate swap	—	3,738	—
Fair value of interest rate swaption	—	3,738	—
Excess of purchase price over carrying value of the Initial Fleet	—	—	197,904

12. Commitments and contingent obligations:

- (a) As of December 31, 2007, the Company has outstanding commitments for the purchase of additional vessels and instalment payments for vessels under construction, including payments to be made on the Company's behalf as described in note 12(d), as follows:

2008	\$ 704,750
2009	631,405
2010	672,234
2011	768,621
	<u>\$2,777,010</u>

- (b) As at December 31, 2007, based on 100% utilization, the minimum future revenues to be received on committed time charter party agreements are approximately:

2008	\$ 229,446
2009	296,695
2010	429,841
2011	619,214
2012	653,364
Thereafter	5,090,366
	<u>\$7,318,926</u>

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(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

12. Commitments and contingent obligations (continued):

- (c) Under the Management Agreement, the Manager provides services to the Company for fees which are fixed through December 31, 2008 and thereafter will be subject to renegotiation every three years. The fixed payments to the Manager for technical and administrative services under the current management agreement for 2008 is \$54,427,000.
- (d) On November 29, 2007 and December 3, 2007, the Company agreed to purchase five 4500 TEU vessels that will be built by Samsung Heavy Industries Co., Ltd. (Samsung). The contractual purchase price is \$82,811,000 per vessel. The vessels are scheduled to be delivered between September 2010 and July 2011. On December 27, 2007, the Company entered into agreements to novate the shipbuilding contracts to an unrelated special purpose entity (the SPE). The Company also entered into agreements with the SPE to lease the five 4500 TEU vessels upon completion of the construction terms. Under the lease agreements, the Company will pay lease payments of 20% of the value of the vessels over the term of the first five years and a balloon payment at the termination of the leases for the remaining 80% of the value. Upon termination of the leases, the Company has the ability to purchase the vessels at the fair market value at that time. Under the lease agreements, the Company receives a rental rebate equal to 99.9% of the proceeds from the sale of each vessel.

All obligations under the lease are guaranteed by the Company. Under the terms of these arrangements, the novation of the shipbuilding contracts to the SPE does not constitute a sale-leaseback of the vessels. As a result, the Company will continue to recognize the amounts paid under the contracts with Samsung as Deposits on Vessels under Construction and the amounts paid by the SPE as Other Long-Term Liability in the financial statements.

13. Financial instruments:

- (a) Concentration of credit risk:

CSCL Asia, HL USA, APM and COSCON are the Company's only customers as at December 31, 2007. As at December 31, 2007, customers accounting for our total revenues are:

	December 31, 2007	December 31, 2006	December 31, 2005
CSCL Asia	\$ 102,886	\$ 86,938	\$ 33,471
HL USA	54,963	28,436	1,332
APM	32,738	3,115	—
COSCON	8,648	—	—
	<u>\$ 199,235</u>	<u>\$ 118,489</u>	<u>\$ 34,803</u>

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(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

13. Financial instruments (continued):

(b) Fair value:

The carrying values of cash and cash equivalents, accounts receivable and accounts payable and accrued liabilities approximate their fair values because of their short term to maturity. The carrying value of long-term debt recalculated at current interest rates, approximates its carrying value.

The fair value of the financial instruments is recognized on the balance sheet.

(c) Interest rate risk management agreements:

The Company uses derivative financial instruments, consisting of interest rate swap agreements and an interest rate swaption, to manage its exposure to movements in interest rates.

As at December 31, 2007, the Company has entered into interest rate swap agreements to fix LIBOR at per annum interest rates on notional loan balances.

The Company has designated certain of these interest rate swaps as hedging instruments in accordance with the requirements in FASB Statement No. 133, *Accounting for Derivative Instruments and Certain Hedging Activities*, as amended, as follows:

	Fixed LIBOR	Notional amount as at December 31, 2007	Maximum notional amount ⁽¹⁾	Effective date	Ending date
Interest rate swap	4.6325%	\$ 663,399	\$663,399	September 15, 2005	July 16, 2012
Interest rate swap	5.6400%	254,382	714,500	August 31, 2007	August 31, 2017
Interest rate swap	5.2500%	82,303	200,000	September 29, 2006	June 23, 2010
Interest rate swap	5.5150%	59,700	59,700	February 28, 2007	July 31, 2012
Interest rate swap	5.3150%	53,523	106,800	August 15, 2006	August 28, 2009
Interest rate swap	5.2600%	43,250	106,800	July 3, 2006	February 26, 2021 ⁽²⁾
Interest rate swap	5.6000%	—	200,000	June 23, 2010	December 23, 2021

In addition, the Company has the following interest rate swaps that are not designated as hedges:

	Fixed LIBOR	Notional amount as at December 31, 2007	Maximum notional amount ⁽¹⁾	Effective date	Ending date
Interest rate swap	5.2000%	\$ 96,000	96,000	December 18, 2006	October 2, 2015
Interest rate swap	5.4200%	69,122	438,462	September 6, 2007	May 31, 2024
Interest rate swap	5.0275%	49,080	158,000	May 31, 2007	September 30, 2015
Interest rate swap	5.1700%	17,820	55,500	April 30, 2007	May 29, 2020
Interest rate swap	5.1750%	—	663,399	July 16, 2012	July 15, 2016
Interest rate swap	5.8700%	—	620,390	August 31, 2017	November 30, 2025
Interest rate swap	5.4975%	—	59,700	July 31, 2012	July 31, 2019
Interest rate swap	5.5950%	—	106,800	August 29, 2009	August 28, 2020

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(Tabular amounts in thousands of United States dollars, except per share amount and number of shares)

Years ended December 31, 2007 and 2006

Period from date of incorporation on May 3, 2005 to December 31, 2005

13. Financial instruments (continued):

(c) Interest rate risk management agreements (continued):

- (1) Over the term of the interest rate swaps, the notional amounts increase and decrease. These amounts represent the peak notional during the term of the swap.
- (2) The Company has entered into a swaption agreement with a bank (Swaption Counterparty) whereby the Swaption Counterparty has the option to require the Company to enter into an interest rate swap to pay LIBOR and receive a fixed rate of 5.26%. This is a European option and is open for a two hour period on February 26, 2014 after which it expires. The notional amount of the underlying swap is \$106,800,000 with an effective date of February 28, 2014 and an expiration of February 26, 2021. If the Swaption Counterparty exercises the swaption, the underlying swap effectively offsets the Company's 5.26% pay fixed LIBOR swap from February 28, 2014 to February 26, 2021.

14. Subsequent events:

- (a) On January 1, 2008, the Company issued 3,750 shares to each independent director for a total of 18,750 shares as compensation for services for 2008. These shares vest on December 31, 2008.
- (b) On January 8, 2008, the SPE made \$113,956,000 of installment payments for two of the 4500 TEU vessels under construction.
- (c) On January 24, 2008, the Company declared a cash dividend of \$0.475 per share, representing a total cash distribution of \$27,359,000. The cash dividend was paid on February 15, 2008 to all shareholders of record on February 1, 2008.
- (d) On January 28, 2008, the Company entered into a separate Management Agreement with the Manager to provide technical services for two of its 13100 TEU vessels. Under the Management Agreement, the Company pays to the Manager an initial technical service fee for the management of those vessels once the relevant vessel is delivered. The initial technical service fee under the agreement is \$6,750 per vessel per day and is fixed through December 31, 2008 and thereafter will be subject to renegotiation every three years.
- (e) Subsequent to the year ended December 31, 2007, the Company drew \$155,947,000 on its credit facilities to fund installment payments for vessels under construction. The Company also repaid \$138,000,000 of debt under the \$1.3 billion revolving credit facility.
- (f) On January 31, 2008, the Company de-designated two interest rate swaps: the pay fixed LIBOR of 5.64% with an effective date of August 31, 2007 and the pay fixed LIBOR of 5.315% with an effective date of August 15, 2006. The impact of these de-designations will result in recognition of a \$2 million charge to earnings out of accumulated other comprehensive loss at the date of de-designation.

During the period subsequent to December 31, 2007, significant changes to the projected LIBOR rates occurred as a result of economic factors. As a result of these changes, the fair value of the liability related to the Company's interest rate swaps and swaption has increased by \$80 million from December 31, 2007 to February 29, 2008. The Company will test the effectiveness of designated interest rate swaps at March 31, 2008 and will record changes in fair value to earnings or accumulated other comprehensive loss, as appropriate.

- (g) On March 17, 2008, the Company entered into a \$291,200,000 credit facility agreement (the "\$291.2 million credit agreement"). The proceeds of this facility will be used by the Company to partially finance the construction of two of the Company's 13100 TEU vessels.

Under the \$291.2 million credit agreement, the Company may borrow up to the lesser of \$291.2 million and 80% of the vessel delivered costs provided that amounts borrowed in respect of vessel delivered costs that are not covered by the amount of the refund guarantees for the vessels may not exceed \$1,000,000 per vessel.

The facility has a term loan component of \$232,960,000, which is divided into two tranches, and a revolving loan component of \$58,240,000. One of the tranches of the term loan portion is guaranteed by the Export-Import Bank of Korea (KEXIM). The \$291.2 million credit agreement requires payment of interest on the outstanding revolving loan at a rate calculated as LIBOR plus 0.85% per annum, payment of interest on the outstanding term loan tranches at a rate calculated as the commercial interest reference rate of KEXIM plus 0.65% per annum for the first tranche and LIBOR plus 0.35% for the second tranche. The credit agreement also requires payment of a commitment fee of 0.30% per annum calculated on the undrawn, uncanceled portion of the total facility.

The Company can draw on the term loans for a specified period of time following the scheduled delivery date of each vessel. After delivery of these vessels, the Company may use the revolving loan for general corporate purposes.

The final maturity date for the revolving loan is the earlier of the twelfth anniversary of the delivery date of the last vessel and

December 31, 2023 and the final maturity date for the term loans is the earlier of the twelfth anniversary of the delivery date of the vessels to which those term loans relate and December 31, 2023.

The Company may prepay the term loans on a repayment date without penalty, other than breakage costs and opportunity costs in certain circumstances. The Company may prepay the revolving loan on the last day of any interest period except that the Company is not permitted to prepay a certain portion of the revolving loan during the pre-delivery period. Amounts of the revolving loan that are prepaid voluntarily may be re-borrowed up to the amount of the revolving loan. The Company will be required to prepay a portion of the outstanding loans in certain circumstances, including the sale or loss of a vessel, the cancellation of a ship building contract or if the guarantee provided by KEXIM ceases to be valid for certain reasons and KEXIM determines that there has been or could be a material adverse effect on the Company's ability to perform its payment obligations. The Company may also remove a vessel from the facility upon prepayment of the relevant portion of the outstanding loans.

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SIGNATURE

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

SEASPAN CORPORATION

By: /s/ Sai W. Chu
Sai W. Chu
Chief Financial Officer
(Principal Financial and Accounting Officer)

Dated: March 24, 2008

VESSEL MANAGEMENT AGREEMENT

Two 13,100 TEU Vessels with Hull No. 2177 and Hull No. S452

built by Hyundai Heavy Industries Co., Ltd. and Hyundai Samho Heavy Industries Co., Ltd.

and chartered to

COSCO Container Lines Co., Ltd.

Dated as of the 28th day of January, 2008.

Among

SEASPAN CORPORATION
SEASPAN MANAGEMENT SERVICES LIMITED
SEASPAN ADVISORY SERVICES LIMITED
SEASPAN SHIP MANAGEMENT LTD. and
SEASPAN CREW MANAGEMENT LTD.

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VESSEL MANAGEMENT AGREEMENT

THIS VESSEL MANAGEMENT AGREEMENT is dated as of the 28th day of January, 2008.

AMONG:

SEASPAN CORPORATION , a corporation formed under the laws of the Marshall Islands, having its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, P.O. Box 1405, Majuro, Marshall Islands, MH96960

AND

SEASPAN MANAGEMENT SERVICES LIMITED , a company formed under the laws of Bermuda, having its registered office at Clarendon House, 2 Church Street, Hamilton, HM 11, Bermuda

AND

SEASPAN ADVISORY SERVICES LIMITED , a company formed under the laws of Bermuda, having its registered office at Clarendon House, 2 Church Street, Hamilton, HM 11, Bermuda

AND

SEASPAN SHIP MANAGEMENT LTD ., a company formed under the laws of British Columbia, having an office at 2600—200 Granville Street, Vancouver, British Columbia, Canada, V6C 1S4

AND

SEASPAN CREW MANAGEMENT LTD ., a company formed under the laws of the Bahamas, having its registered office at Ocean Centre, Montagu Foreshore, East Bay Street, P.O. Box N-3247, Nassau, Bahamas

RECITALS:

WHEREAS:

- A. the Company has already engaged the Manager to manage and operate the business and affairs of the Company pursuant to a management agreement dated August 8, 2005, as amended and restated on May 4, 2007 and as may be further amended (the “**IPO Management Agreement**”); and
- B. the Company has acquired the Vessels (as defined herein) and has engaged the Manager to provide certain vessel management services for the Vessels, and the parties wish to formalize such engagement as set out in this vessel management agreement.

NOW, THEREFORE, in consideration of the mutual covenants and premises of the Parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each Party), the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Certain Definitions

In this Agreement, including the recitals hereto, unless the context requires otherwise, the following terms shall have the respective meanings set forth below:

“ **Accounting Referee** ” has the meaning ascribed to such term in Section 5.8.

“ **Adjusted Technical Services Fee** ” has the meaning ascribed to such term in Section 5.2.

“ **Advisor** ” means Seaspan Advisory Services Limited or any successor thereof permitted in accordance with this Agreement.

“ **Affiliates** ” means, with respect to any Person as at any particular date, any other Persons that directly or indirectly, through one or more intermediaries, Controls, are Controlled by, or are under common Control with the Person in question, and **Affiliate** means any one of them.

“ **Agreement** ” means this vessel management agreement as the same may be amended from time to time.

“ **Applicable Laws** ” means, in respect of any Person, property, transaction or event, all laws, including, without limitation, the Exchange Act and the rules and regulations of the United States Securities and Exchange Commission, all statutes, ordinances, regulations, municipal by-laws, treaties, judgments and decrees applicable to that Person, property, transaction or event, all applicable official directives, rules, consents, approvals, authorizations, guidelines, orders, codes of practice and policies of any Governmental Authority having authority over that Person, property, transaction or event and having the force of law, and all general principles of common law and equity.

“ **Books and Records** ” means all books of account and records, including tax records, sales and purchase records, vessel records, computer software, formulae, business reports, plans and projections and all other documents, files, correspondence and other information of the Company with respect to the Vessels (whether or not in written, printed, electronic or computer printout form).

“ **Business Day** ” means a day other than a Saturday, Sunday or statutory holiday on which the banks in the Marshall Islands, Bermuda, Hong Kong or Vancouver, British Columbia are required to close.

“ **Charter** ” means a charter party agreement with the Company that relates to any of the Vessels, and “ **Charters** ” means all such charter party agreements.

“ **Charterer** ” means either COSCO Container Lines Co., Ltd. of Shanghai, People’s Republic of China or such other Persons that have entered into, or assumed the obligations under by novation or otherwise, a Charter with the Company.

“ **Commercial Services** ” has the meaning ascribed to such term in Section 3.2.

“ **Company** ” means Seaspan Corporation and any successor company permitted under this Agreement.

“ **Company Breach** ” has the meaning ascribed to such term in Section 7.3(b).

“ **Company Group** ” means the Company and its Subsidiaries.

“ **Company Group Member** ” means any member of the Company Group.

“ **Company Indemnified Persons** ” has the meaning ascribed to it in Section 6.4;

“ **Containerships** ” means ocean-going vessels that are intended to be used primarily to transport containers or are being used primarily to transport containers, and “ **Containership** ” means any such vessel.

“ **Control** ” or “ **Controlled** ” means, with respect to any Person, the right to elect or appoint, directly or indirectly, a majority of the directors of such Person or a majority of the Persons who have the right, including any contractual right, to manage and direct the business, affairs and operations of such Person, or the possession of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of Voting Securities, by contract, or otherwise.

“ **Credit Facilities** ” means the credit facility agreement dated December 28, 2007 for Seaspan Finance II Co. Ltd. and Seaspan Finance III Co. Ltd. as borrowers with the Company as guarantor as arranged by Industrial and Commercial Bank of China Limited (“ICBC”) and with ICBC as facility agent, as such agreement may be amended, supplemented or restated and any other credit facility or other financing facility in respect of the Vessels, including any replacement facilities or junior priority facilities.

“ **Crew** ” means the master, officers, employees, ratings and other crew members of a Vessel.

“ **Crew Employment and Support Expenses** ” means all Employment Expenses of the Crew and all expenses of a general nature which are not particularly referable to any individual member of the Crew or individual Vessel which are incurred for the purpose of providing Crew Management Services and, without prejudice to the generality of the foregoing, shall include the cost of crew standby pay, training schemes for officers and ratings, cadet training schemes, study pay, recruitment and interviews.

“ **Crew Insurances** ” means insurances against crew risks which shall include but not be limited to death, sickness, repatriation, injury, shipwreck unemployment indemnity and loss of personal effects.

“ **Crew Manager** ” means Seaspan Crew Management Ltd. or any successor thereof permitted in accordance with this Agreement.

“ **Crew Management Services** ” has the meaning ascribed to such term in Section 3.3.

“ **Designated Representative** ” and “ **Designated Representatives** ” each have the meaning ascribed to such terms in Section 8.1.

“ **Dispute** ” has the meaning ascribed to such term in Section 8.1.

“ **Dry-docking Allocation** ” has the meaning ascribed to such term in Section 3.5(a).

“ **Employment Expenses** ” means all costs, expenses, debts, liabilities and obligations related to or incurred in respect of employment, including salaries, fees, wages, incentive pay, gratuities, bonuses, vacation pay, holiday pay, other paid leave, overtime, standby pay, sick pay, workers’ compensation legislation contributions or costs, benefits and related costs, statutory contributions and remittances, pension plan contributions and costs, recruitment costs, Severance

Costs, payroll and accounting costs, training and education costs, discounts, meals, accommodation, associated legal costs arising from disputes, administrative costs, travel costs, perquisites, relocation expenses and uniform expenses.

“ **Exchange Act** ” means the *Securities Exchange Act of 1934* , as amended.

“ **Fair Market Fee** ” has the meaning ascribed to such term in Section 5.4.

“ **Force Majeure Event** ” has the meaning ascribed to such term in Section 9.2.

“ **Governmental Authority** ” means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, any multinational or supranational organization, any government agency, including, without limitation, the SEC, any tribunal, labour relations board, commission or stock exchange, including, without limitation, the New York Stock Exchange, and any other authority or organization exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

“ **Initial Term** ” means the initial term of this Agreement as set out in Section 7.1.

“ **Initial Technical Services Fee** ” has the meaning ascribed to such term in Section 5.1.

“ **Insurances** ” has the meaning ascribed to such term in Section 3.4.

“ **IPO Management Agreement** ” has the meaning ascribed to it in the recitals to this Agreement.

“ **Legal Action** ” means any action, claim, complaint, demand, suit, judgment, investigation or proceeding, pending or threatened, by any Person or before any Governmental Authority.

“ **Losses** ” means losses, expenses, costs, liabilities and damages, excluding lost profits and consequential damages, but including interest charges, penalties, fines and monetary sanctions.

“ **Management Services** ” means, collectively, the Technical Services and Pre-delivery Services.

“ **Manager** ” means Seaspan Management Services Limited or any successor thereof permitted in accordance with this Agreement.

“ **Manager Breach** ” has the meaning ascribed to such term in Section 7.3(a).

“ **Manager Entities** ” means the Manager, the Ship Manager, the Crew Manager and the Advisor, and “ **Manager Entity** ” means any one of them.

“ **Manager Indemnified Persons** ” has the meaning ascribed to such term in Section 6.3.

“ **Manager Misconduct** ” has the meaning ascribed to it in Section 6.1(a).

“ **Manager’s Personnel** ” means all individuals that are employed by or have entered into consulting arrangements with any Manager Entity or any subcontractor under Section 2.3, other than the Crew.

“ **Mediator’s Report** ” has the meaning ascribed to such term in Section 8.2.

“ **New Build** ” means a Vessel under construction pursuant to a ship building contract between the Company and either Hyundai Heavy Industries Co., Ltd. or Hyundai Samho Heavy Industries Co., Ltd.

“ **Parties** ” means the Company, the Manager, the Ship Manager, the Crew Manager and the Advisor, and “ **Party** ” means any one of them.

“ **Person** ” means an individual, corporation, limited liability company, partnership, joint venture, trust or trustee, unincorporated organization, association, government, government agency or political subdivision thereof, or other entity.

“ **Pre-delivery Services** ” has the meaning ascribed to such term in Section 4.1

“ **Pre-delivery Purchases and Expenses** ” has the meaning ascribed to such term in Section 4.2.

“ **Renewal Term** ” means any renewal term of this Agreement referred to in Section 7.2.

“ **Severance Costs** ” means the termination or severance liabilities, costs and expenses which employers are legally obliged to provide or pay to or in respect of their employees, or the compensation or damages owed in lieu of such liabilities, costs and expenses, as a result of the termination of any employment.

“ **Ship Manager** ” means Seaspan Ship Management Ltd. or any successor thereof permitted in accordance with this Agreement.

“ **Stores and Equipment** ” means the stores, spares, lubricating oil, supplies and equipment that customarily are considered part of a Containership for which a buyer would ordinarily reimburse a seller on the sale of such Containership and does not include consumables that are not of incremental value to the Containership.

“ **Subsidiaries** ” means, with respect to any Person, (a) a corporation of which more than 50% of the voting power of shares entitled (without regard to the occurrence of any contingency) to vote in the election of directors or other governing body of such corporation is owned, directly or indirectly, at the date of determination, by such Person, by one or more corporations Controlled by such Person or a combination thereof, (b) a partnership (whether general or limited) in which such Person or a corporation Controlled by such Person is, at the date of determination, a general or limited partner of such partnership, but only if more than 50% of the partnership interests of such partnership (considering all of the partnership interests of the partnership as a single class) is owned, directly or indirectly, at the date of determination, by such Person, one or more corporations Controlled by such Person, or a combination thereof, or (c) any other Person (other than a corporation or a partnership) in which such Person, one or more corporations Controlled by such Person, or a combination thereof, directly or indirectly, at the date of determination, has (i) at least a majority ownership interest or (ii) the power to elect or direct the election of a majority of the directors or other governing body of such Person.

“ **Technical Services** ” means the Technical Vessel Management Services, the Commercial Services, the Crew Management Services, the procurement of insurance as described in Section 3.4, the dry-docking and repair services described in Section 3.5 and the regulatory compliance services described in Section 3.6.

“ **Technical Services Fee** ” means the Initial Technical Services Fee or Adjusted Technical Services Fee, as applicable.

“ **Technical Vessel Management Services** ” has the meaning ascribed to such term in Section 3.1.

“ **Term** ” means the Initial Term and any Renewal Term, in each case subject to any early termination of this Agreement as permitted herein.

“ **Vessels** ” means the vessels owned, under construction or to be acquired by the Company or any of its Subsidiaries from time to time as set out in Schedule A, as the same may be amended from time to time in accordance with Section 2.8, and “ **Vessel** ” means any one of them.

1.2 Construction

In this Agreement, unless the context requires otherwise:

- (a) references to laws and regulations refer to such laws and regulations as they may be amended from time to time, and references to particular provisions of a law or regulation include any corresponding provisions of any succeeding law or regulation;
- (b) references to money refer to legal currency of the United States of America;
- (c) the word “including” when following any general term or statement shall not be construed as limiting the general term or statement to the specific matter immediately following the word “including” or to similar matters, and the general term or statement shall be construed as referring to all matters that reasonably could fall within the broadest possible scope of the general term or statement;
- (d) words importing the singular include the plural and vice versa, and words importing gender include all genders; and
- (e) a reference to an “approval”, “authorization”, “consent”, “notice” or “agreement” means an approval, authorization, consent, notice or agreement, as the case may be, in writing.

1.3 Headings

All article or section headings in this Agreement are for convenience only and shall not be deemed to control or affect the meaning or construction of any of the provisions hereof.

2. ENGAGEMENT OF MANAGER

2.1 Engagement

The Company hereby engages the Manager to provide the services specified herein and to manage each Vessel for and on behalf of the relevant Company Group Member, and the Manager hereby accepts such engagement, all in accordance with the terms of this Agreement. The Company and the Manager each acknowledge that to the extent set out in this Agreement, the Manager is acting solely on behalf of, as agent of and for the account of, the Company. The Manager may advise Persons with whom it deals on behalf of the Company that it is conducting such business for and on behalf of the Company.

2.2 Powers and Duties of the Manager

The Manager has the power and authority to take such actions on its own behalf or on behalf of the relevant Company Group Member as it from time to time considers necessary or appropriate to enable it to perform its obligations under this Agreement, subject to the customary oversight and supervision of the Company and its board of directors. The Manager shall use its reasonable best efforts to provide the Management Services and perform the Technical Services to be provided hereunder in accordance with customary ship management practice and with the care, diligence and skill that a prudent manager of vessels such as the Vessels would possess and exercise, except that the Manager in the performance of its management responsibilities under this Agreement may have regard to its overall responsibility in relation to all vessels as may from time to time be entrusted to its management and in particular, but without prejudice to the generality of the foregoing, the Manager may allocate available supplies, manpower and services in such manner as in the prevailing circumstances the Manager, acting reasonably, considers to be fair and reasonable.

2.3 Ability to Subcontract

The Manager may subcontract any of its duties and obligations hereunder to any of its Affiliates without the consent of the Company and may subcontract certain of its duties and obligations to Persons that are not Affiliates with the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. In the event of any subcontract by the Manager, the Manager shall promptly notify the Company thereof and shall remain fully liable for the due performance of its obligations under this Agreement. The Ship Manager, Advisor and Crew Manager may subcontract any of their obligations under any subcontract of the Management Agreement to any Affiliate of the Manager without the consent of the Company. In the event of any subcontract by the Ship Manager, Advisor or Crew Manager, the Ship Manager, Advisor or Crew Manager, as the case may be, shall promptly notify the Company thereof and the Manager shall remain fully liable for the due performance of its obligations under this Agreement.

The Company acknowledges the Manager shall engage (a) the Ship Manager to provide all or certain of the Technical Services to the Company pursuant to a subcontract of the relevant provisions of this Agreement; (b) the Crew Manager to provide all or certain of the Crew Management Services pursuant to a subcontract of the relevant provisions of this Agreement; and (c) the Advisor to perform all of the Pre-delivery Services pursuant to a subcontract of the relevant provisions of this Agreement; and the Ship Manager, Crew Manager and Advisor hereby accept such engagement providing that the Manager give the notice referred to in Section 5.9 of this Agreement. Notwithstanding the above, the Manager shall be responsible for all costs and expenses related to any subcontracting of the Technical Services, and the Technical Services Fee shall not be adjusted therefor.

2.4 Outside Activities

The Company acknowledges that the Manager and its Affiliates may have business interests and engage in business activities in addition to those relating to the Company, for its own account and for the accounts of others. Subject to the provisions of the omnibus agreement dated August 8, 2005 between, among others, the Company and the Manager, the Manager and its Affiliates may undertake activities that may compete with the Company.

2.5 Exclusive Appointment

The Company acknowledges that the appointment of the Manager hereunder is an exclusive appointment for the Term. The Company shall not appoint other managers with respect to the Vessels or the Containership business during the Term, except in circumstances in which it is necessary to do so in order to comply with Applicable Laws or as otherwise agreed by the Manager in writing. This Section 2.5 does not prohibit the Company from having its own employees perform the Management Services.

2.6 Authority of the Parties

Each Party represents to the others that it is duly authorized with full power and authority to execute, deliver and perform this Agreement. The Company represents that the engagement of the Manager has been duly authorized by the Company and is in accordance with all governing documents of the Company.

2.7 Inspection of Books and Records

At all reasonable times and on reasonable notice, any person authorized by the Company may inspect, examine, copy and audit the Books and Records of the Company kept pursuant to this Agreement.

2.8 Changes to Vessels subject to this Agreement

With the prior approval of the Manager and subject to Section 5.3, the Company may engage the Manager to provide the services contemplated by this Agreement for other Containerships that are to be financed under the Credit Facilities. The Company, with reasonable notice to the Manager, may remove a Vessel from the engagement under this Agreement, provided that the Manager is being engaged to manage such Vessel under a separate agreement with the Company. Unless the parties otherwise agree, a Vessel shall automatically be removed from engagement under this Agreement upon a sale or total loss of such Vessel. Upon any addition of a Containership to this engagement or any removal of a Vessel from this engagement, the parties shall amend Schedule A as required.

2.9 Manager's Personnel

The Manager shall provide the Management Services hereunder through the Manager's Personnel and the Crew. The relevant Manager Entity shall be responsible for all aspects of the employment or other relationship of such Manager's Personnel and Crew as required in order for the Manager to perform its obligations hereunder, including recruitment, training, staffing levels, compensation and benefits, supervision, discipline and discharge, and other terms and conditions of employment or contract. However, the Manager shall remain directly responsible and liable to the Company to carry out all of its obligations under this Agreement, whether performed directly or subcontracted to the Ship Manager, Crew Manager, Advisor or any other Person, and the Manager (and not the Company) shall be responsible for the compensation and reimbursement of all such entities at its own cost to the extent such services are encompassed in the Technical Services. Although such Manager's Personnel will at all times remain employees of the relevant Manager Entity, the Company shall reimburse the Manager, in accordance with Section 5.6, for that portion of the Employment Expenses of the Manager's Personnel attributable to the provision of Pre-delivery Services provided pursuant to this Agreement. Subject to Section 5.9, the Manager shall in turn reimburse the relevant Manager Entity as required.

3. TECHNICAL SERVICES

Subject to Section 6.2, in exchange for the Technical Services Fee, the Manager shall provide to the Company the Technical Services in this Section 3 at the Manager's own cost.

3.1 Technical Vessel Management Services

Commencing with the acquisition of each Vessel by any Company Group Member, the Manager shall provide all usual and customary technical vessel management services with respect to the operation of that Vessel, including but not limited to:

- (a) supervising the day-to-day operation, maintenance, safety and general efficiency of the Vessel to ensure the seaworthiness and maintenance condition of the Vessel;
- (b) arranging for, supervising and paying for general and routine repairs, alterations and maintenance of the Vessel, and the Manager shall provide the Company with a description of such repairs, alterations and maintenance normally included in the operating expense budget for each Vessel, which list will be subject to the acknowledgment and consent of the Company;
- (c) purchasing the necessary stores, spares, lubricating oil, supplies and equipment (other than such equipment as is covered by Section 6.2 (c)), and the Manager shall provide the Company with a description of such stores, spares, lubricating oil, supplies and equipment normally included in the operating expense budget for each Vessel, which list will be subject to the acknowledgment and consent of the Company;
- (d) appointing such surveyors, supervisors, technical consultants and other support for the Vessel on behalf of the Company as the Manager may consider from time to time to be necessary;
- (e) providing technical and shore-side support for the Vessel and attending to all other technical matters necessary for the operation of the Vessel;
- (f) handling of each Vessel while in ports or transiting canals either directly or by use of vessel agents, unless otherwise handled by the Charterer;
- (g) procuring and arranging for port entrance and clearance, pilots, vessel agents, consular approvals, and other services necessary or desirable for the management and safe operation of each Vessel, unless otherwise procured or arranged by the Charterer;
- (h) preparing, issuing or causing to be issued to shippers the customary freight contract, cargo receipts and/or bills of lading unless normally prepared, issued or arranged for by the Charterer;
- (i) performing all usual and customary duties concerned with the loading and discharging of cargoes at all ports unless normally performed by the Charterer;
- (j) arranging for the prompt dispatch of each Vessel from loading and discharging ports in accordance with the Charterer's instructions and for transit through canals;
- (k) arranging for employment of counsel and the investigation, follow-up and negotiating of the settlement of all claims arising in connection with the operation of each Vessel;
- (l) paying all ordinary charges incurred in connection with the management of each Vessel, including, but not limited to, all canal tolls, port charges, any amounts due to any Governmental Authority with respect to the Crew and all duties and taxes in respect of cargo or freight (whether levied against the Vessel or the Company) unless otherwise paid by the Charterer;

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- (m) in such form and on such terms as may be requested by the Company, the prompt reporting to the Company of each Vessel's movement, position at sea, arrival and departure dates, major casualties and damages received or caused by each Vessel;
 - (n) informing the Company promptly of any major release or discharge of oil or other hazardous material not in compliance with Applicable Laws;
 - (o) if the Company requests, providing the Company with a copy of any vessel inspection reports, valuations, surveys, insurance claims and other similar reports prepared by ship brokers, valuers, surveyors, classification societies and insurers; and
 - (p) arranging and paying for any and all material licenses, permits, franchises, registrations and similar authorizations of any Governmental Authority which are necessary and used in the operation of the Vessels;
- (which together comprise the “ **Technical Vessel Management Services** ”).

3.2 Commercial Management Services

Commencing with the acquisition of each Vessel by any Company Group Member, the Manager shall administer the Charters and monitor payment to any Company Group Member or its nominee of all hire, freight revenues or other moneys to which the Company may be entitled arising out of the Charter or other employment of that Vessel (the “ **Commercial Services** ”).

3.3 Crew Management Services

Commencing with or, to the extent reasonably necessary for the provision of the Crew Management Services in an efficient manner, prior to the acquisition of each Vessel by any Company Group Member, the Manager shall provide all usual and customary crew management services in respect of that Vessel and shall manage all aspects of the employment of the Crew, including but not limited to:

- (a) procuring, supervising and managing suitably qualified Crew, which in the opinion of the Manager is required for the Vessel, in accordance with the International Convention on Standards of Training, Certification and Watchkeeping to Seafarers, 1978, as amended in 1995 or any subsequent amendment thereto;
- (b) recruiting, selecting, hiring and engaging the Vessel's Crew, arranging and paying, at its own expense, all compensation and administering payroll arrangements, pensions and other benefits and insurance for the Crew (including processing all claims);
- (c) ensuring that the Applicable Laws of the flag of the Vessel and all places where the Vessel trades are satisfied in respect of manning levels, rank, qualification and certification of the Crew and employment regulations, including statutory withholding tax requirements and social insurance requirements;
- (d) ensuring that all members of the Crew have passed a medical examination with a qualified doctor certifying that they are fit for the duties for which they are engaged and are in possession of valid medical certificates issued in accordance with appropriate flag state requirements and, in the absence of applicable flag state requirements, the medical certificate shall be dated not more than three months prior to the respective Crew members leaving their country of domicile and shall be maintained for the duration of their service on board the Vessel;

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- (e) ensuring that the Crew have command of the English language at a sufficient standard to enable them to perform their duties effectively and safely;
 - (f) arranging for all transportation (including repatriation), board and lodging for the Crew as and when required at rates and types of accommodations as customary in the industry;
 - (g) attending to and supervising the training, discipline, discharge and other terms and conditions of employment of the Crew;
 - (h) conducting all union negotiations for and on behalf of the Company pursuant to Section 4.5(c) of the IPO Management Agreement;
 - (i) administering the Company's and the Manager's drug and alcohol policy in respect of the Crew;
 - (j) ensuring that any concerns of the Charterer with respect to the master or any of the officers or other Crew are appropriately investigated in a timely manner, communicating the results of such investigations to the Charterer and the Company and, if such concerns are well-founded, ensuring that any appropriate remedial actions are taken without delay;
 - (k) keeping and maintaining full and complete records of any labour agreements which may be entered into with the Crew and reporting to the Company reasonably promptly after notice or knowledge thereof is received of any change or proposed change in labour agreements or other regulations relating to the Crew;
 - (l) negotiating the settlement of all wages with the Crew during the course of and upon termination of their employment;
 - (m) handling all details and negotiating the settlement of any and all claims of the Crew including, but not limited to, those arising out of accidents, sickness, death, loss of personal effects, or disputes under articles or contracts of enlistment, policies of insurance and fines;
 - (n) keeping and maintaining all administrative and financial records relating to the Crew as required by Applicable Law and any labour or collective agreements of the Company, and rendering to the Company any and all reports when, as and in such form as requested by the Company; and
 - (o) performing any other function in connection with the Crew as may be requested by the Company;
- (collectively, the “ **Crew Management Services** ”).

3.4 Insurance

The Manager shall obtain, purchase and maintain insurance for each Vessel from third party providers for and on behalf of the Company against physical damage, total loss, third party liability and other risks normally insured against in accordance with industry practice, including:

- (a) usual hull and machinery marine risks (including crew negligence) and excess liabilities;
- (b) protection and indemnity risks (including pollution risks and Crew Insurances); and

(c) war risks (including protection and indemnity and crew risks);

each in accordance with the best practice of prudent owners of vessels of a similar type to each Vessel, with insurance companies, underwriters or associations in amounts and on terms that are in accordance with industry practice and, in any event, are no less than the market value of the Vessel (and in the case of protection and indemnity coverage, entered for her full gross tonnage) (collectively, the “**Insurances**”).

The Manager shall pay on behalf of the Company all premiums and calls on the Insurances promptly and in any event by their due date. The Manager shall procure for and on behalf of the Company any such additional insurance required under the Credit Facilities, including arranging for any of the lenders, facility agent or security agent being named as “loss payee” or “additional insured” in accordance with the terms of the Credit Facilities. The Manager shall co-operate with the Company’s insurers and underwriters with respect to the investigation or settlement of claims by the Company or any third party under the Insurances, including taking the necessary steps to have repairs contemplated in Section 6.2 (a) covered by the applicable insurance policy or policies.

3.5 Dry-Docking, Repairs and Improvements

(a) General

Subject to Section 6.2, the Manager shall arrange, pay for and supervise the dry-dockings, repairs, alterations and maintenance of each Vessel to the standards required to ensure that each Vessel will comply, in all material respects, with the laws of the flag of such Vessel and of the places where such Vessel trades and all requirements and recommendations of the classification society. Notwithstanding the foregoing and subject to this Section 3.5, the Manager shall pay only for the costs and expenses associated with normally scheduled dry-docking and general and routine repairs, maintenance and alterations of the Vessels. The Company acknowledges that the Manager intends to allocate a portion of the Technical Services Fees of each Vessel toward the normally scheduled dry-docking costs and expenses of such Vessel and that the amount allocated will be based on a period of time specified and agreed to between the Company and the Manager (the “**Dry-docking Allocation**”). The Company shall make available to the Manager sufficient funds for such other dry-dockings, repairs, alterations and maintenance as described in Section 6.2.

(b) Refund

If and to the extent the Company has paid to the Manager any amounts included in the Technical Services Fee that comprise the Dry-docking Allocation of such Vessel, and this Agreement is terminated for any reason or expires, or the Manager otherwise ceases to manage such Vessel under this Agreement, prior to the carrying out of such dry-docking, the partial or full costs of which have been prepaid in the Technical Services Fee, the Manager shall refund to the Company the Dry-docking Allocation for such Vessel.

(c) Major Expenditures Prior to Dry-docking

If and to the extent there is any major expenditure for repairing a Vessel where such cost or expense is not within Section 6.2 and may be repaired at the next normally scheduled dry-docking, but the Manager reasonably considers such repair should be performed prior to the next normally scheduled dry-docking and the Manager pays for such repair to be performed, and this Agreement is terminated for any reason or expires, or the Manager otherwise ceases to manage such Vessel under this Agreement, prior to the next normally scheduled dry-docking, the Company shall reimburse the Manager for the costs and expenses for such repair that the Manager has not yet recovered from the Dry-docking Allocation of the Technical Services Fees paid to the Manager.

3.6 Regulatory Compliance Services

The Manager shall operate and maintain the Vessels, in all material respects, in compliance with, and take all actions necessary to ensure that each Vessel is in compliance with, all Applicable Laws, including the laws of Hong Kong Special Administrative Region or such other flag as each Vessel may bear, the Applicable Laws of the countries to which the Vessels trade and with the requirements of the relevant classification society, the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the International Maritime Organization (IMO) by resolution A.741(18), or any subsequent amendment thereto, and the International Ship and Port Facility Security Code adopted by the International Maritime Organization Assembly, as the same may have been or may be amended or supplemented from time to time.

4. PRE-DELIVERY SERVICES

In addition to any Strategic Services (as defined in the IPO Management Agreement), the Manager shall provide to the Company the services set out in this Section 4.

4.1 Pre-delivery Services

The Manager shall oversee and supervise, in all material respects, the construction of the New Build or the acquisition of any Vessel to be purchased and made subject to this Agreement, as the case may be, prior to its delivery, including but not limited to the following, as applicable:

- (a) negotiating the ship building contract and specifications and related documentation;
- (b) attending to plan approval for the design of the New Build;
- (c) liaising with the ship builder and supervising the ship builder's progress with respect to the New Build and reviewing the general operation and efficiency of the ship builder;
- (d) arranging for and supervising alterations and changes to the New Build;
- (e) overseeing construction to ensure the ship builder is constructing the New Build in accordance with the relevant ship building contract, design and specifications;
- (f) negotiating the purchase and sale agreement and related documentation;
- (g) liaising with classification societies, suppliers and other service providers;
- (h) procuring, supervising and managing suitably qualified Crew to test the New Build in the water prior to delivery;
- (i) attending to the purchasing and other activities related to the Pre-Delivery Purchases and Expenses; and
- (j) arranging for registration of the Vessel under the relevant flag and in accordance with Applicable Laws and registration of the Vessel with the relevant classification society and other authorities as may be required for obtaining trading, canal, and other marine certificates for the Vessel;

(collectively, the “**Pre-delivery Services**”).

4.2 Pre-delivery Purchases and Expenses

Prior to the delivery to the Company of any Vessel, the Company shall provide at its own expense, but at the recommendation of the Manager, the necessary stores, spares, lubricating oil, supplies, equipment and services related to the delivery of the Vessel (all of which shall be set out by the Manager in a pre-delivery budget for each Vessel and subject to the acknowledgment and consent of the Company) to ensure the seaworthiness and readiness for service of each such Vessel and shall pay for the fees associated with the relevant classification society or the registration of the Vessel in the name of the Company under the relevant flag (“**Pre-delivery Purchases and Expenses**”). For greater certainty, the Pre-delivery Purchases and Expenses may include items that are identified before or after delivery of the Vessel once the Manager has determined that such items are required for the safe and efficient operation of the Vessel so that it can be managed and operated as contemplated by this Agreement. The Manager shall arrange for and make such Pre-delivery Purchases and Expenses for and on behalf of the Company and the Company shall reimburse the Manager in accordance with Section 5.6.

4.3 Estimates and Consultation

The Manager shall consult with and obtain the approval of the Company with respect to all material decisions to be made regarding the New Build. The Manager shall also consult with the Company regarding, and provide to the Company an estimate of the cost of, the Pre-delivery Services and the various Pre-delivery Purchases and Expenses for any Vessel for approval by the Company reasonably in advance of such services being provided or such items being purchased. If the actual cost of the Pre-delivery Services or any of the Pre-delivery Purchases and Expenses exceeds the previous estimate provided by the Manager by \$50,000 or less, the Manager shall so advise the Company prior to settling payment of the relevant invoice. If the actual cost of the Pre-delivery Services or any of the Pre-delivery Purchases and Expenses exceeds the previous estimate provided by the Manager by more than \$50,000, the Manager shall consult with and obtain the prior approval of the Company prior to incurring such costs.

5. COMPENSATION

5.1 Initial Technical Services Fee

For the provision of the Technical Services between the commencement of this Agreement and December 31, 2008, the Company shall pay to the Manager in advance on a monthly basis the daily fixed fees per Vessel set out in Schedule A hereto (the “**Initial Technical Services Fee**”) commencing on the date of delivery of each Vessel to any Company Group Member. This fee is all-inclusive and represents all costs to be paid to the Manager for the provision of the Technical Services; any related costs paid by the Manager in connection with the Technical Services shall not be passed through to or be reimbursed by the Company, except as set forth in Section 6.2 below. The Company and the Manager each acknowledge that the Initial Technical Services Fee for the Vessels represents the fair market value of providing the Technical Services for each Vessel as of the date hereof. The Technical Services Fee is payable regardless of whether the Vessels are subject to a Charter or whether the relevant Charterer has paid the relevant charter hire to the Company. However, in circumstances where the Vessel is off-hire (whether or not subject to a Charter), there shall be an appropriate downward adjustment to the Technical Services Fee for any decrease in variable costs during such period.

5.2 Adjustment to Initial Technical Services Fee

The Initial Technical Services Fee shall remain in effect until December 31, 2008, and thereafter will be adjusted every three years beginning January 1, 2009. Ninety (90) days prior to December 31, 2008 and the end of each successive three-year period thereafter, the Manager and the Company shall negotiate the fee for Technical Services for the successive three-year period (the “ **Adjusted Technical Services Fee** ”).

5.3 Technical Services Fees for New Vessels

If the Company acquires a Containership that is to be financed under the Credit Facilities, the Technical Services Fee in respect of that Containership shall be the same fee that is applicable to Vessels of the same size, unless there is a material and demonstrable difference in the operating costs associated with such Containership. If such a difference exists or if there are no Vessels of a similar size already owned by the Company, the Company and the Manager shall negotiate in good faith a fair market Technical Services Fee for that Containership. The Parties shall update Schedule A as required from time to time to reflect the Technical Services Fees for the newly acquired Containerships. For Containerships that were previously subject to this Agreement and are subsequently being returned to the engagement under this Agreement, the Technical Services Fee shall be that which was applicable prior to removal from this Agreement.

5.4 Dispute Resolution of Technical Services Fee

If the Company and the Manager are unable to agree on the Adjusted Technical Services Fee pursuant to Section 5.2 within forty-five (45) days prior to the end of the applicable calendar year or are unable to agree on the Technical Services Fee for a newly acquired Containership pursuant to Section 5.3, the Company and the Manager shall engage an independent arbitrator to determine the fair market value of providing the Technical Services to the Company for the Vessel or Vessels, as the case may be, in accordance with this Agreement (the “ **Fair Market Fee** ”). In determining the Fair Market Fee in respect of the Adjusted Technical Services Fee, the arbitrator will be provided with the proposed terms of the Adjusted Technical Services Fee discussed between the Company and the Manager in the prior 45-day period, all the relevant historical information regarding the Vessels for the previous three-year period, the anticipated costs of operating and managing such Vessels for the next three-year period and any other information that the Company or the Manager may deem relevant. In determining the Fair Market Fee in respect of any newly acquired vessel, the arbitrator will be provided with the proposed Technical Services Fee of such vessel as discussed between the Company and the Manager, the anticipated costs of operating and managing such vessel for the next three-year period and any other information that the Company or the Manager may deem relevant. The arbitrator shall determine the Fair Market Fee within thirty (30) days of its engagement and furnish the Company and the Manager with its determination, and the Adjusted Technical Services Fee for the ensuing three-year period, in the case of Section 5.2, or the Technical Services Fee for relevant period, in the case of a newly acquired vessel pursuant to Section 5.3, shall be the Fair Market Fee as determined by the arbitrator.

Solely in the case of the Adjusted Technical Services Fee for the three-year period commencing January 1, 2009, the Adjusted Technical Services Fee shall be the greater of (a) the Fair Market Fee determined by the arbitrator; and (b) the Initial Technical Services Fee. During all other periods, the Adjusted Technical Services Fee shall be the Fair Market Fee determined by the arbitrator. The fees and expenses of the arbitrator shall be paid by the Company and the Manager in equal proportions.

5.5 Incentive Shares

Under the IPO Management Agreement, the Manager was engaged to provide certain Strategic Services (as defined therein), which services included certain Pre-delivery Services as set out herein. In respect of such Strategic Services, which were subcontracted to the Advisor, the Advisor received 100 Incentive Shares having an aggregate purchase price of \$1,000. The Company, the Manager and the Advisor each acknowledge that the Incentive Shares were issued to the Advisor, in part, as consideration for the provision of the Pre-Delivery Services hereunder.

5.6 Reimbursement for Expenses for Pre-delivery Services

The Company shall reimburse the Manager for: (a) all of the reasonable direct costs and expenses incurred by the Manager and its Affiliates in providing the Pre-delivery Services, including the Pre-Delivery Purchases and Expenses; and (b) all reasonable and necessary costs and expenses incurred by the Manager and its Affiliates that are allocable to the provision of the Pre-delivery Services to the Company (including the allocable Employment Expenses associated with officers and employees of the Manager and its Affiliates to the extent that they provide such Pre-delivery Services to the Company for the Manager pursuant to this Agreement). If any of the costs and expenses are incurred pursuant to the provision of services the benefit of which will be shared among or realized by the Company, the Manager and another Person or Persons, the reimbursement of such costs and expenses shall be apportioned accordingly and the Manager shall promptly notify the Company of such apportionment.

5.7 Invoicing

The Manager shall in good faith determine the expenses related to the Pre-delivery Services that are allocable to the Company in any reasonable manner determined by the Manager and shall provide to the Company on a monthly basis an invoice for the costs and expenses to be reimbursed under Section 5.6, which invoice will contain a description in reasonable detail of the costs and expenses that comprise the aggregate amount of the payment being invoiced. The Manager shall maintain the records of all costs and expenses incurred, including any invoices, receipts and supplementary materials as are necessary or proper for the settlement of accounts between the Parties. The Company shall pay such invoices within thirty (30) days of receipt, unless the invoice is being disputed in accordance with this Agreement.

5.8 Dispute of Invoice

If the Company, in good faith, disputes the amount of the invoice, the Company shall give written notice of such dispute on or before the due date with respect to all or any portion of the relevant invoice, with the particulars of such dispute. Upon receipt of such notice, the Manager shall furnish the Company with additional supporting documentation to reasonably substantiate the amount of the invoice. Upon delivery of such additional documentation, the Company and the Manager shall cooperate in good faith and use their reasonable best efforts to resolve such dispute. If they are unable to resolve their dispute within ten (10) Business Days of the delivery of such additional supporting information, then the dispute shall be referred for resolution to a firm of independent accountants of nationally recognized standing reasonably satisfactory to each of the Manager and the Company (the “**Accounting Referee**”), which shall determine the disputed amounts within thirty (30) days of the referral of such dispute to such Accounting Referee. The determination of the Accounting Referee shall not require the Company to pay more than the amount in dispute nor require the Manager to return any amount previously paid by the Company. The fees and expenses of the Accounting Referee shall be borne equally by the Company and the Manager. If any dispute is resolved in favour of the Manager, the Company shall make payment to the Manager within ten (10) days of resolution of the dispute. Notwithstanding the foregoing, in no event shall the Company be entitled to withhold any amounts other than those portions of the applicable payment that are in dispute.

5.9 Direction to Pay

By written notice to the Company, the Manager shall direct the Company to pay any amounts owing under this Agreement to an Affiliate of the Manager, pursuant to a subcontract of any provisions of this Agreement, directly to such Affiliate. The Manager hereby directs that the Technical Services Fee be paid by the Company directly to the Ship Manager.

5.10 Payments from Operating Account of Company

The Company shall ensure that all charter hire associated with the Charters is paid by the Charterer into one or more operating accounts of the Company. Unless otherwise instructed by the Company, the Manager shall instruct the financial institutions at which the account or accounts have been established to pay from the relevant operating account: (1) on the first Business Day of each month to the bank account of the Ship Manager that the Ship Manager designates the amount of the Technical Services Fee; and (2) amounts outstanding under the Credit Facilities as and when required under the Credit Facilities.

6. LIABILITY OF THE MANAGER; INDEMNIFICATION

6.1 Liability of the Manager

The Manager shall not be liable whatsoever to the Company for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, (including but not limited to loss of profit arising out of or in connection with arrest, detention of or delay to any Vessel) and arising from the Management Services unless and to the extent that such loss, damage, delay or expense resulted from:

- (a) the fraud, gross negligence, recklessness or wilful misconduct of the Manager or any of the Manager Entities or any of their employees, agents or sub-contractors (“**Manager Misconduct**”); or
- (b) any breach of this Agreement by the Manager or any of the Manager Entities.

6.2 Extraordinary Costs and Capital Expenditures

Notwithstanding anything to the contrary in this Agreement, the Manager shall not be responsible for paying any costs, liabilities and expenses in respect of a Vessel to the extent that such costs, liabilities and expenses are “extraordinary”, which consist of the following:

- (a) repairs, refurbishment or modifications resulting from maritime accidents, collisions, other accidental damage or unforeseen events (except to the extent that such accidents, collisions, damage or events are due to Manager’s Misconduct unless and to the extent otherwise covered by insurance);
- (b) unscheduled or non-routine dry-docking of a Vessel;
- (c) any improvement, upgrade or modification to, structural changes with respect to or the installation of new equipment aboard any Vessel that results from a change in, an introduction of new, or a change in the interpretation of Applicable Laws, at the recommendation of the classification society for that Vessel or otherwise;

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- (d) any increase in Crew Employment and Support Expenses resulting from an introduction of new, or a change in the interpretation of, Applicable Laws; or
 - (e) any other similar costs, liabilities and expenses that were not reasonably contemplated by the Company and the Manager as being encompassed by or a component of the Technical Services Fee at the time the Technical Services Fee was determined.

6.3 Manager Indemnification

The Company shall indemnify and save harmless each Manager Entity and its respective current and former directors, officers, employees, subcontractors and current and future Affiliates (the “**Manager Indemnified Persons**”) from and against any and all Losses incurred or suffered by the Manager Indemnified Persons by reason of, resulting from, in connection with, or arising in any manner whatsoever out of or in the course of their performance of this Agreement or a Legal Action brought or threatened against such Manager Indemnified Persons in connection with their performance of this Agreement, other than for any Losses related to:

- (a) any liabilities or obligations that the Manager has agreed to pay or for which the Manager is otherwise responsible under this Agreement;
- (b) Manager Misconduct; or
- (c) any breach of this Agreement by the Manager or any of the Manager Entities.

6.4 Company Indemnification

The Manager shall indemnify and save harmless each Company Group Member and its respective current and former directors, officers, employees, subcontractors and current and future Affiliates (the “**Company Indemnified Persons**”) from and against any and all Losses incurred or suffered by the Company Indemnified Persons related to:

- (a) any liabilities or obligations that the Manager has agreed to pay or for which the Manager is otherwise responsible under this Agreement;
- (b) Manager Misconduct; or
- (c) any breach of this Agreement by the Manager or any of the Manager Entities.

6.5 Limitation Regarding Crew

Notwithstanding anything to the contrary in this Agreement, the Manager shall not be liable for any of the actions of the Crew, even if such actions are negligent, grossly negligent or wilful, except only to the extent that they are shown to have resulted from a failure by the Manager to discharge its obligations under Section 3.3, in which case its liability shall be determined in accordance with the terms of this Section 6.

7. TERM AND TERMINATION

7.1 Initial Term

The initial term of this Agreement commences on January 28, 2008 and ends on December 31, 2025, unless terminated earlier pursuant to this Agreement (the “**Initial Term**”).

7.2 Renewal Term

This Agreement shall, without any further act or formality on the part of any Parties, on the expiration of the Initial Term, or any Renewal Term, be automatically renewed for a further term of five (5) years (each a “**Renewal Term**”) unless notice of termination is given by the Company or the Manager in accordance with Section 7.3.

7.3 Termination for Breach

This Agreement may be terminated:

- (a) by the Company if, at any time, there has been a material breach of this Agreement by the Manager and the matter is unresolved after ninety (90) days pursuant to the dispute resolution process in Section 8 (“**Manager Breach**”); and
- (b) by the Manager if, at any time, there has been a material breach of this Agreement by the Company and the matter is unresolved after ninety (90) days pursuant to the dispute resolution process in Section 8 (“**Company Breach**”).

7.4 Other Termination

This Agreement may also be terminated by the Company or the Manager in the same manner that the IPO Management Agreement may be terminated, with the same notice or cure periods as applicable. Sections 10.3(b) to (h), Section 10.4(a) and Section 10.5 of the IPO Management Agreement shall apply to this Agreement mutatis mutandis, and the term “Agreement” as used in those sections shall mean this Agreement. Any notice of termination given under the IPO Management Agreement shall be deemed to be given in respect of this Agreement as well. This Agreement shall terminate automatically and immediately if and when the IPO Management Agreement is terminated for any reason whatsoever.

7.5 Effects of Termination, Expiry or Cessation of Management

(a) Option of Company

If the Manager terminates this Agreement pursuant to Section 7.4 of this Agreement but with reliance on Section 10.4(a) of the IPO Management Agreement,

- (1) the Company shall have the option to require the Manager to continue to provide Technical Services to the Company at the Fair Market Fee for up to an additional two-year period from the date of termination of this Agreement, *provided* that the Manager or any of its Affiliates continues in the business of providing such services to third parties for similar types of vessels; and
- (2) the omnibus agreement dated August 8, 2005 shall remain in effect and binding on the parties thereto for a two-year period from the date of termination of this Agreement.

(b) Liability after Termination

Upon lawful termination or expiry of this Agreement, this Agreement shall be void and there shall be no liability on the part of any Party (or their respective officers, directors or employees) except that the obligation of the Company to pay to the Manager or its Affiliates the amounts accrued but outstanding under Section 5 and the terms and conditions set forth in Sections 6, 7.5 and 9.3 shall survive such termination.

(c) Return of Vessels

After a written notice of termination has been given under this Section 7 or upon expiry, the Company may direct the Manager to, at the cost of the Company, undertake any actions reasonably necessary to transfer any aspect of the possession or control of the Vessels to the Company or to any nominee of the Company and to do all other things reasonably necessary to bring the appointment of the Manager hereunder to an end at the appropriate time, and the Manager shall comply with all such reasonable directions. Upon termination or expiry of this Agreement, the Manager shall deliver to any new manager or the Company any Books and Records in respect of the Vessels held by the Manager under this Agreement and shall execute and deliver such instruments and do such things as may reasonably be required to permit the new manager of the Company to assume its responsibilities.

(d) Stores and Equipment

Upon termination for any reason whatsoever or expiry of this Agreement or upon the Manager otherwise ceasing to manage a Vessel under this Agreement, at the time of such termination, expiry or cessation, the Manager shall either: (i) return the Vessel to the Company with materially the same level and complement of Stores and Equipment as required to continue operating the Vessel in accordance with customary ship operation and practice that a prudent owner of a vessel such as the Vessel would deem reasonably necessary, taking into account reasonable wear and tear; or (ii) pay to the Company an amount representing the equivalent thereof at the option of the Company, (such amount to be proposed by the Manager and approved by the Company). If the Vessel is to be scrapped immediately following such termination, expiry or cessation, the Manager shall be required to make the payment contemplated in (ii) above. Until any of the foregoing events arise, the Manager shall have no obligation to the Company to account for any diminution in value of the Stores and Equipment.

7.6 Nature of the Agency

Except as specifically set forth in Section 7 of this Agreement, this Agreement and the engagement of the Manager hereunder may not be terminated by the Company, which acknowledges that the Manager and its Affiliates have an on-going interest in the Company, its Containership business and the agency relationship created by this Agreement. The agency relationship created hereunder is an agency coupled with the interest of the Manager and its Affiliates as more fully described in the Recitals to this Agreement and the IPO Management Agreement.

8. DISPUTE RESOLUTION

8.1 Notice of Dispute

If a dispute or disagreement arises among the Parties with respect to any provision of this Agreement (other than Section 5.8), including its interpretation or the performance of a Party under this Agreement, and any circumstance where (a) the Company in good faith believes that a Manager Breach has occurred or is reasonably likely to occur or (b) the Manager in good faith believes that a Company Breach has occurred or is reasonably likely to occur (each a “**Dispute**”), any Party may, or the Party alleging such breach shall, deliver written notice to the other Party. Such notice shall contain in detail the specific facts and circumstances relating to the Dispute. Each Party shall designate an individual to negotiate and resolve the Dispute (each a “**Designated Representative**”

and together, the “**Designated Representatives**”). The Designated Representatives shall in good faith attempt to resolve the matter within a thirty (30) day period from the date of the notice referred to above. If any Designated Representative intends to be accompanied by counsel at any meeting, such Designated Representative shall give the other Designated Representative at least three (3) Business Days’ notice. All discussions and negotiations pursuant to this Section 8 shall be confidential but without prejudice to settlement negotiations.

8.2 Mediation

If a Dispute is not resolved by the Designated Representatives after the thirty (30) days provided in Section 8.1, any of the affected Parties shall refer the matter to mediation, such mediator to be mutually agreed upon by the Parties, and such mediator shall be instructed to:

- (a) review the terms of the Dispute and the position of the Parties;
- (b) consider the terms of and context of this Agreement; and
- (c) render a non-binding report within sixty (60) days of the appointment of the mediator (the “**Mediator’s Report**”) or such later date as to which the Parties may agree.

The Parties shall consider the Mediator’s Report and may decide, unanimously, to make it a binding report. If the mediator is not able to facilitate a binding agreement between the Parties, the Dispute is not resolved to the satisfaction of the Parties as a result of the Mediator’s Report or a mediator cannot be chosen mutually by the Parties, this Agreement is breached and the Parties may commence legal proceedings in the Supreme Court of British Columbia in the City of Vancouver.

9. GENERAL

9.1 Assignment

The Parties may not assign any of their rights under this Agreement in whole or in part without the prior written consent of the other Parties, which consent may be arbitrarily withheld.

9.2 Force Majeure

None of the Parties shall be under any liability for any failure to perform any of their obligations hereunder if any of the following occurs (each a “**Force Majeure Event**”):

- (a) any event, cause or condition which is beyond the reasonable control of any or all of the Parties and which prevents any or all of the Parties from performing any of its obligations under this Agreement;
- (b) acts of God, including fire, explosions, unusually or unforeseeably bad weather conditions, epidemic, lightning, earthquake, tsunami or washout;
- (c) acts of public enemies, including war or civil disturbance, vandalism, sabotage, terrorism, blockade or insurrection;
- (d) acts of a governmental entity, including injunction or restraining orders issued by any judicial, administrative or regulatory authority, expropriation or requisition;
- (e) government rule, regulation or legislation, embargo or national defence requirement; or

(f) labour troubles or disputes, strikes or lockouts, including any failure to settle or prevent such event which is in the control of any Party.

A Party shall give written notice to the other Party promptly upon the occurrence of a Force Majeure Event.

9.3 Confidentiality

Each Party agrees that, except with the prior written consent of the other Party, it shall at all times keep confidential and not disclose, furnish or make accessible to anyone (except to employees, agents and professional advisors in the ordinary course of business) any confidential or proprietary information, knowledge or data concerning or relating to the other Party and to the business or financial affairs of the other Party to which it has been or shall become privy by reason of this Agreement, except for any (a) disclosure required by judicial or administrative process (including discovery for litigation), (b) information that becomes publicly available through no fault of it or otherwise ceases to be confidential, (c) information required by law or applicable stock exchange rules to be disclosed, or (d) disclosure made to a Person under a binding confidentiality agreement in favour of the Party whose confidential or proprietary information is being disclosed.

9.4 Notices

Each notice, consent or request required to be given to a Party pursuant to this Agreement must be given in writing. A notice may be given by delivery to an individual or by fax, and shall be validly given if delivered on a Business Day to an individual at the following address, or, if transmitted on a Business Day, by fax addressed to the following Party:

(a) if to **Seaspan Corporation** :

Address: Unit 2, 7th Floor, Bupa Centre
141 Connaught Road West
Hong Kong F4 00000
China

Attention: Chief Financial Officer
Fax No.: (852) 2540-1689

(b) if to **Seaspan Management Services Limited** :

Address: Clarendon House
2 Church Street
PO Box HM 666
Hamilton, HM CX
Bermuda

Attention: Managing Director
Fax No.: (441) 278-9977

(c) if to **Seaspan Advisory Services Limited**:

Address: Clarendon House
2 Church Street
PO Box 666
Hamilton, HM CX
Bermuda

Attention: Chief Executive Officer
Fax No.: (441) 278-9977

(d) if to **Seaspan Ship Management Ltd . or Seaspan Crew Management Ltd.:**

Address: 2600 - 200 Granville Street
Vancouver, British Columbia
V6C 1S4
Canada

Attention: Chief Financial Officer
Fax No.: (604) 638-2595

or to any other address, fax number or individual that the Party designates. Any notice

(a) if validly delivered on a Business Day, shall be deemed to have been given when delivered;

-
- (b) if validly transmitted by fax before 3:00 p.m. (local time at the place of receipt) on a Business Day, shall be deemed to have been given on that Business Day; and
 - (c) if validly transmitted by fax after 3:00 p.m. (local time at the place of receipt) on a Business Day, shall be deemed to have been given on the next Business Day after the date of the transmission.

9.5 Third Party Rights

The provisions of this Agreement are enforceable solely by the Parties to this Agreement, and no shareholder, employee, agent of any Party or any other Person shall have the right, separate and apart from the Parties hereto, to enforce any provision of this Agreement or to compel any Party to this Agreement to comply with the terms of this Agreement.

9.6 No Partnership

Nothing in this Agreement is intended to create or shall be construed as creating a partnership or joint venture, and this Agreement shall not be deemed for any purpose to constitute any party a partner of any other Party to this Agreement in the conduct of any business or otherwise or as a member of a joint venture or joint enterprise with any other Party to this Agreement.

9.7 Severability

Each provision of this Agreement is several. If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision shall not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability of that provision in any other jurisdiction;

except that if:

- (c) on the reasonable construction of this Agreement as a whole, the applicability of the other provision presumes the validity and enforceability of the particular provision, the other provision shall be deemed also to be invalid or unenforceable; or
- (d) as a result of the determination by a court of competent jurisdiction that any part of this Agreement is unenforceable or invalid and, as a result of this Section 9.7, the basic intentions of the Parties in this Agreement are entirely frustrated, the Parties shall use all reasonable efforts to amend, supplement or otherwise vary this Agreement to confirm their mutual intention in entering into this Agreement.

9.8 Governing Law and Jurisdiction

This Agreement is governed exclusively by, and is to be enforced, construed and interpreted exclusively in accordance with, the laws of British Columbia, which are deemed to be the proper law of the Agreement. Each Party shall submit to the exclusive jurisdiction of the Supreme Court of British Columbia and all courts having appellate jurisdiction thereover in any suit, action or other proceeding arising out of or relating to this Agreement commenced in such court by any Party against any other Party or Parties, and each Party waives and shall not assert by way of motion as a defence or otherwise in any such action, any claim that:

-
- (a) such Party is not subject to the jurisdiction of such Court;
 - (b) such action is brought in an inconvenient forum;
 - (c) the venue of such action is improper; or
 - (d) any subject matter of such action may not be enforced in or by such Court;

and shall not seek and hereby waives any suit or action brought to obtain a judgment for the recognition or enforcement of any final judgment rendered in an action and review, other than by way of appeal, in any court of any other jurisdiction of or pertaining to the merits of any action, whether or not such Party appears in or defends the action.

9.9 Binding Effect

This Agreement is binding upon and inures to the benefit of the Parties hereto and their successors but shall not be assignable except as provided in Section 9.1.

9.10 Amendment and Waivers

No amendment, supplement, restatement or termination of any provision of this Agreement is binding unless it is in writing and signed by each Person that is a Party to this Agreement at the time of the amendment, supplement, restatement or termination.

9.11 Entire Agreement

This Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

9.12 Waiver

No failure by any Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of any other covenant, duty, agreement or condition.

9.13 Counterparts

This Agreement may be executed in any number of counterparts, all of which together shall constitute one agreement binding on the Parties hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed by the Parties hereto as of the date first above written.

SEASPAN CORPORATION

By: /s/ Gerry Wang
Name: Gerry Wang
Title: Director and Chief Executive Officer

SEASPAN MANAGEMENT SERVICES LIMITED

By: /s/ Gerry Wang
Name: Gerry Wang
Title: Director

SEASPAN ADVISORY SERVICES LIMITED

By: /s/ Graham Porter

Name: Graham Porter

Title: Director

SEASPAN SHIP MANAGEMENT LTD.

By: /s/ Sai W. Chu

Name: Sai W. Chu

Title: Chief Financial Officer and Secretary

SEASPAN CREW MANAGEMENT LTD.

By: /s/ Sai W. Chu

Name: Sai W. Chu

Title: Chief Financial Officer

SCHEDULE A

VESSELS AND INITIAL TECHNICAL SERVICES FEES ¹

The following table lists the Vessels that are under construction for the Company with the applicable Initial Technical Services Fees.

Builder's Hull No.	TEU	Charterer	Contracted Delivery Date	Initial Technical Services Fees (US\$) per day	Intended Flag
S452	13,100	COSCO Container Lines Co., Ltd.	January 5, 2011	\$ 6,750	Hong Kong
2177	13,100	COSCO Container Lines Co., Ltd.	March 31, 2011	\$ 6,750	Hong Kong

¹ [Schedule as of January 28, 2008]

AMENDMENT NO. 2

THIS AMENDMENT NO. 2 TO THE CREDIT FACILITY AGREEMENT (this "Amendment") is made as of the 7th day of August, 2007, among SEASPAN CORPORATION (the "Borrower"), a corporation organized and existing under the laws of the Republic of the Marshall Islands, DNB NOR BANK ASA, a corporation incorporated under the laws of the Kingdom of Norway, acting through its New York Branch ("DnB NOR") and the certain banks and financial institutions listed on the signature pages hereto, and amends and is supplemental to the senior secured reducing revolving credit facility agreement dated May 19, 2006 made among (i) the Borrower, (ii) DnB NOR, as sole bookrunner, administrative agent and security agent, (iii) DnB NOR, Credit Suisse and Fortis Capital Corp., as mandated lead arrangers, (iv) Landesbank Hessen-Thüringen, as documentation agent and (v) the banks and financial institutions listed on Schedule 1 of the Credit Facility Agreement, as lenders (together with any bank or financial institution which becomes a Lender pursuant to Section 11 of the Credit Facility Agreement, the "Lenders"), as amended by Amendment No. 1 dated June 29, 2007 (as so amended, the "Credit Facility Agreement").

WITNESSETH THAT:

WHEREAS pursuant to the Credit Facility Agreement, the Lenders agreed to provide to the Borrower a senior secured reducing revolving credit facility in the amount of up to Three Hundred Sixty Five Million United States Dollars (US\$365,000,000) (the "Facility"); and

WHEREAS pursuant to Section 18.7 of the Credit Facility Agreement, the parties hereto wish to amend certain covenants in, and the Lenders wish to waive certain non-compliances with, Section 9 of the Credit Facility Agreement on the terms and conditions set out in this Amendment.

NOW, THEREFORE, in consideration of the premises and such other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the parties, it is hereby agreed as follows:

1. All capitalized terms without separate definition in this Amendment have the meaning ascribed to them in the Credit Facility Agreement.
2. Pursuant to Section 9.1(e)(iv) of the Credit Facility Agreement, the Lenders must deliver to the Administrative Agent copies of, among other things, the annual audited financial statements of the Tranche B Time Charterer and CSCL (Hong Kong) for the relevant financial period as soon as such statements become publicly available, and if such statements are not made publicly available, then within 120 days of the end of the relevant financial period (the "Financial Statements Condition").
3. Each of the Administrative Agent, Security Agent and the Majority Lenders hereby irrevocably waives compliance with, and satisfaction of, the Financial Statements Condition for the financial period ended December 31, 2006 and waives any Event of Default arising from any failure to comply therewith to date provided that such condition is satisfied by the Borrower on or before October 1, 2007.

DNB NOR BANK ASA,
as Sole Bookrunner, Mandated Lead Arranger,
Administrative Agent, Security Agent and Lender

By: /s/ Sanjiv Nayar
Name: Sanjiv Nayar
Title: Senior Vice President

By: /s/ Jack Sun
Name: Jack Sun
Title: Vice President

CREDIT SUISSE,
as Mandated Lead Arranger and Lender

By: /s/ Meike Maettig
Name: Meike Maettig
Title: Director

By: /s/ Nadja Gauschi
Name: Nadja Gauschi
Title: Assistant Vice President

LANDESBANK HESSEN-THÜRINGEN,
as Documentation Agent and Lender

By: /s/ Ralf Goebel
Name: Ralf Goebel
Title: Vice President
Corporate Finance
Asset Finance NY

By: /s/ Christian C. Brune
Name: Christian C. Brune
Title: Senior Vice President
Landesbank Hessen-Thüringen
New York Branch

BAYERISCHE HYPO- UND VEREINSBANK AG,
as Lender

By: /s/ Borchert
Name: Borchert
Title:

By: /s/ Nicolini
Name: Nicolini
Title: VP

DEUTSCHE BANK AG FILIALE
DEUTSCHLANDGESHAFT
as Lender

By: /s/ A. Ehrhardt
Name: A. Ehrhardt
Title: Director

By: /s/ E. Neugesover
Name: E. Neugesover
Title: Vice President

AGREEMENT

DATED 28 DECEMBER, 2007

US\$150,000,000 REDUCING REVOLVING CREDIT FACILITY

for

**SEASPAN FINANCE II CO. LTD.
and
SEASPAN FINANCE III CO. LTD.
(as Borrowers)**

with

**SEASPAN CORPORATION
(as Guarantor)**

arranged by

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED

with

**INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED
as Facility Agent**

**STEPHENSON HARWOOD
One St Paul's Churchyard
London EC4M 8SH
Tel: +44 (0)20 7329 4422
Fax: +44 (0)20 7329 7100
(Ref: 814)**

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THIS AGREEMENT is dated 28 December 2007

BETWEEN :

- (1) **SEASPAN FINANCE II CO. LTD.** and **SEASPAN FINANCE III CO. LTD.** , each a corporation incorporated according to the laws of the Republic of the Marshall Islands with its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the **Borrowers** and each a **Borrower**);
- (2) **SEASPAN CORPORATION** , a corporation incorporated according to the laws of the Republic of the Marshall Islands with its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the **Guarantor**);
- (3) **INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED** , acting through its Beijing branch as sole bookrunner (in such capacity the **Arranger**);
- (4) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (Original Lenders) as original lenders (the **Original Lenders**); and
- (5) **INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED** , acting through its Beijing branch as administrative agent and security trustee (in such capacity the **Facility Agent**).

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

Account Bank means Industrial and Commercial Bank of China (Asia) Limited, with its registered office at 33/F, ICBC Tower, 3 Garden Road, Central, Hong Kong or any other bank or financial institution with which, with the prior written consent of the Facility Agent (acting in accordance with the instructions of the Majority Lenders), the Retention Account is at any time held.

Administrative Party means the Arranger or the Facility Agent.

Affiliate means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company.

Agreement means this credit agreement, including any schedules or appendices hereto, as amended from time to time.

Annual Compliance Certificate means the form of certificate attached at Schedule 9 (Annual Compliance Certificate).

Applicable Law means any or all applicable law (whether civil, criminal or administrative), common law, statute, statutory instrument, treaty, convention, regulation, directive, by-law, demand, decree, ordinance, injunction, resolution, order, judgment, rule, permit, licence or restriction (in each case having the force of law) and codes of practice or conduct, circulars and guidance notes generally accepted and applied by the global container shipping industry,

in each case of any government, quasi-government, supranational, federal, state or local government, statutory or regulatory body, court, agency or association relating to all laws, rules, directives and regulations, national or international, public or private in any applicable jurisdiction from time to time.

Approved Valuers means Braemar Seascope Shipping Limited and H. Clarkson & Co. Ltd. or such other independent reputable shipbroker acceptable to the Facility Agent and the Guarantor.

Availability Period means the period from and including the date of this Agreement, to and including the Final Maturity Date.

Break Costs means the amount (if any) which a Lender is entitled to receive under this Agreement as compensation if any part of a Loan or overdue amount is prepaid other than on the last day of a Term for such Loan or overdue amount as determined pursuant to Clause 24.3 (Break Costs) hereof.

Builder means (i) Hyundai Samho Heavy Industries Co. Ltd., a corporation organised and existing under the laws of the Republic of Korea in respect of Vessel 1 and (ii) Hyundai Heavy Industries Co. Ltd., a corporation organised and existing under the laws of the Republic of Korea in respect of Vessel 2.

Business Day means a day (other than a Saturday or a Sunday) on which banks are open for general business in London, England; New York, the United States of America; Vancouver, Canada; Beijing, People's Republic of China and Hong Kong.

Cash and Cash Equivalents shall have the meaning given to it in Clause 17.1 (Financial Covenants).

Change of Control means the acquisition, directly or indirectly, by any person or group other than the Seaspan Group of beneficial ownership of more than fifty per cent. (50%) of the aggregate outstanding voting power of the equity interests of the Guarantor or, in respect of the Borrowers, means the Guarantor ceasing to be the legal and beneficial owner of either of the Borrowers.

Charter Breach means:

- (a) the failure by the Charterer to make payment of hire under a Time Charter for a period of three (3) months; or
- (b) any other breach by the Charterer which would give the Guarantor the right to terminate the applicable Time Charter.

Charter Default means a default by the Charterer that results in the Borrowers having an obligation to prepay all or any of the Loans pursuant to Clause 16.25(b) (Charter Breach, Expiration or Termination of Time Charter).

Charter Guarantee means the guarantee provided or to be provided by the Charter Guarantor in favour of the Guarantor in respect of the obligations of COSCO Container Lines (Hong Kong) Co., Ltd. if such entity is the Charterer of the Vessels.

Charter Guarantor means COSCO Container Lines Co., Ltd. of Shanghai, People's Republic of China.

Charterer means either COSCO Container Lines (Hong Kong) Co., Ltd. of Hong Kong, S.A.R. People's Republic of China or COSCO Container Lines Co., Ltd. of Shanghai, People's Republic of China, or any substitute charterer from time to time in accordance with the provisions of Clause 16.25 (Charter Breach, Expiration or Termination of Time Charter).

Commitment means:

- (a) for an Original Lender, the aggregate amount set opposite its name in Schedule 1 (Original Lenders) under the heading **Commitments** and the amount of any other commitment to advance funds under this Agreement it acquires; and
- (b) for any other Lender, the amount of any commitment to advance funds under this Agreement it acquires, to the extent not cancelled, transferred or reduced under this Agreement.

Commitment Reduction Date means each of the consecutive dates referred to in Clause 6.8(b) (Automatic Reduction and Cancellation).

Compliance Certificate means the form of certificate attached at Schedule 8 (Compliance Certificate).

Confidentiality Undertaking means a confidentiality undertaking in a form agreed between the Security Parties and the Facility Agent.

Date of Total Loss means, in respect of a Vessel, the date of Total Loss of that Vessel which date shall be deemed to have occurred:

- (a) in the case of an actual total loss, on the actual date and at the time that Vessel was lost or, if such date is not known, on the date on which that Vessel was reported lost;
- (b) in the case of a constructive total loss, upon the date and at the time notice of abandonment is given to the Insurers for the time being (provided a claim for total loss is admitted by such Insurers) or, if such Insurers do not forthwith admit such a claim, at the earliest of the date and time at which either a total loss is subsequently admitted by the Insurers or a total loss is subsequently adjudged by a competent court of law or arbitration tribunal to have occurred or one hundred and eighty (180) days from the date of notice of abandonment;
- (c) in the case of a compromised, agreed or arranged total loss, on the date upon which a binding agreement as to such compromised, agreed or arranged total loss has been entered into by the Insurers;
- (d) in the case of requisition for title or other compulsory acquisition, on the date upon which the relevant requisition for title or other compulsory acquisition occurs; and
- (e) in the case of capture, seizure, arrest, detention, requisition for hire or confiscation by any government or by persons acting or purporting to act on behalf of any government or by any other person which deprives the Guarantor or, as the case may be, the Charterer of the use of that Vessel for more than sixty (60) days, upon the expiry of the period of sixty (60) days after the date upon which the relevant capture, seizure, arrest, detention, requisition or confiscation occurred.

Deed of Covenants means, in respect of a Vessel, the deed of covenants entered into or to be entered into by the Guarantor and the Facility Agent collateral to the Mortgage over that Vessel.

Default means:

- (a) an Event of Default; or
- (b) an event which would be (with the expiry of a grace period, the giving of notice or the making of any determination under the Finance Documents or any combination of them) an Event of Default.

Delivery Date means, in respect of a Vessel, the date of actual delivery of that Vessel to the Guarantor under the terms of the relevant Shipbuilding Contract.

Delivery Date Instalment means, in respect of a Vessel, the amount due and payable by the Guarantor in accordance with the relevant Shipbuilding Contract and to be deposited at a bank designated by the Builder on or three (3) Business Days prior to the relevant Delivery Date under that Shipbuilding Contract.

Dollars or **US\$** means the lawful currency for the time being of the United States of America.

Earnings means, in respect of a Vessel, all present and future moneys and claims which are earned by or become payable to or for the account of the Guarantor in connection with the operation or ownership of that Vessel and including but not limited to:

- (a) freights, passage and hire moneys (howsoever earned);
- (b) remuneration for salvage and towage services;
- (c) demurrage and detention moneys;
- (d) all moneys and claims in respect of the requisition for hire of that Vessel;
- (e) payments received in respect of any off-hire insurance; and
- (f) payments received pursuant to any Charter Guarantee relating to that Vessel.

Environment means:

- (a) any land including, without limitation, surface land and sub-surface strata, sea bed or river bed under any water (as referred to below) and any natural or man-made structures;
- (b) water including, without limitation, coastal and inland waters, surface waters, ground waters and water in drains and sewers; and
- (c) air including, without limitation, air within buildings and other natural or man-made structures above or below ground.

Environmental Approvals means any permit, licence, approval, ruling, variance, exemption or other authorisation required under applicable Environmental Laws.

Environmental Claim means any claim by any person or persons or any governmental, judicial or regulatory authority which arises out of any breach, contravention or violation of

Environmental Law or of the existence of any liability or potential liability arising from such breach, contravention or violation or the presence of Hazardous Material in contravention of Environmental Laws. In this context, claim means: a claim for damages, compensation, fines, penalties or any other payment of any kind whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action by any governmental, judicial or regulatory authority; and any form of enforcement or regulatory action.

Environmental Laws means any or all Applicable Law relating to or concerning:

- (a) pollution or contamination of the Environment, any ecological system or any living organisms which inhabit the Environment or any ecological system;
- (b) the generation, manufacture, processing, distribution, use (including abuse), treatment, storage, disposal, transport or handling of Hazardous Materials; and
- (c) the emission, leak, release, spill or discharge into the Environment of noise, vibration, dust, fumes, gas, odours, smoke, steam, effluvia, heat, light, radiation (of any kind), infection, electricity or any Hazardous Material and any matter or thing capable of constituting a nuisance or an actionable tort or breach of statutory duty of any kind in respect of such matters,

including, without limitation, the following laws of the United States of America: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Hazardous Materials Transportation Act, as amended, the Oil Pollution Act of 1990, as amended, the Resource Conservation and Recovery Act, as amended, and the Toxic Substances Control Act, as amended, together, in each case, with the regulations promulgated and the guidance issued pursuant thereto.

Environmental Representative means the Guarantor and the Manager together with their respective employees and all of those persons for whom the Guarantor or the Manager is responsible under any Applicable Law in respect of any activities undertaken in relation to any of the Vessels.

Event of Default means an event specified as such in Clause 19 (Default) of this Agreement.

Excess Risks means, in respect of a Vessel:

- (a) the proportion of claims for general average, salvage and salvage charges which are not recoverable as a result of the value at which that Vessel is assessed for the purpose of such claims exceeding her hull and machinery insured value; and
- (b) collision liabilities not recoverable in full under the hull and machinery insurance by reason of those liabilities exceeding such proportion of the insured value of that Vessel as is covered by the hull and machinery insurance.

Facility means the credit facility made available under this Agreement.

Facility Office means in respect of a Lender, the office through which that Lender will perform its obligations under this Agreement from time to time, which at the date of this Agreement is the address shown for such Lender in Schedule 1 (Original Lenders) or such other address as a Lender may notify to the Facility Agent from time to time.

Fee Letter means any letter entered into by reference to this Agreement between one or more Administrative Parties, the Guarantor and the Borrowers setting out the amount of certain fees referred to in this Agreement.

Final Maturity Date means the earlier of (a) the twelfth anniversary of the Delivery Date of the Vessel which is delivered latest in time and (b) 17 October 2023.

Finance Document means:

- (a) this Agreement;
- (b) each Security Document;
- (c) the Fee Letter;
- (d) each Manager's Undertaking;
- (e) a Transfer Certificate; and
- (f) any other document designated as such by the Facility Agent and the Security Parties.

Finance Party means a Lender or an Administrative Party.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any acceptance credit;
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any redeemable preference share;
- (e) any agreement treated as a finance or capital lease in accordance with U.S. GAAP;
- (f) receivables sold or discounted (otherwise than on a non-recourse basis);
- (g) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;
- (h) any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount);
- (i) any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing;
- (j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution; or
- (k) any guarantee, indemnity or similar assurance against financial loss of any person.

Guarantee means the guarantee and indemnity of the Guarantor contained in Clause 18.

Hazardous Material means any element or substance, whether natural or artificial, and whether consisting of gas, liquid, solid or vapour, whether on its own or in any combination with any other element or substance, which is listed, identified, defined or determined by any Environmental Law or other Applicable Law to be, to have been, or to be capable of being or becoming harmful to mankind or any living organism or damaging to the Environment, including, without limitation, oil (as defined in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended).

Holding Company means a holding company within the meaning of section 736 of the Companies Act 1985.

Increased Cost means:

- (a) an additional or increased cost;
- (b) a reduction in the rate of return under a Finance Document or on its overall capital; or
- (c) a reduction of an amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates but only to the extent attributable to that Finance Party having entered into any Finance Document or funding or performing its obligations under any Finance Document.

Insurances Assignment means, in respect of a Vessel, the assignment of the Obligatory Insurances to be granted in favour of the Facility Agent by the Guarantor together with any and all notices and acknowledgements entered into in connection therewith.

Insurers means the underwriters or insurance companies with whom any Obligatory Insurances are effected and the managers of any protection and indemnity or war risks association in which any of the Vessels may at any time be entered.

ISM Code means the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organization Assembly as Resolutions A.741(18) and A.788(19), as the same may have been or may be amended or supplemented from time to time. The terms “safety management system”, “Safety Management Certificate”, “Document of Compliance” and “major non-conformity” shall have the same meanings as are given to them in the ISM Code.

ISPS Code means the International Ship and Port Facility Security Code adopted by the International Maritime Organization Assembly as the same may have been or may be amended or supplemented from time to time.

Lender means:

- (a) an Original Lender; or
- (b) any person which becomes a party to this Agreement after the date of this Agreement pursuant to Clause 28.2 (Assignment and transfers by Lenders);

and **Lenders** means all of them.

LIBOR means for a Term of any Loan or overdue amount:

- (a) the applicable Screen Rate; or

- (b) if no Screen Rate is available for the relevant currency or Term of that Loan or overdue amount, the arithmetic mean (rounded upward to four decimal places) of the rates, as supplied to the Facility Agent at its request, quoted by the Reference Banks to leading banks in the London interbank market,

as of 11.00 a.m. on the second London Business Day before the start of the Term for the offering of deposits in the currency of that Loan or overdue amount for a period comparable to that Term.

Loans means any loan drawn down under this Facility (each a **Loan**).

London Business Day means a day (other than a Saturday or a Sunday) on which banks are open for business in London.

Losses means each and every liability, loss, charge, claim, demand, action, proceeding, damage, judgment, order or other sanction, enforcement, penalty, fine, fee, commission, interest, lien, salvage, general average, cost and expense of whatsoever nature suffered or incurred by or imposed on the Lenders.

Majority Lenders means Lenders:

- (a) whose share in the outstanding Loans and whose undrawn Commitments then aggregate exceed 50% of the aggregate of all the outstanding Loans and the undrawn Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose undrawn Commitments then aggregate exceed 50% of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated exceed 50% of the Total Commitments immediately before the reduction.

Management Agreement means the management agreement made or to be made between the Guarantor and the Manager.

Management Agreement Assignment means the assignment of the Management Agreement granted or to be granted in favour of the Facility Agent by the Guarantor together with any and all notices and acknowledgements entered into in connection therewith.

Manager means Seaspan Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM 11, Bermuda or such other professional manager or managers as may be approved by the Facility Agent (acting in accordance with the instructions of the Majority Lenders) from time to time.

Manager's Undertaking means a letter of undertaking to be issued by the Manager to the Facility Agent confirming it shall not make a claim to security ranking ahead of the Lenders' security in respect of a Vessel in form and substance satisfactory to the Facility Agent.

Mandatory Cost means, as the context so requires, the amount calculated by each Lender and notified to the Facility Agent in accordance with Clause 21.16 or the aggregate of the amounts so calculated and notified.

Margin means 0.80 % per annum.

Market Value means, in respect of a Vessel, the average of two valuations each certified in Dollars and carried out by two Approved Valuers within the last six months, reporting to the Facility Agent by way of written reports in form and substance satisfactory to the Facility Agent (acting reasonably) on the basis of a sale for prompt delivery of the Vessel for cash (free of Security Interests), on a without charter basis and at arm's-length on normal commercial terms as between willing seller and buyer.

Material Adverse Effect means a material adverse effect on:

- (a) the ability of the Security Parties to perform all of their payment obligations under this Agreement; or
- (b) the validity or enforceability of this Agreement.

Maturity Date means the last day of the Term of a Loan.

Maximum Available Loan Amount means in respect of each Vessel, the lesser of (i) sixty five per cent (65%) of the Vessel Delivered Costs of that Vessel and (ii) seventy five million Dollars (US\$75,000,000).

Maximum Facility Amount means, subject to Clause 6.8 (Automatic reduction and cancellation) and Clause 6.13 (Reduction of Maximum Facility Amount), one hundred and fifty million Dollars (US\$150,000,000) being the total of the Maximum Available Loan Amounts for both Vessels, such sum to be reduced proportionately to the extent that not all Vessels are delivered to the Guarantor on or before 27 October 2011.

Measurement Period means, at any time, the last four (4) fiscal quarters for the Guarantor provided always that until four (4) fiscal quarters have elapsed from the date of this Agreement, the period from the date of this Agreement until the date of determination.

Mortgage means, in respect of a Vessel, the first priority Hong Kong ship mortgage to be given by the Guarantor in favour of the Facility Agent, in respect of each Vessel, on the Delivery Date of that Vessel.

Obligatory Insurances means in respect of each Vessel:

- (a) all contracts and policies of insurance and all entries in clubs and/or associations which are from time to time required to be effected and maintained in accordance with this Agreement in respect of each of the Vessels; and
- (b) all benefits under the contracts, policies and entries under paragraph (a) above and all claims in respect of them and the return of premiums.

Party means a party to this Agreement or any Finance Document.

Permitted Liens means, in respect of a Vessel:

- (a) Security Interests created by the Security Documents;
- (b) liens for unpaid crew's wages including wages of the master and stevedores employed by the Vessel, outstanding in the ordinary course of trading for not more than one calendar month after the due date for payment;
- (c) liens for salvage;

- (d) liens for classification or scheduled dry docking or for necessary repairs to that Vessel whose aggregate cost does not exceed US\$1,500,000 at any one time in respect of that Vessel;
- (e) liens for collision;
- (f) liens for master's disbursements incurred in the ordinary course of trading;
- (g) statutory and common law liens of carriers, warehousemen, mechanics, suppliers, materials men, repairers or other similar liens, including maritime liens, in each case arising in the ordinary course of business, outstanding for not more than one month whose aggregate value does not exceed US\$500,000; and

in the case of paragraphs (b) to (g) inclusive provided that the amounts which give rise to such liens are paid when due (or, in the case of paragraph (b) or (g) above, within one month of such amount being outstanding) or, if not paid when due are being disputed in good faith by appropriate proceedings (and for the payment of which adequate reserves or security are at the relevant time maintained or provided), provided further that such proceedings, whether by payment of adequate security into Court or otherwise, do not give rise to a material risk of the relevant Vessel or any interest therein being seized, sold, forfeited or otherwise lost or of criminal liability on the Facility Agent.

Post-Delivery Period means, in respect of a Vessel, the period from the Delivery Date of that Vessel until the Final Maturity Date.

Pre-delivery Assignment means, in respect of a Vessel, the assignment of the Shipbuilding Contract and/or the Refund Guarantees granted or to be granted by the Guarantor in favour of the Facility Agent, together with all notices entered into in connection therewith.

Pro Rata Share means:

- (a) for the purpose of determining a Lender's share in a utilisation of the Facility, the proportion which its Commitment bears to the Total Commitments; and
- (b) for any other purpose on a particular date:
 - (i) the proportion which a Lender's share of the Loans (if any) bears to all the Loans;
 - (ii) if there is no Loan outstanding on that date, the proportion which its Commitment bears to the Total Commitments on that date; or
 - (iii) if the Total Commitments have been cancelled, the proportion which its Commitment bore to the Total Commitments immediately before being cancelled.

Quarter Day means each of the 30th March, 30th June, 30th September, 30th December in each year provided always that such date is a Business Day.

Rate Fixing Day means two (2) London Business Days before the first day of a Term, or unless market practice differs in the London interbank market for a currency, in which case the Rate Fixing Day for that currency will be determined by the Facility Agent in accordance with market practice in the London interbank market (and if quotations would normally be given by leading banks in the London interbank market on more than one day, the Rate Fixing Day will be the last of those days).

Reduction Schedule means the schedule of Commitment Reduction Dates as detailed in Schedule 7 (Reduction Schedule) to be replaced as required in accordance with Clause 5.3.

Reference Banks means Industrial and Commercial Bank of China Limited and any other bank or financial institution appointed as such by the Facility Agent (acting on the instructions of the Majority Lenders) under this Agreement.

Refund Guarantees means, in respect of a Vessel, the one or more refund guarantees, issued by a Refund Guarantor in favour of the Guarantor or such other refund guarantees as may replace the same from time to time (with the approval of the Facility Agent, acting on the instructions of the Majority Lenders).

Refund Guarantor means National Agricultural Cooperative Federation of Korea or such other refund guarantor (being an international bank with a minimum rating of BBB+ by S&P or any other bank approved by the Facility Agent, acting on the instructions of the Majority Lenders) as may replace the same from time to time.

Related Contracts means any or all of the following (as the context requires):

- (a) the Shipbuilding Contracts;
- (b) the Refund Guarantees;
- (c) the Obligatory Insurances;
- (d) the Time Charters, Charter Guarantees, if applicable; and
- (e) the Management Agreement.

Release means an emission, spill, release or discharge into or upon the air, surface water, groundwater, or soils of any Hazardous Materials for which the Guarantor has any liability under Environmental Law, except in accordance with a valid Environmental Approval.

Request means a request made by the Borrowers for a Loan, substantially in the form of Schedule 4 (Form of Request).

Required Insurance Amount means, in respect of a Vessel, at any date of determination, 120% of the aggregate principal amount of the outstanding Loans which are attributable to such Vessel.

Requisition Compensation means, in respect of a Vessel, all moneys or other compensation payable by reason of requisition for title to, or other compulsory acquisition of, that Vessel including requisition for hire.

Retention Account means the bank account to be opened by the Guarantor with the Account Bank and designated "Seaspan Corporation – Retention Account".

Retention Account Charge means the fixed charge or, as the case may be, pledge in respect of all monies standing to the credit from time to time of the Retention Account granted or to be granted by the Guarantor in favour of the Facility Agent on or about the date of this Agreement, together with any and all notices and acknowledgements entered into in connection therewith.

Rollover Loan means one or more Loans:

- (a) to be made on the same day that a maturing Loan is due to be repaid in accordance with Clause 5.1(a);
- (b) the aggregate amount of which is equal to or less than the maturing Loan; and
- (c) to be made for the purpose of refinancing a maturing Loan.

SAFE means the State Administration of Foreign Exchange of the People's Republic of China.

Screen Rate means, for LIBOR, and in respect of a Term, the percentage rate per annum for a period substantially the same as the relevant Term displayed on page 3750 of the Reuters screen. If the relevant page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate.

Seaspan Group means:

- (a) any of Kyle Washington, Kevin Washington, Gerry Wang, Graham Porter, Dennis Washington or any of their estate, spouse, and/or descendants; or
- (b) any trust for the benefit of the persons listed in (a) above; or
- (c) an Affiliate of any of the persons listed in (a) or (b) above.

Secured Liabilities means all present and future obligations and liabilities (actual or contingent) of the Security Parties to the Finance Parties or any of them under or in connection with any Finance Document.

Security Agreements means:

- (a) the Pre-delivery Assignments;
- (b) the Mortgages;
- (c) the Deeds of Covenant;
- (d) the Insurances Assignments;
- (e) the Management Agreement Assignment;
- (f) the Manager's Undertaking;
- (g) the Time Charter and Earnings Assignments;
- (h) the Retention Account Charge;
- (i) the Share Pledge; and
- (j) any other document designated as such in writing by the Borrowers and the Facility Agent.

Security Assets means any asset which is the subject of a Security Interest created by a Security Document and any interest or profit in respect of an investment in accordance with Clause 20.5 (Investments).

Security Document means:

- (a) each Security Agreement; and
- (b) any other document evidencing or creating security over any asset of the Security Parties to secure any obligation of the Security Parties to the Finance Parties or any of them under the Finance Documents.

Security Interest means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect.

Security Parties means the Borrowers and the Guarantor and **Security Party** means either of them.

Share Pledge means the pledge of shares in the Borrowers granted by the Guarantor in favour of the Facility Agent.

Shipbuilding Contract means, in respect of each Vessel, the agreement between the Builder and the Guarantor dated 8 September 2007.

S & P means Standard & Poor's Ratings Group and any successor thereto.

Subsidiary means:

- (a) a subsidiary within the meaning of section 736 of the Companies Act 1985; and
- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of section 258 of the Companies Act 1985.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including, without limitation, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Tax Deduction means a deduction or withholding for or on account of Tax made from a payment under a Finance Document by a payer for or on account of Tax imposed on that payer by any jurisdiction from which such payment is made or within which such payment arises.

Tax Payment means a payment made by the Borrowers to a Lender in any way relating to a Tax Deduction or under any indemnity given by the Borrowers in respect of Tax under any Finance Document.

Term means each period determined under this Agreement by reference to which interest payable on a Loan or an overdue amount is calculated.

Time Charter means, in respect of each Vessel, the time charterparty entered into by the Guarantor and the Charterer or such other time charterparty entered into from time to time in respect of a Vessel in accordance with this Agreement.

Time Charter and Earnings Assignment means, in respect of a Vessel, the assignment of the Time Charter, any Charter Guarantee and the Earnings granted or to be granted by the Guarantor in favour of the Facility Agent, together with any and all notices entered into in connection therewith.

Total Commitments means the aggregate of the Commitments of all the Lenders.

Total Loss means in relation to a Vessel:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Vessel;
- (b) requisition for title or other compulsory acquisition of that Vessel otherwise than by requisition for hire;
- (c) capture, seizure, arrest, detention, or confiscation of that Vessel by any government or by persons acting or purporting to act on behalf of any government or by any other person which deprives the Guarantor of that Vessel or as the case may be the Charterer of the use of that Vessel for more than sixty (60) days after that occurrence; and
- (d) requisition for hire of that Vessel by any government or by persons acting or purporting to act on behalf of any government which deprives the Guarantor or as the case may be the Charterer of the use of that Vessel for a period of sixty (60) days, other than a charter of the Vessel to a government or government agency approved by the Guarantor and by the Facility Agent (acting on the instructions of the Majority Lenders).

Transfer Certificate means a certificate, substantially in the form of Schedule 6 (Form of Transfer Certificate), with such amendments as the Facility Agent and the Borrowers may approve or reasonably require or any other form agreed between the Facility Agent and the Borrowers.

U.S. GAAP means generally accepted accounting principles adopted and accepted in the United States of America (i) on the date of this Agreement when used in the context of calculating the financed covenants set out in Clause 17 and (ii) otherwise, from time to time.

Utilisation Date means each date on which the Facility or any part thereof is utilised.

Vessel 1 means the 13,100 TEU vessel to be constructed in accordance with the relevant Shipbuilding Contract, with Hull No. S452.

Vessel 2 means the 13,100 TEU vessel to be constructed in accordance with the relevant Shipbuilding Contract, with Hull No. 2177.

Vessel Contract Price means approximately one hundred and sixty five million two hundred and eighty four thousand Dollars (\$165,284,000) as evidenced in the relevant Shipbuilding Contract.

Vessel Delivered Costs means, in respect of each Vessel, the aggregate of:

- (a) the Vessel Contract Price;
- (b) all other costs and expenses in connection with the Shipbuilding Contract (such costs and expenses to be documented to the reasonable satisfaction of the Facility Agent);

- (c) fees, commissions, interest, costs and expenses due prior to the Delivery Date under the Finance Documents; and
- (d) legal fees;

which amount shall be in the maximum amount of one hundred and eighty two million Dollars (US\$182,000,000) in total.

Vessels means together Vessel 1 and Vessel 2 and **Vessel** means either of them.

1.2 Construction

- (a) In this Agreement, unless the contrary intention appears, a reference to:
 - (i) an **amendment** includes a supplement, novation, restatement or re-enactment and **amended** will be construed accordingly;
assets includes present and future properties, revenues and rights of every description;
an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
disposal means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
indebtedness includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money;
a **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality and their successors in title, permitted assigns and permitted transferees; and
a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (ii) a currency is a reference to the lawful currency for the time being of the relevant country;
 - (iii) a Default being outstanding means that it has not been cured, remedied or waived;
 - (iv) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
 - (v) a Clause, a Subclause or a Schedule is a reference to a clause or subclause of, or a schedule to, this Agreement;
 - (vi) a Finance Document or another document is a reference to that Finance Document or other document as amended;

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- (vii) a time of day is a reference to London time; and
 - (viii) words importing the plural shall include the singular and vice versa.
- (b) Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on (and including) one day in a calendar month and ending on (but excluding) the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
 - (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
 - (iii) notwithstanding subparagraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless expressly provided to the contrary in a Finance Document, a person who is not a party to a Finance Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any term of any Finance Document, the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of that Finance Document.
- (d) Unless the contrary intention appears or unless the context otherwise permits:
- (i) a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement;
 - (ii) a word or expression used in any other Finance Document or in any notice given in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement; and
 - (iii) any obligation of the Borrowers under the Finance Documents which is not a payment obligation remains in force in accordance with its terms for so long as any payment obligation of the Borrowers is or may be outstanding under the Finance Documents.
- (e) **Joint and Several Liability**
- (i) All obligations, covenants, representations, warranties and undertakings in or pursuant to the Finance Documents assumed, made, given or entered into by the Security Parties shall, unless otherwise expressly provided, be assumed, made, given or entered into by the Security Parties jointly and severally.
 - (ii) Each of the Security Parties agrees that any rights which it may have at any time during the term of the Facility, by reason of the performance of its obligations under the Finance Documents, to be indemnified by the other Security Party and/or to take the benefit of any security taken by the Facility Agent pursuant to the Finance Documents shall be exercised in such manner and on such terms as the Facility Agent may require or as provided in this Agreement. Each of the Security Parties agrees to hold any sums received by it as a result of its having exercised any such right on trust for the Facility Agent on behalf of the Lenders absolutely.

(iii) Each of the Security Parties agrees that it will not at any time during the term of the Facility claim any set-off or counterclaim against the other Security Party in respect of any liability owed to it by that other Security Party under or in connection with the Finance Documents, nor prove in competition with any of the Finance Parties in any liquidation of (or analogous proceeding in respect of) any other Security Party in respect of any payment made under the Finance Documents or in respect of any sum which includes the proceeds of realisation of any security held by the Facility Agent for the repayment of the Loans.

(f) The headings in this Agreement do not affect its interpretation.

2. FACILITY AND PURPOSE

2.1 Facility

Subject to the terms of this Agreement, the Lenders shall make available to the Borrowers a revolving credit facility in a maximum aggregate amount equal to the Maximum Facility Amount.

2.2 Purpose

Each Loan may be used only in or towards:

- (a) financing or refinancing the Vessel Delivered Costs of a Vessel or Vessels including reimbursing the Borrowers, on behalf of the Guarantor, for any amount of Vessel Delivered Costs paid by the Guarantor, provided always that sums included in the Vessel Delivered Costs and not covered by the aggregate amount of the Refund Guarantees (other than the Delivery Date Instalment) shall not exceed two million five hundred thousand Dollars (\$2,500,000) per Vessel; and
- (b) general corporate purposes during the Post-Delivery Period.

2.3 No obligation to monitor

No Finance Party is obliged to monitor or verify the utilisation of any Loan.

2.4 Nature of a Finance Party's rights and obligations

Unless otherwise agreed by all the Finance Parties:

- (a) the obligations of a Finance Party under the Finance Documents are several;
- (b) failure by a Finance Party to perform its obligations does not affect the obligations of any other Party under the Finance Documents;
- (c) no Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents;
- (d) the rights of a Finance Party under the Finance Documents are separate and independent rights;

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- (e) a Finance Party may, except as otherwise stated in the Finance Documents, separately enforce those rights; and
 - (f) a debt arising under the Finance Documents to a Finance Party is a separate and independent debt.

3. CONDITIONS PRECEDENT

3.1 Conditions precedent documents

- (a) A Loan shall not be drawn down until the Facility Agent has notified the Borrowers and the Lenders that it has received all of the documents and evidence set out in Part 1A of Schedule 2 (Initial Conditions Precedent Documents) in form and substance satisfactory to the Facility Agent or that it expects to receive outstanding documents or evidence on or before the date that Loan is to be drawn down. The Facility Agent must give this notification to the Borrowers and the Lenders promptly upon being so satisfied.
- (b) As soon as reasonably practicable following the date on which the first Loan is drawn down, the Borrowers shall procure that a legal opinion in form and substance reasonable satisfactory to the Facility Agent, issued by Global Law Office, People's Republic of China legal advisors to the Lenders, is provided to the Facility Agent, in respect of the execution of the Time Charters and, if applicable, the Charter Guarantees, such opinion to be addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.
- (c) Within thirty (30) days following the date on which the first Loan is drawn down, the Borrowers shall provide to the Facility Agent all documents and evidence set out in Part 1B of Schedule 2 (Conditions Subsequent to Initial Drawing) in form and substance satisfactory to the Facility Agent.
- (d) A Loan in respect of a Delivery Date Instalment may not occur until the Facility Agent has notified the Borrowers and the Lenders that it has received all of the documents and evidence set out in Part 2 of Schedule 2 (Delivery Date Conditions Precedent Documents) in form and substance satisfactory to the Facility Agent or that it expects to receive outstanding documents or evidence on or before the relevant Delivery Date. The Facility Agent must give this notification to the Borrowers and the Lenders promptly upon being so satisfied.
- (e) Immediately following the date upon which a Vessel is delivered the Borrowers shall provide to the Facility Agent all documents and evidence set out in Schedule 3 (Conditions Subsequent to Delivery Date) in form and substance satisfactory to the Facility Agent.

3.2 Further conditions precedent

The obligations of each Lender to advance any Loan are subject to the further conditions precedent that on both the date of the Request and the Utilisation Date for that Loan:

- (a) the representations made under Clause 14 (Representations) are correct in all material respects; and
- (b) no Default or, in the case of a Rollover Loan, no Event of Default is outstanding or would result from that Loan being made.

4. UTILISATION

4.1 Giving of Requests

- (a) The Borrowers may borrow a Loan by giving to the Facility Agent a duly completed Request.
- (b) Unless the Facility Agent otherwise agrees, the latest time for receipt by the Facility Agent of a duly completed Request is 12:00 noon (Beijing time) four (4) Business Days prior to the date of the proposed borrowing.
- (c) Each Request is irrevocable.
- (d) A Request for a Rollover Loan will not be required.

4.2 Completion of Requests

A Request for a Loan will not be regarded as having been duly completed unless:

- (a) the Utilisation Date is a Business Day falling within the Availability Period;
- (b) the amount requested does not exceed, when aggregated with the amounts drawn down or to be drawn down under any other Requests, the Maximum Facility Amount;
- (c) the amount requested is in an amount which, when aggregated with the amounts drawn down under any other Requests in respect of a Vessel, does not exceed the Maximum Available Loan Amount;
- (d) the amount requested exceeds five hundred thousand Dollars (\$500,000); and
- (e) the proposed Term complies with this Agreement.

Only one Loan may be requested in a Request.

4.3 Advance of Loans

- (a) The Facility Agent must promptly and in any event three (3) Business Days before the Rate Fixing Day notify each Lender of the details of the requested Loan and the amount of its share in that Loan.
- (b) The amount of each Lender's share of the Loan will be its Pro Rata Share on the proposed Utilisation Date.
- (c) No Lender is obliged to participate in a Loan if, as a result, its share in the Loans would exceed its Commitment.
- (d) If the conditions set out in this Agreement have been met, each Lender must make its share in the Loan available by the Utilisation Date through its Facility Office.

5. REPAYMENT

5.1 Repayment

- (a) The Borrowers must repay each Loan to the Facility Agent in full on its Maturity Date. Subject to the other terms of this Agreement, any amounts repaid under this paragraph (a) may be reborrowed.
- (b) On the Maturity Date of a Loan (other than the Final Maturity Date), provided that:
 - (i) no Event of Default has occurred and is continuing;
 - (ii) the time for prepayment following the occurrence of a mandatory prepayment event which is continuing has not yet occurred; and
 - (iii) the Borrowers have not given notice in accordance with Clause 6.7 (Voluntary prepayment),and subject always to the provisions of Clause 5.2 (Repayment on Commitment Reduction Dates), such Loan will be rolled over for another Term and become a Rollover Loan.
- (c) In any event, each Loan shall be repaid in full on the Final Maturity Date.

5.2 Repayment on Commitment Reduction Dates

Following the occurrence of a Commitment Reduction Date, the Borrowers must repay such part of the Loans then outstanding as exceeds the Total Commitments (as the same may have been reduced by any Commitment reductions under Clause 6.8 (Automatic reduction and cancellation)). Any such repayment shall be applied against the Loans *pro rata* .

5.3 Changes to Reduction Schedule

The Facility Agent will notify the Borrowers and the Lenders of any change in the amount or timing of any reduction made in accordance with this Agreement, as soon as practicable after the occurrence of an event which will have such an effect. In the event of any such notification, the Facility Agent shall replace the relevant Reduction Schedule attached as Schedule 7 (Reduction Schedule) with a new Reduction Schedule reflecting the correct reductions and correct reduction dates and promptly provide a copy thereof to the Borrowers and the Lenders.

6. PREPAYMENT AND CANCELLATION

6.1 Mandatory prepayment - illegality

- (a) If it becomes, or to the knowledge of any Lender is to become, unlawful in any jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or a Finance Document or to fund or maintain its share in one or more of the Loans (the **Event of Illegality**), that Lender shall notify the Facility Agent and the Borrowers.
- (b) After notification under paragraph (a) above, the Borrowers and that Lender shall thereafter consult with each other and use reasonable commercial efforts for a period of thirty (30) days or in the event that the Event of Illegality takes effect before the

expiration of thirty (30) days, for the maximum number of days available before the Event of Illegality takes effect with a view to restructuring the Facility in such a way as to avoid the effect of the Event of Illegality.

- (c) If agreement cannot be reached between the parties within the period specified in paragraph (b) above:
 - (i) the Borrowers shall repay the share of that Lender in the relevant Loan or Loans on the date specified in paragraph (d) below to the extent required to resolve the illegality; and
 - (ii) the Commitment of that Lender will be immediately cancelled.
- (d) The date for repayment of a Lender's share in a Loan or Loans will be:
 - (i) the last day of the current Term of that Loan; or
 - (ii) if earlier, the date specified by that Lender in the notice delivered to the Borrowers (being no earlier than the last day of any applicable grace period permitted by Applicable Law).

6.2 Mandatory prepayment – Change of Control of Security Parties

- (a) The Security Parties must promptly notify the Facility Agent if they become aware of a Change of Control.
- (b) After notification under paragraph (a) above or if the Facility Agent otherwise becomes aware of the same and (acting on the instructions of the Majority Lenders) so notifies the Borrowers at any time within thirty (30) days, the Borrowers shall make an offer to the Facility Agent within five (5) Business Days of such notice to repay all of the outstanding Loans within thirty (30) days of such notice. Any failure of the Borrowers to make an offer in accordance with this Clause will be an Event of Default (and not subject to any applicable grace periods set out in Clause 19 hereof).

6.3 Mandatory prepayment - Removal of a Vessel

The Borrowers may elect to remove a Vessel from this Facility by notifying the Facility Agent of the removal of the Vessel and prepaying the outstanding loans in respect of such Vessel. Upon such payment, the Vessel will no longer be considered to be a Vessel for the purpose of this Facility and the Facility Agent will comply with the terms of Clause 20.7 (Release of Security).

6.4 Mandatory prepayment – Charter Breach, Expiration or Termination of Charter

Unless the Security Parties comply with the provisions of Clause 16.25(c) or (d) (Charter Breach, Expiration or Termination of Charter) as the case may be, or the Facility Agent receives additional security satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders), upon the Charter Breach, expiration or termination of a Time Charter in accordance with 16.25 (c) or (d) (Charter Breach, Expiration or Termination of Charter), the Borrowers shall be obliged to prepay the outstanding Loans to the extent necessary to ensure that the aggregate of the Market Value of the Vessels then delivered is not less than 125% of the aggregate principal amount of the outstanding Loans in respect of these Vessels.

6.5 Mandatory prepayment – Sale, Total Loss or non-delivery of a Vessel

- (a) Unless, prior to the expiry of the periods referred to in (i), (ii) and (iii) below, the Security Parties comply with the provisions of Clause 6.6 below, the Borrowers shall prepay the proportion of the Loans then outstanding that the Market Value of the Vessel the subject of the sale, Total Loss or non-delivery bears to the aggregate Market Value of the Vessels in the following circumstances and at the following times:
- (i) if that Vessel is sold, on or before the date falling ninety (90) days after the date on which the sale is completed by delivery of that Vessel to a buyer; or
 - (ii) if there is a Total Loss on or before the date falling ninety (90) days after the Date of Total Loss; or
 - (iii) if a Vessel is not delivered, on or before the date falling one hundred and twenty (120) days after the cancellation of a Shipbuilding Contract.
- (b) The Security Parties shall, immediately on receipt of the same, credit to the Retention Account the sale, Total Loss or Refund Guarantee proceeds received by the Borrowers or the Guarantor in respect of the Vessel the subject of the sale, Total Loss or non-delivery. Such proceeds shall remain in the Retention Account until either (i) they are to be applied in or towards satisfaction of the prepayment obligations of the Borrowers pursuant to Clause 6.5(a) or (ii) the provisions of Clause 6.6 are complied with, in which event such proceeds shall be released to the Borrowers.

6.6 Vessel substitution

- (a) In the event that a Vessel is removed pursuant to Clause 6.3 above or sold or becomes a Total Loss or is not delivered to the Guarantor, the Guarantor may, at any time within one hundred and twenty (120) days after the removal of the Vessel or ninety (90) days after the sale of the Vessel, the Date of Total Loss of the Vessel or the date of cancellation of the Shipbuilding Contract, substitute the Vessel with a replacement container vessel in accordance with the terms of this Clause 6.6. The replacement container vessel shall be required:
- (i) to undergo a valuation conducted to determine its Market Value;
 - (ii) as at the time of substitution, to be of at least equal value to the latest Market Value of the Vessel (assuming, where relevant, that the Vessel had not become the subject of a Total Loss), provided always that the value of the replacement container vessel may be less than the latest Market Value of the Vessel if the Borrowers prepay, at the time of substitution, an amount of the outstanding Loans equal to the difference between the value of the replacement container vessel and the latest Market Value of the Vessel (discounting the effects of any Total Loss upon the value of the Vessel);
 - (iii) to have a similar remaining useful life as the Vessel; and
 - (iv) if the Time Charter associated with such Vessel is not made subject to the Vessel, to be time chartered under a time charter in form and substance similar in all material respects to an existing Time Charter or otherwise in all material respects acceptable to the Facility Agent with an existing Time Charterer or other time charterer acceptable in all material respects to the Facility Agent, with a term of at least the same duration as the Time Charter being replaced,

such determinations to be made by the Facility Agent (acting on the instructions of the Majority Lenders) (the **Replacement Vessel**).

- (b) Any such request by the Borrowers and/or the Guarantor pursuant to Clause 6.6(a) above (the **Replacement Request**) shall be made to the Facility Agent in writing at least thirty (30) days prior to the proposed date of substitution (the **Substitution Date**) and shall be accompanied by evidence of compliance by the Guarantor with the conditions specified in Clause 6.6 above.
- (c) Subject to satisfaction of the above conditions in full, the Facility Agent (acting on the instructions of the Majority Lenders) shall agree to the replacement of the Vessel by the Replacement Vessel on the Substitution Date provided that:
 - (i) as at the date of the Replacement Request and at the Substitution Date, no Default or Event of Default has occurred and is continuing;
 - (ii) there are no material and adverse tax, credit or other relevant implications which it is possible may arise as a result of the substitution;
 - (iii) the Facility Agent has received a survey in respect of the Replacement Vessel, reasonably satisfactory to the Facility Agent; and
 - (iv) on or prior to the Substitution Date, the Guarantor will have executed equivalent Security Documents in relation to the Replacement Vessel, including but not limited to a first priority ship mortgage in a jurisdiction acceptable to the Facility Agent, an assignment of the earnings, obligatory insurances and any management and charter arrangements in respect of the Replacement Vessel, and such other security documents as the Facility Agent (acting on the instructions of the Majority Lenders) may determine appropriate in order to place the Finance Parties in substantially the same position in all respects (*mutatis mutandis*) as they would have been in prior to the Substitution Date.
- (d) All costs in connection with the Replacement Request (including but not limited to the costs of any legal advisors and any costs incurred in valuing and surveying the Replacement Vessel) shall be for the account of the Security Parties.

6.7 Voluntary prepayment

- (a) The Borrowers may, by giving not less than three (3) days' prior written notice to the Facility Agent, prepay the Loans in whole or from time to time in part on the last day of any Term.
- (b) A prepayment must be in a minimum amount of US\$2,000,000 and in integral multiples of US\$1,000,000.
- (c) Any voluntary prepayment under this Clause 6.7 shall be applied against the Loans *pro rata* unless the Borrowers nominate in writing that the prepayment is to be applied first against specific Loans then outstanding.

6.8 Automatic reduction and cancellation

- (a) The obligation of a Lender to advance the undrawn amount of its Commitment will be automatically cancelled at the close of business on the last day of the Availability Period.
- (b) Commencing on the date falling the earlier of (i) six months after the Delivery Date of the final Vessel to be delivered and (ii) 27 April 2012, the Total Commitments of the Lenders shall automatically reduce by consecutive semi-annual reductions, in the amounts set out in the Reduction Schedule.
- (c) Each Commitment reduction under this Clause 6.8 shall be applied against the Commitments of the Lenders *pro rata*. The specified amounts shall be reduced by any prior cancellation made under Clause 6.1 (Mandatory prepayment – illegality) or voluntary cancellation under Clause 6.9 (Voluntary cancellation) and Clause 6.10 (Voluntary prepayment and cancellation).

6.9 Voluntary cancellation

- (a) The Borrowers may, by giving not less than three (3) Business Days' prior notice to the Facility Agent, cancel the unutilised amount of the Total Commitments in whole or in part.
- (b) Partial cancellation of the Total Commitments must be in a minimum amount of US\$5,000,000 and in integral multiples of US\$1,000,000 in excess of US\$5,000,000.
- (c) Any cancellation in part will be applied against the Commitment of each Lender *pro rata*.

6.10 Voluntary prepayment and cancellation

- (a) If the Borrowers are, or will be, required to pay to a Lender a Tax Payment or an Increased Cost, the Borrowers may, while the requirement continues, give notice to the Facility Agent requesting prepayment and cancellation in respect of that Lender.
- (b) After notification under paragraph (a) above:
 - (i) the Borrowers must repay or prepay that Lender's share in each Loan made to it on the date specified in paragraph (c) below; and
 - (ii) the Commitment of that Lender will be immediately cancelled.
- (c) The date for repayment or prepayment of a Lender's share in a Loan(s) will be the last day of the current Term for the relevant Loan or, if earlier, the date specified by the Borrowers in the notice delivered to the Facility Agent.

6.11 Reborrowing of Loans

- (a) Any prepayment of a Loan under Clause 6.1 (Mandatory prepayment - illegality), Clause 6.2 (Mandatory prepayment – Change of Control of Security Parties) and Clause 6.8 (Automatic reduction and cancellation) may not be reborrowed.
- (b) Any other prepayment of a Loan may be reborrowed provided always that before a prepayment of a Loan under Clause 6.3 (Mandatory prepayment - Removal of a

Vessel) or Clause 6.5 (Mandatory prepayment – Sale, Total Loss or non-delivery of a Vessel) can be reborrowed, the Borrowers shall substitute a Replacement Vessel that meets the requirements of Clause 6.6 (Vessel substitution) within the time frame set out in Clause 6.6.

6.12 Miscellaneous provisions

- (a) Any notice of prepayment and/or cancellation under this Agreement is irrevocable and must specify the relevant date(s).
- (b) All prepayments under this Agreement must be made with accrued interest on the amount prepaid. All prepayments shall also be subject to Break Costs in respect of any amounts prepaid to the Lenders in accordance with Clause 24.3 (Break Costs).
- (c) No prepayment or cancellation is allowed except in accordance with the express terms of this Agreement.

6.13 Reduction of Maximum Facility Amount

The Borrowers may elect to reduce the Maximum Facility Amount to one hundred and eighteen million three hundred thousand Dollars (\$118,300,000) by giving not less than 15 days' prior written notice to the Facility Agent. Upon such notice, the Facility Agent will comply with the terms of Clause 20.7 (Release of Security) in respect of one of the Vessels and that Vessel will no longer be considered to be a Vessel for the purpose of this Facility.

7. INTEREST

7.1 Calculation of interest

- (a) The rate of interest on each Loan for each Term is the percentage rate per annum equal to the aggregate of:
 - (i) the Margin; and
 - (ii) LIBOR (together, the **Interest Rate**).
- (b) Interest shall be calculated by reference to the actual number of days elapsed and on the basis of a year of 360 days. Interest shall accrue from and including the first day of each Term to but excluding the last day of such Term.

7.2 Payment of interest

Except where it is provided to the contrary in this Agreement, the Borrowers must pay accrued interest on each Loan on the last day of each Term.

7.3 Interest on overdue amounts

- (a) If the Borrowers fail to pay any amount payable by them under the Finance Documents, they must immediately on demand by the Facility Agent pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment.

- (b) If the overdue amount is a principal amount of a Loan or is an amount accruing in respect of interest on a Loan and becomes due and payable prior to the last day of its current Term, then:
 - (i) the first Term for that overdue amount will be the unexpired portion of that Term and the rate of interest on the overdue amount for that first Term will be two per cent. (2%) per annum above the Interest Rate; and
 - (ii) thereafter, any subsequent Term for that overdue amount shall be selected by the Facility Agent (acting on the instructions of the Majority Lenders, acting reasonably) who may select successive Terms of any duration up to six (6) months, and the rate of interest on the overdue amount will be two per cent. (2%) per annum above the Interest Rate.After the expiry of the first Term for that overdue amount, the rate on the overdue amount will be calculated in accordance with paragraph (c) below.
- (c) In respect of any amounts outstanding other than in accordance with paragraph (b) above, interest on such overdue amount is payable at a rate determined by the Facility Agent to be two per cent. (2%) per annum above the Interest Rate. For this purpose, the Facility Agent may (acting on the instructions of the Majority Lenders, acting reasonably) select successive Terms of any duration of up to six (6) months.
- (d) Interest (if unpaid) on an overdue amount will be compounded with that overdue amount at the end of each of its Terms but will remain immediately due and payable.

7.4 Notification of rates of interest

The Facility Agent must promptly notify each Party of the determination of a rate of interest under this Agreement and the Mandatory Cost payable, if any.

7.5 Mandatory Cost

Subject to Clause 21.16, the Borrowers shall pay to the Facility Agent the Mandatory Cost, if any, for each Loan on the last day of the Term in respect of which it has been calculated.

8. TERMS

8.1 Selection

- (a) Each Loan has one Term only.
- (b) The Term for a Loan (other than the first Loan) shall, subject to Clause 8.1(f), be the same as the then current Term for all then outstanding Loans.
- (c) The Borrowers must select the Term for the first Loan in the relevant Request and shall be entitled to select (by written notice to the Facility Agent) the Term for each Rollover Loan. Subject to the following provisions of this Clause 8, each such Term for a Loan or Rollover Loan shall be for a period of one (1), two (2), three (3) or six (6) months or such other period requested by the Borrowers and accepted by the Facility Agent. If the Borrowers fail to select a Term for a Loan, that Term will, subject to the other provisions of this Clause 8, be three (3) months.

- (d) The Term for a Rollover Loan will be the same duration as the previous Term for such Loan unless the Borrowers provide to the Facility Agent an irrevocable notice pursuant to Clause 8.1(c) requesting a different Term in accordance with Clause 8.1(c) no later than 11.00 am (Beijing Time) three (3) Business Days before the Rate Fixing Day for that Term.
- (e) Subject only to Clause 8.1(f), the Term for all Rollover Loans shall be the same.
- (f) The Borrowers may, on or before the time a Request is given, request that a Term for a Loan is not consolidated with existing Terms for other Loans then outstanding. No more than five (5) such non-consolidated Loans may be outstanding at any one time. In the event of such a request, the Borrowers must select both the Term for such Loan in the relevant Request and when such Loan is rolled over and the provisions of Clause 8.1(c) will apply to such selection.

8.2 Consolidation

The Term for a Loan will commence on its Utilisation Date and unless the Borrowers request otherwise in accordance with Clause 8.1(f) above, the Term for each Loan will be consolidated with the Term for all other outstanding Loans.

8.3 No overrunning the Final Maturity Date

If a Term would otherwise overrun the Final Maturity Date, it will be shortened so that it ends on the Final Maturity Date.

8.4 Other adjustments

The Facility Agent and the Borrowers may enter into such other arrangements as they may agree for the adjustment of Terms and the consolidation and/or splitting of Loans.

9. MARKET DISRUPTION

9.1 Failure of the Reference Bank to supply a rate

If LIBOR is to be calculated by reference to the Reference Banks but if the Reference Banks are unable to supply a rate by 11.00 a.m. London time on the Rate Fixing Day, the applicable LIBOR will be calculated in accordance with Clause 9.2 (Market disruption).

9.2 Market disruption

- (a) A market disruption event shall arise where:
 - (i) no, or only one, Reference Bank supplies a rate by 11.00 a.m. on the Rate Fixing Day; or
 - (ii) the Facility Agent receives by close of business on the Rate Fixing Day notification from any Lender or Lenders whose aggregate shares in the relevant Loan exceed 35% of that Loan that the cost to them of obtaining matching deposits in the relevant interbank market is in excess of LIBOR for the relevant Term.
- (b) The Facility Agent must promptly notify the Borrowers and the Lenders of a market disruption event.

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- (c) After notification under paragraph (b) above, the rate of interest on the affected Loan for the relevant Term will be the aggregate of the applicable:
 - (i) Margin;
 - (ii) the rate notified to the Facility Agent by those Lenders as soon as practicable, and in any event before interest is due to be paid in respect of that Term, to be that which expresses as a percentage rate per annum the cost to those Lenders of funding the Loan from whatever source each of them may reasonably select; and
 - (iii) any increase in Mandatory Cost above the level of Mandatory Cost prevailing at the date of this Agreement.

9.3 Alternative basis of interest or funding

- (a) If a market disruption event occurs and the Facility Agent or the Borrowers so require, the Borrowers and the Facility Agent must enter into negotiations for a period of not more than thirty (30) days with a view to agreeing to an alternative basis for determining the rate of interest and/or funding for the affected Loan and any future Loan.
- (b) Any alternative basis agreed between the Borrowers and the Facility Agent will be, with the prior written consent of all the Lenders, binding on all the Parties hereto.

10. TAXES

10.1 Tax gross-up

- (a) The Borrowers must make all payments to be made by them under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by an Applicable Law.
- (b) If a Tax Deduction is required by an Applicable Law to be made by the Borrowers or, as the case may be, the Facility Agent, the amount of the payment due from the Borrowers will be increased, or, as the case may be, the Borrowers shall make an additional payment, so that the amount (after making the Tax Deduction) received by the recipient is equal to the payment which would have been due if no Tax Deduction had been required.
- (c) If the Borrowers are required to make a Tax Deduction, the Borrowers must make the minimum Tax Deduction and must make any payment required in connection with that Tax Deduction within the time allowed by the Applicable Law.
- (d) Within fifteen (15) days of making either a Tax Deduction or a payment required in connection with a Tax Deduction the Borrowers must deliver to the Facility Agent for the relevant Finance Party, documents or other information (or certified copies thereof) evidencing satisfactorily to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

10.2 Tax Indemnity

Without prejudice to the provisions of Clause 10.1 (Tax gross-up), if any Lender is required to make any payment on account of Tax solely as a result of its entry into any Finance Document (not being a Tax imposed on the net income of a Lender or its Facility Office by the jurisdiction in which it is incorporated, or the jurisdiction in which its Facility Office is located or on the capital of that Lender employed in such jurisdiction or jurisdictions) on any sum received or receivable under the Finance Documents (including, without limitation, any sum received or receivable under this Clause 10.2) or any liability in respect of any such payment is asserted, imposed, levied or assessed against a Lender, the Borrowers shall (within three (3) Business Days of demand by the Facility Agent) indemnify that Lender against such payment or liability, together with any interest, penalties and expenses payable or incurred in connection therewith.

10.3 Tax Credit

If a Lender or, as the case may be, the Facility Agent determines in its absolute discretion, acting in good faith, that it has received, realised, utilised and retained a Tax benefit by reason of any deduction or withholding in respect of which the Borrowers have made an increased payment or paid a compensating sum under this Clause 10 that Lender or, as the case may be, the Facility Agent shall, provided it has received all amounts which are then due and payable by the Borrowers under any of the provisions of this Agreement and the other Finance Documents, pay to the Borrowers (to the extent that Lender or, as the case may be, the Facility Agent can do so without prejudicing the amount of that benefit and the right of that Lender, or as the case may be, the Facility Agent to obtain any other benefit, relief or allowance which may be available to it), such amount, if any, as that Lender, or as the case may be, the Facility Agent shall determine in its absolute discretion acting in good faith, will leave that Lender, or as the case may be, the Facility Agent in no better and no worse position than it would have been in if the deduction or withholding had not been required and so that it retains no benefit as a result of the receipt of such deduction.

10.4 Notification of Claim

A Lender making, or intending to make, a claim under Clause 10.2 (Tax Indemnity) shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrowers.

10.5 Conduct of Business by the Finance Parties

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

10.6 Stamp taxes

The Borrowers must pay and indemnify each Finance Party against any stamp duty, registration or other similar Tax payable by a Finance Party in connection with the entry into, performance or enforcement of any Finance Document, except for any such Tax payable in connection with entering into a Transfer Certificate.

10.7 Value added taxes

Any amount (including costs and expenses) payable under a Finance Document by the Borrowers is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Borrowers must pay to the relevant Finance Party (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.

11. INCREASED COSTS

11.1 Increased Costs

Except as provided below in this Clause 11, the Borrowers must pay to a Finance Party the amount of any Increased Cost incurred by that Finance Party or its Subsidiaries, or its Affiliates as a result of:

- (a) the introduction of, or any change in, or any change in the interpretation or application of, any law or regulation of general application to financial institutions in the jurisdiction of such Finance Party; or
- (b) compliance with any law or regulation, made after the date of this Agreement.

11.2 Exceptions

The Borrowers need not make any payment for an Increased Cost to the extent that the Increased Cost is:

- (a) compensated for under another Clause or would have been but for an exception to that Clause;
- (b) a Tax on the overall net income of the relevant Finance Party or any of its Subsidiaries; or
- (c) attributable to the relevant Finance Party or any of its Affiliates or Subsidiaries wilfully failing to comply with any law or regulation.

11.3 Claims

If a Finance Party intends to make a claim for an Increased Cost it must notify the Borrowers promptly of the circumstances giving rise to, and the amount of, the claim.

11.4 Mitigation

- (a) Each Finance Party must, in consultation with the Borrowers, use its best endeavours to mitigate any circumstances which arise and which result or would result in any Increased Cost being payable to that Finance Party.
- (b) The Borrowers must indemnify that Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of any step taken by it under paragraph (a) above.

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- (c) A Finance Party is not obliged to take any step under this Subclause if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

11.5 Replacement of Lender

Following a claim by a Lender for an Increased Cost, the Borrowers shall, with the consent of the Facility Agent (acting on the instructions of the Majority Lenders), be entitled to oblige such Lender to transfer its Commitment to a Lender or new lender pursuant to the terms of Clause 28 (Changes to the Parties).

12. RETENTION ACCOUNT

12.1 Maintenance of Retention Account

The Guarantor shall maintain the Retention Account with the Account Bank until the Final Maturity Date, free of Security Interests and rights of set-off other than as created by or pursuant to the Security Documents.

12.2 Transfers to Retention Account

- (a) The Security Parties shall procure that upon receipt of any amounts representing proceeds of a sale, Total Loss or, upon non delivery of a Vessel, sums received pursuant to the Refund Guarantees or from the Builder or, if any terminations fees are payable under any Time Charter, proceeds following the termination of that Time Charter, such amounts are paid into the Retention Account.
- (b) Upon the occurrence of an Event of Default which is continuing, the Guarantor shall procure that all Earnings in respect of the Vessels are transferred into the Retention Account.

12.3 Application of Retention Account

- (a) In the event that a mandatory prepayment obligation arises under Clause 6.5(a) upon a sale, Total Loss or non delivery of a Vessel, the Guarantor shall procure that there is transferred from the Retention Account (and irrevocably authorises the Facility Agent to instruct the Account Bank to transfer from the Retention Account) to the Facility Agent in prepayment of the relevant Loan any amounts as may be required pursuant to Clause 6.5 and (unless an Event of Default shall have occurred and be continuing) the balance of the proceeds of a sale, Total Loss or non delivery of the relevant Vessel, following the transfer referred to above, may be released to such other account as the Guarantor shall designate.
- (b) In the event that a charter termination event arises under Clause 16.25(b) in which charter termination fees are payable, the Guarantor shall procure that there is transferred from the Retention Account (and irrevocably authorizes the Facility Agent to instruct the Account Bank to transfer from the Retention Account) (i) if the Guarantor arranges a substitute charterer in accordance with Clause 16.25(b), to such other account as the Guarantor may designate, the charter termination fee relating to the relevant Vessel; or (ii) if a mandatory prepayment obligation arises under Clause 6.4, to the Facility Agent in prepayment of the relevant Loan, an amount necessary to comply with the prepayment required in Clause 6.4, following which the balance of the charter termination fees, if any, may be released to such other account as the Guarantor shall designate.

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- (c) Following the occurrence of an Event of Default which is continuing, any moneys standing to the credit of the Retention Account shall be applied in accordance with Clause 13.7 (Payments).

12.4 Restriction on withdrawal

During the term of the Facility, no sum may be withdrawn from the Retention Account (except in accordance with this Clause 12) without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

13. PAYMENTS

13.1 Place

- (a) Unless a Finance Document specifies that payments under it are to be made in another manner, all payments by a Party (other than the Facility Agent) under the Finance Documents must be made to the Facility Agent to such account in Hong Kong as it may notify in advance in writing to that Party for this purpose.
- (b) Notwithstanding paragraph (a) above, any payment to be made under the Finance Documents by the Facility Agent to a Lender shall be made in accordance with that Lender's Standing Payment Instruction (defined in Clause 13.3(d) below).

13.2 Funds

Payments under the Finance Documents to the Facility Agent must be made for value on the due date at such times and in such funds as the Facility Agent may specify to the Party concerned as being customary at the time for the settlement of transactions in the relevant currency in the place for payment. Any payment received by the Facility Agent after 5:00pm Beijing time shall be deemed to have been received on the next Business Day.

13.3 Distribution

- (a) Each payment received by the Facility Agent under the Finance Documents for another Party must, except as provided below, be made available by the Facility Agent to that Party by payment (as soon as practicable after receipt) to its account with such office or bank as it may notify to the Facility Agent for this purpose by not less than five (5) Business Days' prior notice.
- (b) The Facility Agent may apply any amount received by it from the Security Parties in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Security Parties under the Finance Documents or in or towards the purchase of any amount of any currency to be so applied.
- (c) Where a sum is paid to the Facility Agent under this Agreement for another Party, the Facility Agent is not obliged to pay that sum to that Party until it has established that it has actually received it. However, the Facility Agent may assume that the sum has been paid to it, and, in reliance on that assumption, make available to that Party a corresponding amount. If it transpires that the sum has not been received by the Facility Agent, that Party must immediately on demand by the Facility Agent refund any corresponding amount made available to it together with interest on that amount from the date of payment to the date of receipt by the Facility Agent at a rate calculated by the Facility Agent to reflect its cost of funds.

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- (d) For the purposes of this Clause 13 (Payments) **Standing Payment Instruction** means:
- (i) in relation to a Lender which is a Lender on the date of this Agreement, payment instructions set below the name of that Lender in Schedule 10 (Standing Payment Instructions); or
 - (ii) in relation to a Lender which becomes a Lender after the date of this Agreement, payment instructions set out in the Transfer Certificate to which that Lender is a party,
- or such other payment instructions the Lender may notify to the Facility Agent by not less than five (5) Business Days' notice.

13.4 **Currency**

All amounts payable under the Finance Documents are payable in Dollars provided always that amounts payable in respect of costs and expenses are payable in the currency in which those costs and expenses are incurred.

13.5 **No set-off or counterclaim**

All payments made by the Security Parties under the Finance Documents must be made without set-off or counterclaim.

13.6 **Business Days**

- (a) If a payment under the Finance Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal under this Agreement, interest is payable on that principal at the rate payable on the original due date.

13.7 **Payments**

- (a) If any Administrative Party receives a payment insufficient to discharge all the amounts then due and payable by the Security Parties under the Finance Documents, then, except to the extent otherwise provided in any Finance Document, all the proceeds of the enforcement of the security conferred by the Security Agreements shall be applied by the Administrative Party towards the obligations of the Security Parties under the Finance Documents in the following order:
 - (i) **first** , in or towards payment or satisfaction *pro rata* of all costs, charges, sales taxes, expenses and liabilities incurred and payments made by the Finance Parties or any receiver and all remuneration payable to the Finance Parties or any receiver under or pursuant to the Security Documents including, without limitation, legal expenses, re-instatement costs and any costs incurred in recovering possession of the Security Assets;
 - (ii) **second** , in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Finance Parties to the extent not recovered under paragraph (i) above under this Agreement and the Security Documents;

- (iii) **third** , in or towards payment *pro rata* of any accrued but unpaid interest payable to the Finance Parties under this Agreement and the Security Documents;
 - (iv) **fourth** , in or towards payment *pro rata* of:
 - (A) any Break Costs of the Lenders due but unpaid and payable to the Finance Parties under this Agreement and the Security Documents; and
 - (B) any principal in respect of this Agreement and the Security Documents due but unpaid;
 - (v) **fifth** , in or towards payment *pro rata* to the Finance Parties of any other amounts which are due but unpaid by the Security Parties to any of the Finance Parties under the Finance Documents in such order as the Finance Parties shall in their absolute discretion determine; and
 - (vi) **sixth** , after all amounts payable or which may become payable under the Finance Documents have been paid in full and the Finance Documents have been discharged and the payments under subparagraph (v) have been made, in or towards payment of the surplus, if any, to the Borrowers or other persons entitled thereto.
- (b) The Facility Agent must, if so directed by all the Lenders, vary the order set at subparagraphs 13.7(a)(ii) to 13.7(a)(v) above.
 - (c) This Clause 13.7 will override any appropriation made by the Borrowers.

13.8 Timing of payments

If a Finance Document does not provide for when a particular payment is due, that payment will be due within three (3) Business Days of demand by the relevant Finance Party.

14. REPRESENTATIONS

14.1 Representations

The representations set out in this Clause 14 are made, unless otherwise stated, by each Security Party to the Finance Parties.

14.2 Status

- (a) It is a limited liability company, duly incorporated and validly existing under the laws of the Republic of the Marshall Islands and the Guarantor is listed on the New York Stock Exchange.
- (b) It and each of its Subsidiaries, if any, has the power to own its assets and carry on its business as it is being conducted.
- (c) No person or group other than the Seaspan Group owns or will beneficially own more than 50% of the aggregate outstanding voting power of the equity interests of the Guarantor and the Borrowers are wholly, legally and beneficially, owned by the Guarantor.

14.3 Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.

14.4 Legal validity

Subject to any general principles of law limiting its obligations and referred to in any legal opinion required under this Agreement, each Finance Document to which it is a party is its legally binding, valid and enforceable obligation.

14.5 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party do not conflict in any material respect with:

- (a) any law or regulation applicable to it;
- (b) its or any of its Subsidiaries' constitutional documents; or
- (c) any document which is binding upon it or any of its Subsidiaries or any of its or its Subsidiaries' assets.

14.6 No Default

- (a) No Default is outstanding or will result from the execution of, or the performance of any transaction contemplated by, any Finance Document.
- (b) No other event is outstanding which constitutes a default under any document which is binding on it or any of its Subsidiaries or any of its or its Subsidiaries' assets to an extent or in a manner which is reasonably likely to have a Material Adverse Effect.

14.7 Authorisations

Except for registration of (i) the Mortgages at the Hong Kong Shipping Register, (ii) any Security Agreement creating a charge over Security Assets of any Security Party with the Hong Kong Registrar of Companies or (iii) any relevant Security Agreement under the Companies Act 1985, all authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Finance Documents have been obtained or effected (as appropriate) and are in full force and effect.

14.8 Financial statements

The audited consolidated financial statements of the Guarantor most recently delivered to the Facility Agent together with any other financial information supplied to the Facility Agent by the Borrowers:

- (a) have been prepared in accordance with U.S. GAAP, consistently applied;
- (b) have been audited in accordance with U.S. GAAP; and
- (c) fairly represent, in all material respects, its financial condition (consolidated, if applicable) as at the date to which they were drawn up,

except, in each case, as disclosed to the contrary in those financial statements or other information.

14.9 No material adverse change

There has been no material adverse change in the ability of the Borrowers to make all the required payments under this Agreement or the validity or enforceability of this Agreement since the date of incorporation of the Borrowers or, following the receipt by the Facility Agent of an Annual Compliance Certificate from the Guarantor, since the date of the then latest Annual Compliance Certificate.

14.10 Litigation

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency (including, but not limited to, investigative proceedings) which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against any Security Party.

14.11 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with all its other present and future unsecured and unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

14.12 Taxes on payments

All amounts payable by it to the Facility Agent under the Finance Documents and the Related Contracts may be made without any Tax Deduction.

14.13 Stamp duties

Except as notified in writing to and accepted by the Facility Agent, no stamp or registration duty or similar Tax or charge is payable in its jurisdiction of incorporation in respect of any Finance Document or Related Contract.

14.14 Environment

At and at all times after the Delivery Date of a Vessel, and except as may already have been disclosed by the Security Parties in writing to the Facility Agent:

- (a) the Guarantor and its Environmental Representatives have, without limitation, complied with the provisions of all applicable Environmental Laws in relation to each Vessel then delivered;
- (b) the Guarantor and its Environmental Representatives have obtained all requisite Environmental Approvals in relation to each Vessel then delivered and are in compliance with such Environmental Approvals;
- (c) neither the Guarantor nor any of its Environmental Representatives have received notice of any Environmental Claim in relation to the relevant Vessel which alleges that the Guarantor is not in compliance with applicable Environmental Laws in relation to such Vessel or Environmental Approvals in relation to such Vessel;

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- (d) there is no Environmental Claim in relation to any delivered Vessel pending or threatened which is such that a first class borrower or operator of vessels such as the Vessels, making all due enquiries and complying in all respects with its obligations under the ISM Code, ought to have known about; and
 - (e) there has been no Release of Hazardous Materials by or in respect of any delivered Vessel about which a first class borrower or operator of vessels such as the Vessels making all due enquiries and complying in all respects with its obligations under the ISM Code ought to have known about.

14.15 Security Interests

No Security Interest exists over its or any of its Subsidiary's assets which would cause a breach of Clause 16.5 (Security Interests).

14.16 Security Assets

Each Security Party is solely and absolutely entitled to the Security Assets over which it has or will create any Security Interest pursuant to the Security Documents to which it is, or will be, a party and there is no agreement or arrangement under which it is obliged to share any proceeds of or derived from such Security Assets with any third party.

14.17 ISM Code compliance

In respect of each Vessel, from the Delivery Date in respect of that Vessel, the Guarantor is in full compliance with the ISM Code in respect of that Vessel.

14.18 ISPS Code Compliance

In respect of each Vessel, from the Delivery Date in respect of that Vessel, the Guarantor is in full compliance with the ISPS Code in respect of that Vessel.

14.19 No amendments to Related Contracts

Other than as notified to and agreed by the Facility Agent in writing, there have been no amendments to any of the Related Contracts.

14.20 Money Laundering

Any borrowing by the Borrowers and the performance of their obligations hereunder and under the other Finance Documents to which they are a party will be for their own account and will not involve any breach by it of any law or regulatory measure relating to money laundering as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities or any equivalent law or regulatory measure in any other jurisdiction.

14.21 Insolvency

- (a) No Security Party is unable, or admits or has admitted its inability, to pay its debts or has suspended making payments on any of its debts.
- (b) No Security Party, by reason of actual or anticipated financial difficulties has commenced, or intends to commence, negotiations with one or more of its creditors with a view to rescheduling any of its Financial Indebtedness.

- (c) The value of the assets of each Security Party is not less than its liabilities (taking into account contingent and prospective liabilities).
- (d) No moratorium has been, or may, in the reasonably foreseeable future be, declared in respect of any indebtedness of any Security Party.
- (e) No reorganisation or liquidation of any Security Party has occurred.

14.22 Immunity

- (a) The execution by it of each Finance Document to which it is a party constitutes, and the exercise by it of its rights and performance of its obligations under each such Finance Document will constitute, private and commercial acts performed for private and commercial purposes.
- (b) It will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

14.23 No adverse consequences

- (a) It is not necessary under the laws of its jurisdiction of incorporation:
 - (i) in order to enable the Facility Agent to enforce its rights under any Finance Document; or
 - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,that the Facility Agent should be licensed, qualified or otherwise entitled to carry on business in its jurisdiction of incorporation; and
- (b) The Facility Agent will not be deemed to be resident, domiciled or carrying on business in its jurisdiction of incorporation by reason only of the execution, performance and/or enforcement of any Finance Document.

14.24 Jurisdiction/governing law

- (a) Its:
 - (i) irrevocable submission under this Agreement to the jurisdiction of the courts of England;
 - (ii) agreement that this Agreement is governed by English law; and
 - (iii) agreement not to claim any immunity to which it or its assets may be entitled,are legal, valid and binding under the laws of its jurisdiction of incorporation.
- (b) Any judgment obtained in England will be recognised and be enforceable by the courts of its jurisdiction of incorporation, subject to any statutory or other conditions of such jurisdiction.

14.25 Charters

In respect of each Vessel, any Time Charter in respect of that Vessel shall be in full force and effect.

14.26 Times for making representations

- (a) The representations set out in this Clause 14 are made by the Security Parties on the date of this Agreement.
- (b) Unless a representation is expressed to be given at a specific date, each representation is deemed to be repeated by the Security Parties on the date of each Request, the date each Loan is made (other than a Rollover Loan) and annually on each anniversary of the first Utilisation Date when the Security Parties shall provide to the Facility Agent an Annual Compliance Certificate.
- (c) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

15. INFORMATION COVENANTS**15.1 Financial statements**

- (a) The Guarantor must supply to the Facility Agent in sufficient copies (which may take the form of an electronic copy) for all the Lenders:
 - (i) its audited consolidated financial statements for each of its financial years ending after the date hereof;
 - (ii) its interim unaudited financial statements for the first half-year of each of its financial years;
 - (iii) if and to the extent the Guarantor is required by any Applicable Law to produce quarterly financial statements, the quarterly financial statements for the Guarantor as the case may be for the first and third quarters of each of its financial years ending after the date hereof; and
 - (iv) the unaudited financial statements of the Borrowers for each of their financial years ending after the date hereof.
- (b) The Guarantor must supply to the Facility Agent copies of the audited financial statements of the Charterer and Charter Guarantor, if applicable, for each of its financial years within five (5) Business Days of such financial statements becoming available to the Guarantor.
- (c) All financial statements must be supplied promptly after they are available and:
 - (i) in the case of audited financial statements of the Guarantor, within ninety (90) days of the end of the relevant financial period;
 - (ii) in the case of interim semi-annual financial statements of the Guarantor, within ninety (90) days of the end of the relevant financial period;

- (iii) in the case of interim quarterly financial statements of the Guarantor, within sixty (60) days of the end of the relevant financial period; and
 - (iv) in the case of the unaudited financial statements of the Borrowers, within one hundred and eighty (180) days of the end of the relevant financial period.
- (d) The Facility Agent shall send to each Lender all of the financial statements received by it under this Clause 15.1 within fifteen (15) days of receipt of such financial statements.

15.2 Form of financial statements

- (a) Each Security Party must ensure that each set of its financial statements supplied under this Agreement fairly represents its financial condition (consolidated or otherwise) as at the date to which those financial statements were drawn up.
- (b) The Security Parties must notify the Facility Agent of any change to the basis on which their audited financial statements are prepared.
- (c) If requested by the Facility Agent, the Security Parties must supply or procure that the following are supplied to the Facility Agent:
 - (i) a full description of any change notified under paragraph (b) above; and
 - (ii) sufficient information to enable the Facility Agent to make a proper comparison between the financial position shown by the set of financial statements prepared on the changed basis and its most recent audited consolidated financial statements delivered to the Facility Agent under this Agreement.
- (d) If requested by the Facility Agent, the Security Parties must enter into discussions for a period of not more than thirty (30) days with a view to agreeing to any amendments required to be made to this Agreement to place the Facility Agent in the same position as it would have been in if the change had not happened.
- (e) If no agreement is reached under paragraph (d) above on the required amendments to this Agreement, the Security Parties must ensure that their auditors certify those amendments; the certificate of the auditors will be, in the absence of manifest error, binding on all the Parties.

15.3 Compliance Certificate

- (a) The Security Parties must supply to the Facility Agent a Compliance Certificate in the form attached at Schedule 8 on a quarterly basis (the first such Compliance Certificate to be provided on the first Quarter Day following the date of the first drawdown under the Facility).
- (b) The Security Parties must supply to the Facility Agent an Annual Compliance Certificate in the form attached at Schedule 9 with each set of annual audited consolidated financial statements sent to the Facility Agent under this Agreement.
- (c) Each Compliance Certificate supplied by the Security Parties must be signed by the chief financial officer or chief executive officer of the Guarantor.

15.4 Access to Books and Records

Upon the request of the Facility Agent, the Security Parties shall provide the Facility Agent and any of its representatives, professional advisors and contractors with access to, and permit inspection of, its books and records, in each case at reasonable times and upon reasonable notice.

15.5 Information - miscellaneous

Each Security Party must supply to the Facility Agent in sufficient copies (which may take the form of an electronic copy) for all the Lenders:

- (a) copies of all documents despatched by it to its creditors generally or any class of them at the same time as they are despatched;
- (b) copies of all notices and minutes relating to any Extraordinary General Meeting of its shareholders at the same time as they are despatched;
- (c) promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it and which might, if adversely determined, have a Material Adverse Effect; and
- (d) promptly on request, such further information, in sufficient copies for all the Lenders, regarding the financial condition and operations of the Security Parties as the Facility Agent may reasonably request.

15.6 Notification of Default

- (a) Unless the Facility Agent has already been so notified, the Borrowers must notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly on request by the Facility Agent but not more often than once in each period of 12 months, unless the Facility Agent, acting reasonably, believes an Event of Default has occurred and is continuing (in which event the Facility Agent shall be entitled to make such requests as and when it considers it appropriate to do so), the Borrowers must supply to the Facility Agent a certificate, signed by two of their authorised signatories on their behalf, certifying that no Default is outstanding or, if a Default is outstanding, specifying the Default and the steps, if any, being taken to remedy it.

15.7 Year end

The Security Parties may not change their financial year end.

16. GENERAL COVENANTS**16.1 General**

Each Security Party agrees to be bound by the covenants set out in this Clause 16 relating to it.

16.2 Authorisations

The Security Parties must promptly obtain, maintain and comply, in all material respects, with the terms of any authorisation required under any Applicable Law to enable them to perform their obligations under, or for the validity or enforceability of, any Finance Document.

16.3 Compliance with laws

The Security Parties must comply and must procure that the Manager complies in all respects with all Applicable Laws to which it is subject where failure to do so is reasonably likely to have a Material Adverse Effect.

16.4 Pari passu ranking

The Security Parties must ensure that their payment obligations under the Finance Documents rank at least *pari passu* with all their other present and future unsecured and unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

16.5 Security Interests

The Security Parties shall not, and the Guarantor shall procure that the Manager does not, create or permit to subsist any Security Interest over the Obligatory Insurances or any other Security Assets or any Related Contract other than:

- (a) Permitted Liens; or
- (b) with the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

16.6 No other business assets or Financial Indebtedness

The Security Parties shall not engage in any business other than the direct or indirect ownership, operation and chartering of container vessels and any business incidental thereto, nor shall the Security Parties incur any Financial Indebtedness to be secured in any way on the Vessels, or either of them, or any other Security Asset other than the Financial Indebtedness contemplated by this Agreement. The Security Parties may incur any other indebtedness or issue guarantees against financial loss of any person on an unsecured basis or secured on assets which are not, and will not at any time be, Security Assets.

16.7 Payment of dividends

The Security Parties shall not pay any dividends or make any other distributions (whether by loan or otherwise) to shareholders unless, under Applicable Law and accounting principles in its jurisdiction of incorporation, it is entitled to distribute as dividends or such other distribution and no Event of Default has occurred and is continuing.

16.8 Change of business

- (a) The Security Parties must ensure that no change is made to the general nature of their business from that carried on at the date of this Agreement other than the direct or indirect ownership, operation and chartering of container vessels and any business incidental thereto.

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- (b) The Security Parties must maintain their place of business, and keep their corporate documents and records, at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960, and the Security Parties will not establish, or do anything as a result of which it would be deemed to have, a place of business in any country other than the Republic of the Marshall Islands, provided that the Security Parties may establish a place of business and may keep its corporate records and documents in Hong Kong and Vancouver or either of them if the Facility Agent (acting on the instructions of the Majority Lenders) is satisfied that such establishment in such location does not adversely affect the validity, enforceability or effectiveness of any Security Agreement and does not give rise to any requirement under any Applicable Law for a Tax Deduction.

16.9 Mergers

The Security Parties shall not enter into any amalgamation, demerger, merger or reconstruction otherwise than under an intra-group re-organisation on a solvent basis or other transaction agreed by the Facility Agent (acting on the instructions of the Majority Lenders).

16.10 Security

The Guarantor:

- (a) will procure, on the Delivery Date in respect of a Vessel, that the relevant Mortgage is, and continues to be, registered as a first priority mortgage on the Hong Kong Shipping Register in respect of that Vessel;
- (b) without prejudice to paragraph (a) will procure that the Mortgages and any other security conferred by it under any Security Document are registered as a first priority interest with the relevant authorities within the period prescribed by the Applicable Laws and is maintained and perfected with the relevant authorities;
- (c) will at its own cost, use best efforts to ensure that any Finance Document validly creates the obligations and Security Interests which it purports to create; and
- (d) without limiting the generality of paragraph (a) above, will at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority, pay any stamp, registration or similar tax payable in respect of any Finance Document, give any notice or take any other step which, in the reasonable opinion of the Facility Agent, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

16.11 Transactions with affiliated companies

No Security Party may enter into any material transaction with any Affiliate of it unless it is either (i) to comply with any obligations that Security Party may have under the Finance Documents or (ii) on an arm's length basis or on terms reasonably consistent with and having a substantially similar commercial effect to an arm's length transaction.

16.12 Registration of the Vessels

The Guarantor shall and procure that the Manager shall:

- (a) procure and maintain with effect from the Delivery Date of the relevant Vessel the valid and effective provisional registration of the Vessel under the flag of Hong Kong and shall effect permanent registration of the Vessel within two months from the Delivery Date of the relevant Vessel, or such other flag of equivalent reputation as is satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders such approval not to be unreasonably withheld), and shall ensure nothing is done or omitted by which the registration of the Vessels would or might be defeated or imperilled; and
- (b) not change the name or port of registration of the Vessels without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders) (such consent not to be unreasonably withheld).

16.13 [Intentionally omitted]**16.14 Classification and repair**

The Guarantor will, and will procure that the Manager will from the Delivery Date of each Vessel:

- (a) ensure that such Vessel is surveyed from time to time as required by the classification society in which the Vessel is for the time being entered and maintain and preserve the Vessel in good working order and repair, ordinary wear and tear excepted, and in any event in such condition as will entitle each to the classification that it has as of the Delivery Date with Lloyds Register, (or to the equivalent classification in another internationally recognised classification society of like standing acceptable to the Facility Agent (acting on the instructions of the Majority Lenders)), free of all overdue requirements and recommendations of that classification society;
- (b) procure that all repairs to or replacement of any damaged, worn or lost parts or equipment shall be effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of the Vessel;
- (c) not remove any material part of any of such Vessel or any item of equipment installed on such Vessel unless the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security Interest (other than a Permitted Lien) or any right in favour of any person other than the Facility Agent and becomes on installation on that Vessel the property of the Guarantor and subject to the security constituted by the relevant Security Document(s), provided that the Guarantor may install and remove equipment owned by a third party if the equipment can be removed without any risk of damage to a Vessel;
- (d) ensure that each Vessel complies with all Applicable Laws from time to time applicable to vessels registered under the laws and flag of Hong Kong or such other flag under which such Vessel may be registered from time to time in accordance with this Agreement; and
- (e) not without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders) (such consent not to be unreasonably withheld), cause or

permit to be made any substantial change in the structure, type or performance characteristics of such Vessel and provide notification of such substantial changes in structure, type or performance characteristics of such Vessel to the Facility Agent and, furthermore, provide confirmation to the Facility Agent that such substantial change in structure, type or performance characteristics of any of the Vessels shall not result in a breach of any covenant under this Agreement.

16.15 Lawful and Safe Operation

The Guarantor will, and will procure that the Manager will, at all times after the Delivery Date of each Vessel:

- (a) operate each Vessel and cause each of the Vessels to be operated in a manner consistent in all material respects with any and all laws, regulations, treaties and conventions (and all rules and regulations issued thereunder) from time to time applicable to the Vessel;
- (b) not cause or permit any of the Vessels to trade with, or within the territorial waters of any country in which her safety could reasonably be expected to be imperilled by exposure to piracy, terrorism, arrest, requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize;
- (c) not cause or permit any of the Vessels to be employed in any manner which will or may give rise to any reasonable degree of likelihood that such Vessel would be liable to requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize;
- (d) not cause or permit any of the Vessels to be employed in any trade or business which is forbidden by international law or is illicit or in carrying illicit or prohibited goods;
- (e) in the event of hostilities in any part of the world (whether war be declared or not) not cause or permit any of the Vessels to be employed in carrying any contraband goods and that she does not trade in any zone after it has been declared a war zone by any authority or by any of that Vessel's war risks Insurers unless that Vessel's Insurers shall have confirmed to the Guarantor that such Vessel is held covered under the Obligatory Insurances for the voyage(s) in question; and
- (f) not charter any of the Vessels or permit any of the Vessels to serve under any contract of affreightment with any foreign country or national of any foreign country which would be contrary to Applicable Law or would render any Finance Document or the security conferred by the Security Documents unlawful.

16.16 Repair of the Vessels

The Guarantor will not and will procure that the Manager will not, at any time after the Delivery Date of a Vessel, put such Vessel into the possession of any person for the purpose of work being done upon her beyond the amount of US\$5,000,000 (or equivalent), other than for classification or scheduled dry docking unless such person shall have given an undertaking to the Facility Agent not to exercise any lien on that Vessel or Obligatory Insurances for the cost of that work or otherwise.

16.17 Arrests and Liabilities

The Guarantor will, and will procure that the Manager will, at all times after the Delivery Date of a Vessel:

- (a) pay and discharge all obligations and liabilities whatsoever which have given or may give rise to liens (other than liens arising in the ordinary course of operation of any of the Vessels in each case for amounts the payment of which is not yet due or, if due and payable, is being disputed in good faith by appropriate proceeding (and for the payment of which adequate reserves have been provided or are and continue to be available)) on or claims enforceable against any of the Vessels and take all reasonable steps to prevent a threatened arrest of any of the Vessels;
- (b) notify the Facility Agent promptly in writing of the levy of either distress on any of the Vessels or her arrest, detention, seizure, condemnation as prize, compulsory acquisition or requisition for title or use and (save in the case of compulsory acquisition or requisition for title or use) obtain her release within thirty (30) days;
- (c) pay and discharge when due all dues, taxes, assessments, governmental charges, fines and penalties lawfully imposed on or in respect of any of the Vessels or the Guarantor except those which are being disputed in good faith by appropriate proceedings (and for the payment of which adequate reserves have been provided or are and continue to be available) and provided that the continued existence of such dues, taxes, assessments, governmental charges, fines or penalties does not give rise to any reasonable degree of likelihood that any of the Vessels would be liable to arrest, requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize; and
- (d) pay and discharge all other obligations and liabilities whatsoever in respect of any of the Vessels and the Obligatory Insurances except those which are being disputed in good faith by appropriate proceedings (and for the payment of which adequate reserves have been provided or are and continue to be available) and provided that the continued existence of those obligations and liabilities in respect of any of the Vessels and the Obligatory Insurances does not give rise to any reasonable degree of likelihood that the Vessel would be liable to arrest, requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize and provided always that each Vessel remains properly managed and insured at all times in accordance with the terms of this Agreement.

16.18 Related Contracts

No Security Party shall take any action, enter into any document or agreement or omit to take any action or to enter into any document or agreement which would, or could reasonably be expected to, cause any Related Contract to cease to remain in full force and effect and shall use all reasonable endeavours to procure that each other party to any Related Contract does not take any action, enter into any document or agreement or omit to take any action or to enter into any document or agreement which would, or could reasonably be expected to, cause any Related Contract to cease to remain in full force and effect.

16.19 Environment

The Guarantor shall, and shall procure that the Manager shall, at all times after the Delivery Date of a Vessel:

- (a) comply with all applicable Environmental Laws including, without limitation, requirements relating to the establishment of financial responsibility (and shall require that all Environmental Representatives of the Guarantor comply with all applicable Environmental Laws and obtain and comply with all required Environmental Approvals, which Environmental Laws and Environmental Approvals relate to any of the Vessels or her operation or her carriage of cargo); and
- (b) promptly upon the occurrence of any of the following events, provide to the Facility Agent a certificate of an officer of the Guarantor or of the Guarantor's agents specifying in detail the nature of the event concerned:
 - (i) the receipt by the Guarantor or any Environmental Representative (where the Guarantor has knowledge of the receipt) of any Environmental Claim; or
 - (ii) any Release of Hazardous Materials.

16.20 Information regarding the Vessels

The Guarantor shall, and shall procure that the Manager shall, at all times after the Delivery Date of a Vessel:

- (a) promptly notify the Facility Agent of the occurrence of any accident, casualty or other event which has caused or resulted in or may cause or result in a Vessel being or becoming a Total Loss;
- (b) promptly notify the Facility Agent of any material requirement or recommendation made by any Insurer or classification society or by any competent authority which is not complied with in a timely manner;
- (c) annually provide the Facility Agent with a schedule setting outgoing and all intended dry dockings of any of the Vessels, such schedule to form part of the Annual Compliance Certificate;
- (d) promptly notify the Facility Agent of any Environmental Claim being made in connection with any of the Vessels or its operation;
- (e) promptly notify the Facility Agent of any claim for breach of the ISM Code being made in connection with any of the Vessels or its operation;
- (f) promptly notify the Facility Agent of any claim for breach of the ISPS Code being made in connection with any of the Vessels or its operation;
- (g) give to the Facility Agent from time to time on request such information, in sufficient copies (which may take the form of electronic copies) for all the Lenders, as the Facility Agent may reasonably require regarding any of the Vessels, her employment, position and engagements;

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- (h) provide the Facility Agent with copies of the classification certificate of the Vessels and of all periodic damage or survey reports on any of the Vessels which the Facility Agent may reasonably request;
 - (i) promptly furnish the Facility Agent with full information of any casualty or other accident or damage to any of the Vessels involving an amount in excess of US\$1,500,000 (or equivalent);
 - (j) give to the Facility Agent and its duly authorised representatives reasonable access to either of the Vessels for the purpose of conducting on board inspections and/or surveys of the Vessels and pay the reasonable expenses incurred by the Facility Agent in connection with the inspections and/or surveys provided that, unless a Default has occurred and is continuing, such inspections and/or surveys shall not take place at the expense of the Security Parties and the Facility Agent shall co-operate with the Guarantor in respect of the timing for and the place where such surveys take place in order to minimise disruption to the activities of any of the Vessels; and
 - (k) if the Facility Agent reasonably believes an Event of Default may have occurred, furnish to the Facility Agent from time to time upon reasonable request certified copies of the ship's log in respect of any of the Vessels.

16.21 Provision of further information

The Guarantor shall, and shall procure that the Manager shall, as soon as practicable following receipt of a request by the Facility Agent, provide the Facility Agent, with sufficient copies for all the Lenders, with any additional or further financial or other information relating to any of the Vessels, the Obligatory Insurances or to any other matter relevant to, or to any provision of, a Finance Document which the Facility Agent may reasonably request.

16.22 Management

The Guarantor shall, and shall procure that the Manager shall, ensure that at all times after the Delivery Date of a Vessel:

- (a) the relevant Vessel is managed by the Manager; and
- (b) the Manager shall not terminate or materially vary the terms of its management or appoint an alternative manager except in accordance with the Management Agreement, provided that the Guarantor shall be entitled so to do with the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

However, in the event that the Manager's appointment as manager of either one of the Vessels ceases or is terminated in circumstances where it was not possible for the Guarantor to obtain the prior written consent of the Facility Agent, the Guarantor shall promptly and in any event within ten (10) days from the date of the termination of the Manager's appointment, provide to the Facility Agent details of a replacement manager, such manager to be satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders).

16.23 Proceeds from sale or Total Loss of a Vessel

- (a) The Guarantor shall procure that the proceeds from a sale or Total Loss of the relevant Vessel shall immediately upon receipt by the Guarantor be paid into the Retention Account in accordance with Clause 12.2 for application by the Facility Agent in accordance with Clause 12.3, unless an Event of Default has occurred and is continuing, in which case the proceeds from a sale or Total Loss of the relevant Vessel shall immediately upon receipt by the Guarantor be paid to the Facility Agent for application in accordance with Clause 13.7 (Payments).
- (b) For and so long as the Guarantor holds any such proceeds as referred to in paragraph (a) it shall do so on trust for the Facility Agent.

16.24 Charters

- (a) The Guarantor will not let any of the Vessels on demise, consecutive voyage or voyage charter for any period without the consent of the Facility Agent (acting on the instructions of the Majority Lenders) such consent not to be unreasonably withheld.
- (b) The Guarantor shall be entitled to let its Vessels, in accordance with the terms of the Time Charters PROVIDED always that:
 - (i) the Guarantor shall remain liable under any time charter to perform all the obligations assumed by it under the Time Charter;
 - (ii) the Facility Agent shall not be under any obligations or liability under any time charter or liable to make any payment under that time charter; and
 - (iii) the Facility Agent shall not be obliged to enforce against any charterer any term of any time charter, or to make any enquiries as to the nature or sufficiency of any payment received by the Facility Agent.

16.25 Charter Breach, Expiration or Termination of Time Charter

- (a) At all times, the Guarantor shall advise the Facility Agent of any of the following events:
 - (i) any Charter Breach by the Charterer of the terms of a Time Charter of which the Guarantor becomes aware;
 - (ii) the termination of a Time Charter by either the Guarantor or the Charterer;
 - (iii) the expiration of a Time Charter;
 - (iv) as soon as it becomes aware of such event, the occurrence of an event of cross default of the nature referred to in Clause 19.5 (Cross-default) in respect of the Charterer, PROVIDED always that such event shall not arise in respect of the Charterer where the aggregate amount of the relevant Financial Indebtedness of the Charterer is less than US\$50,000,000 or its equivalent; or
 - (v) as soon as it becomes aware of such event, the occurrence of an insolvency event of the nature referred to in Clause 19.6 (Insolvency), 19.7 (Insolvency proceedings), 19.8 (Creditor's process) or 19.9 (Cessation of business) in respect of the Charterer,

and upon the occurrence of any such event the Facility Agent shall be (acting on the instructions of the Majority Lenders) entitled to require that the Guarantor exercises all of its rights under the relevant Time Charter including, where applicable, the termination of the Time Charter in respect of the relevant Vessel.

- (b) In the event of a termination of a Time Charter in accordance with Clause 16.25(a) or otherwise, in relation to which a charter termination fee is payable, such termination fee shall be payable into the Retention Account in accordance with Clause 12.2.
- (c) In the event of a expiration or termination of a Time Charter referred to in paragraph (a) above the Guarantor shall, within ninety (90) days of such expiration or termination, enter into a substitute time charter with a charterer acceptable to the Lenders and with a term of at least the same remaining duration as the Time Charter which has terminated or, if expired, extending to at least the Final Maturity Date, such time charter to be in form and substance similar to an existing Time Charter or otherwise reasonably acceptable to the Facility Agent (acting on the instructions of the Majority Lenders) and the relevant charter termination fee shall be released to the Guarantor in accordance with Clause 12.3(b)(i), failing which either:
 - (i) the charter termination fee shall be applied by the Facility Agent in prepayment of the relevant Loan to ensure that the aggregate of the Market Value of the Vessels then delivered is not less than 125% of the aggregate principal amounts then outstanding under the Loans related to such Vessels and if for any reason the amount of the charter termination fee shall be insufficient to make the prepayment described in this paragraph (i), the Borrowers shall, without demand, provide the Facility Agent with an amount equal to the amount of the shortfall; or
 - (ii) the Borrowers shall provide or cause to be provided to the Facility Agent such additional security as is satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders) so as to ensure that the aggregate of the Market Value of the Vessels then delivered is not less than 125% of the aggregate principal amounts then outstanding under the Loans related to those Vessels.

16.26 Scope of Obligatory Insurances

The Guarantor will, in respect of each Vessel:

- (a) procure the Builder's compliance with the Builder's Risk Insurances as detailed in the relevant Article of each Shipbuilding Contract.
- (b) at all times after the relevant Delivery Date, keep that Vessel insured in the Required Insurance Amount, in Dollars in the name of the Guarantor or (if the Facility Agent so requires) in the joint names of the Guarantor and the Facility Agent without the Facility Agent being liable but having the right to pay premiums, through brokers approved by the Facility Agent against fire and usual marine risks (including hull and machinery and Excess Risks) with approved underwriters or insurance companies approved by the Facility Agent and by policies in form and content approved by the Facility Agent;
- (c) at all times after the relevant Delivery Date, keep that Vessel insured in the Required Insurance Amount in the same manner as above against war risks (including risks of mines and all risks, whether or not regarded as war risks, London Blocking and Trapping Addendum and Lost Vessel Clause, excepted by the free of capture and seizure clauses in the standard form of Lloyds marine policy) either:

- (i) with underwriters or insurance companies approved by the Facility Agent and by policies in form and content approved by the Facility Agent; or
 - (ii) by entering the relevant Vessel in an approved war risks association,
and for the avoidance of doubt, such war risks insurance will include protection and indemnity liability up to at least the Required Insurance Amount, excluding any liability in respect of death, injury or damage to crew;
- (d) at all times after the relevant Delivery Date, keep that Vessel entered in respect of her full value and tonnage in an approved protection and indemnity association against all risks as are normally covered by such protection and indemnity association (including pollution risks and the proportion not recoverable in case of collision under the running down clause inserted in the ordinary Lloyds policies), such cover for pollution risks to be for:
- (i) a minimum amount of US\$1,000,000,000 or such other amount of cover against pollution risks as shall at any time be comprised in the basic entry of each Vessel with either a protection and indemnity association which is an acceptable member of either the International Group of protection and indemnity associations (or any successor organisation designated by the Facility Agent for this purpose) or the International Group (or such successor organisation) itself; or
 - (ii) if the International Group or any such successor ceases to exist or ceases to provide or arrange any cover for pollution risks (or any supplemental cover for pollution risks over and above that afforded by the basic entry of each Vessel with its protection and indemnity association), such aggregate amount of cover against pollution risks as shall be available on the open market and by basic entry with a protection and indemnity association for ships of the same type, size, age and flag as each respective Vessel,
- provided that, if any Vessel has ceased trading or is in lay up and in either case has unloaded all cargo, the level of pollution risks cover afforded by ordinary protection and indemnity cover available through a member of the International Group or such successor organisation or, as the case may be, on the open market in such circumstances shall be sufficient for such purposes; and
- (e) at all times after the relevant Delivery Date, whenever any Vessel is trading to Japanese territorial waters and when so required by the Facility Agent, maintain in full force and effect social responsibility insurance in respect of the Vessel with underwriters or insurance companies approved by the Facility Agent and by policies in form and content approved by the Facility Agent, provided always that a first class borrower or operator of vessels such as the Vessels would maintain and effect such social responsibility insurance.

16.27 Obligatory Insurances

Without prejudice to its obligations under Clause 16.26 (Scope of Obligatory Insurances), the Guarantor will:

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- (a) not without the prior consent of the Facility Agent (acting on the instructions of the Majority Lenders) alter any Obligatory Insurance nor make, do, consent or agree to any act or omission which would or might render any Obligatory Insurance invalid, void, voidable or unenforceable or render any sum paid out under any Obligatory Insurance repayable in whole or in part;
 - (b) not cause or permit any Vessel to be operated in any way inconsistent with the provisions or warranties of, or implied in, or outside the cover provided by, any Obligatory Insurance or to be engaged in any voyage or to carry any cargo not permitted by any Obligatory Insurances without first covering the relevant Vessel in the relevant Required Insurance Amount and her freights for an amount approved by the Facility Agent (acting on the instructions of the Majority Lenders) in Dollars or another approved currency with the Insurers;
 - (c) duly and punctually pay when due all premiums, calls, contributions or other sums of money from time to time payable in respect of any Obligatory Insurance;
 - (d) renew all Obligatory Insurances at least fourteen (14) days before the relevant policies or contracts expire, with underwriters or insurance companies either previously approved by the Majority Lenders or of a security rating of A- or higher, and procure that the brokers and/or war risks and protection and indemnity clubs and associations shall promptly confirm in writing to the Facility Agent as and when each renewal is effected;
 - (e) forthwith upon the effecting of any Obligatory Insurance, give written notice of the insurance to the Facility Agent stating the full particulars (including the dates and amounts) of the insurance, and on request produce the receipts for each sum paid by it pursuant to paragraph (c) above;
 - (f) not settle, release, compromise or abandon any claim in respect of any Total Loss unless the Facility Agent (acting on the instructions of the Majority Lenders) is satisfied that such release, settlement, compromise or abandonment will not prejudice the interests of the Finance Parties under or in relation to any Finance Document;
 - (g) arrange for the execution and delivery of such guarantees as may from time to time be required by any protection and indemnity or war risks club or association;
 - (h) procure that the interest of the Facility Agent is noted on all policies of insurance relating to the Vessels;
 - (i) procure that a loss payee provision in the form scheduled to the Insurances Assignment and reflecting the provisions of Clause 16.28 (Application of Insurance Proceeds) is endorsed on all policies of insurance relating to the Vessels;
 - (j) obtain from the relevant insurance brokers and P&I Club letters of undertaking in the forms scheduled to the Insurances Assignments; and
 - (k) in the event that the Guarantor receives payment of any moneys under the Insurance Assignment, save as provided in the loss payable clauses scheduled to the Insurance Assignment, forthwith pay over the same to the Facility Agent and, until paid over, such moneys shall be held in trust for the Facility Agent by the Guarantor.

16.28 Application of Insurance Proceeds

- (a) All sums receivable in respect of the Obligatory Insurances after the occurrence of an Event of Default shall be paid to the Facility Agent and the Facility Agent shall apply them in accordance with Clause 13.7 (Payments).
- (b) Subject to paragraph (a) above:
 - (i) each sum receivable in respect of a major casualty (being any casualty in respect of which the claim or the aggregate of the claims exceeds US\$20,000,000 (or its equivalent)), other than in respect of protection and indemnity risk insurances, shall be paid to the Facility Agent; and
 - (ii) the insurance moneys received by the Facility Agent in respect of any such major casualty shall be paid:
 - (A) to the person to whom the relevant liability shall have been incurred; or
 - (B) upon the Guarantor furnishing evidence satisfactory to the Facility Agent that all loss and damage resulting from the casualty has been properly made good and repaired, to the Guarantor or, at the option of the Facility Agent, to the person by whom any repairs have been or are to be effected.
 - (iii) The receipt by any such person referred to in paragraph (A) and (B) of paragraph (ii) above shall be a full and sufficient discharge of the same to the Facility Agent.
- (c) Subject to paragraph (a) above, each sum receivable in respect of the Obligatory Insurances (insofar as the same are hull and machinery or war risks insurances) which does not exceed US\$20,000,000 or its equivalent shall be paid in full to the Guarantor or to its order and shall be applied by it for the purpose of making good the loss and fully repairing all damage in respect of which the receivable shall have been collected.
- (d) Subject to paragraph (a) above, each sum receivable in respect of protection and indemnity risk Obligatory Insurances shall be paid direct to the person to whom the liability, to which that sum relates, was incurred, or to the Guarantor in reimbursement to it of moneys expended in satisfaction of such liability.
- (e) Notwithstanding any other provision in this Clause 16.28, all sums receivable in respect of Obligatory Insurances relating to a Total Loss shall be applied in accordance with Clause 13.7 (Payments).

16.29 Power of Facility Agent to Insure

If the Guarantor fails to effect and keep in force Obligatory Insurances in accordance with this Agreement, it shall be permissible, but not obligatory, for the Facility Agent to effect and keep in force insurance or insurances in the amounts required under this Agreement and entries in a protection and indemnity association or club and, if it deems necessary or expedient, to insure the war risks upon any Vessel, and the Guarantor will reimburse the Facility Agent for the costs of so doing.

16.30 ISM Code

The Guarantor shall, and shall procure that the Manager shall:

- (a) at all times after the Delivery Date of a Vessel be responsible for compliance by itself and by such Vessel with the ISM Code;
- (b) at all times after the Delivery Date of a Vessel ensure that:
 - (i) the Vessel has a valid Safety Management Certificate (as defined in the ISM Code);
 - (ii) the Vessel is subject to a safety management system (as defined in the ISM Code) which complies with the ISM Code; and
 - (iii) there is a valid Document of Compliance (as defined in the ISM Code) which is held on board the Vessel, and shall deliver to the Facility Agent, on or before the Delivery Date of a Vessel, a copy of a valid Safety Management Certificate and a valid Document of Compliance in respect of the relevant Vessel, in each case duly certified by an officer of the Guarantor;
- (c) promptly notify the Facility Agent of any actual or, upon becoming aware of the same, threatened withdrawal of an applicable Safety Management Certificate or Document of Compliance;
- (d) promptly notify the Facility Agent of the identity of the person ashore designated for the purposes of paragraph 4 of the ISM Code and of any change in the identity of that person; and
- (e) promptly upon becoming aware of the same notify the Facility Agent of the occurrence of any accident or major non-conformity (as defined in the ISM Code) requiring action under the ISM Code.

16.31 ISPS Code

The Guarantor shall, and shall procure that the Manager shall, at all times after the Delivery Date of a Vessel:

- (a) comply and be responsible for compliance by itself and by such Vessel with the ISPS Code;
- (b) ensure that:
 - (i) the Vessel has a valid International Ship Security Certificate;
 - (ii) the Vessel's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Vessel's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place.

16.32 No amendment to Related Contracts

No Security Party shall amend or agree to any material amendment to the Related Contracts without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

16.33 Dry Docking

The Guarantor shall procure that the Manager shall from time to time have sufficient liquid funds available to ensure that, on the date of the scheduled dry docking of a Vessel, the Manager shall have sufficient available liquid funds to meet all of its obligations under the Management Agreement including, but not limited to, the cost of such scheduled dry docking in relation to that Vessel.

16.34 Tonnage

The Guarantor shall procure that, at all times prior to the Final Maturity Date, the tonnage weighted average age of the Vessels (calculated in a manner satisfactory to the Facility Agent), shall not at any time exceed twelve years.

16.35 SAFE approval

The Guarantor shall procure that the Charter Guarantor obtains prior SAFE approval and attends to any necessary SAFE registrations in relation to each guarantee issued within thirty five (35) days of the issue of the guarantee.

17. FINANCIAL COVENANTS

17.1 Definitions

In this Clause:

Cash and Cash Equivalents means, as at any date of determination:

- (a) cash in hand or on deposit in the Retention Account;
- (b) any investment in marketable obligations issued or guaranteed by the government of the United States of America, Canada or the United Kingdom or by an instrumentality or agency of the government of the United States of America, Canada or the United Kingdom, maturing within one (1) year after the relevant date of calculation;
- (c) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having, a credit rating of either A by S&P or Fitch or A2 by Moody's which time deposits and certificates of deposit mature within one (1) year after the relevant date of calculation;
- (d) repurchase obligations with a term of not more than ninety (90) days for underlying securities of the type referred to in subclause (b) above entered into with any bank meeting the qualifications specified in subclause (c) above;
- (e) open market commercial paper:
 - (i) for which a recognised trading market exists;

- (ii) issued in the United States of America, Canada or the United Kingdom;
 - (iii) which matures within one (1) year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 by S&P or Fitch or P-1 by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term debt obligations, an equivalent rating; and
- (f) any other instrument, security or investment approved by the Majority Lenders,

in each case, to which the Guarantor is beneficially entitled at that time, which is unencumbered (other than by any of the Security Documents) and which is capable of being applied against Total Borrowings.

EBITDA means the net income of the Guarantor for a Measurement Period as adjusted by:

- (a) adding back taxation;
- (b) adding back Interest Expenses;
- (c) taking no account of any extraordinary item;
- (d) excluding any amount attributable to minority interests;
- (e) adding back depreciation and amortisation; and
- (f) taking no account of any revaluation of an asset or any loss or gain over book value arising on the disposal of an asset (otherwise than in the ordinary course of trading) by the Guarantor during that Measurement Period.

Interest and Principal Coverage Ratio means, as at any date of determination and with respect to any period, the ratio of EBITDA for such period to Interest and Principal Expense for such period.

Interest and Principal Expense means all Interest Expense incurred and all payments of principal made by the Guarantor during a Measurement Period.

Interest Expense means all cash interest and cash commitment fees incurred by the Guarantor during a Measurement Period.

Marketable Securities means any bonds, stocks, notes or bills payable in a freely convertible and transferable currency and which are listed on a stock exchange acceptable to the Facility Agent (acting on the instructions of the Majority Lenders).

Net Interest Coverage Ratio means, as at any date of determination and with respect to any period, the ratio of EBITDA for such period to Net Interest Expense for such period.

Net Interest Expense means Interest Expense less all interest and other financing charges received by the Guarantor during a Measurement Period.

Tangible Net Worth means at any time the amount paid up or credited as paid up on the issued share capital of the Guarantor based on the latest published audited balance sheet of the Guarantor (the latest balance sheet) but adjusted by:

- (a) adding any amount standing to the credit of the profit and loss account of the Guarantor for the period ending on the date of the latest balance sheet;

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- (b) deducting any dividend or other distribution declared, recommended or made by the Guarantor;
 - (c) deducting any amount standing to the debit of the profit and loss account of the Guarantor for the period ending on the date of the latest balance sheet;
 - (d) deducting any amount attributable to goodwill (other than goodwill attributable to the Vessels) or any other intangible asset;
 - (e) deducting any amount attributable to an upward revaluation of assets after the date of this Agreement;
 - (f) adding the amount referred to in Schedule 11 for the date of the latest balance sheet which represents the difference between the purchase price for certain delivered vessels paid by the Guarantor and the book value of such vessels reduced for depreciation in equal increments over a thirty (30) year period;
 - (g) reflecting any variation in the amount of the issued share capital of the Guarantor and the capital and revenue reserves of the Guarantor after the date of the latest balance sheet;
 - (h) reflecting any variation in the interest of the Guarantor since the date of the latest balance sheet;
 - (i) excluding any amount attributable to deferred taxation; and
 - (j) excluding any amount attributable to minority interests.

Total Assets means, at any date, the aggregate of:

- (a) the then current book values of all vessels owned or leased with a purchase option by the Guarantor, but adding back in relation to the vessels listed in Schedule 11, the amount referred to in paragraph (f) of the definition of Tangible Net Worth;
- (b) the then current aggregate amount of cash, Marketable Securities (but no other bonds, notes or bills and less any cash or Marketable Securities accounted for in the definition of Total Borrowings below) and receivables due to the Guarantor (less provision for bad and doubtful debts) as shown in the latest financial statements; and
- (c) the book values of all other (non-shipping) assets as shown in such latest financial statements.

Total Borrowings means, in respect of the Guarantor, at any time the aggregate of the following:

- (a) the outstanding principal amount of any moneys borrowed;
- (b) the outstanding principal amount of any acceptance under any acceptance credit;
- (c) the outstanding principal amount of any bond, note, debenture, loan stock or other similar instrument;

- (d) the capitalised element of indebtedness under a finance or capital lease;
- (e) the outstanding principal amount of all moneys owing in connection with the sale or discounting of receivables (otherwise than on a non-recourse basis);
- (f) the outstanding principal amount of any indebtedness arising from any deferred payment agreements arranged primarily as a method of raising finance or financing the acquisition of an asset;
- (g) any fixed or minimum premium payable on the repayment or redemption of any instrument referred to in paragraph (c) above;
- (h) the outstanding principal amount of any indebtedness arising in connection with any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing; and
- (i) the outstanding principal amount of any indebtedness of any person of a type referred to in the above paragraphs which is the subject of a guarantee, indemnity or similar assurance against financial loss given by the Guarantor.

17.2 Interpretation

- (a) Except as provided to the contrary in this Agreement, an accounting term used in this Clause is to be construed in accordance with U.S. GAAP.
- (b) Any amount in a currency other than Dollars is to be taken into account at its Dollar equivalent calculated on the basis of:
 - (i) the Facility Agent's spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market with Dollars at or about 11.00 a.m. on the day the relevant amount falls to be calculated; or
 - (ii) if the amount is to be calculated on the last day of a financial period of the Guarantor, the relevant rates of exchange used by the Guarantor in, or in connection with, its financial statements for that period.
- (c) No item must be credited or deducted more than once in any calculation under this Clause.

17.3 Tangible Net Worth

The Guarantor must ensure that Tangible Net Worth always exceeds four hundred and fifty million Dollars (US\$450,000,000).

17.4 Gearing

Unless waived by the Facility Agent (acting on the instructions of the Majority Lenders) the Guarantor must ensure that Total Borrowings are always less than sixty five per cent (65%) of Total Assets at that time.

17.5 Minimum Liquidity

If, at any time, more than fifty per cent (50%) of the Vessels (assessed by value) are subject to time charters which have a remaining term of one year or less (excluding any optional

extensions not then exercised), the Guarantor must ensure that the Cash and Cash Equivalents held by the Guarantor at such date of determination are not less than twenty five million Dollars (US\$25,000,000).

17.6 Net Interest Coverage Ratio

The Guarantor must ensure that the Net Interest Coverage Ratio is always greater than 2.50 to 1.

17.7 Interest and Principal Coverage Ratio

The Guarantor must ensure that the Interest and Principal Coverage Ratio is always greater than or equal to 1.1 to 1.

17.8 Charter Default

The Guarantor must ensure at all times following a breach by the Charterer in circumstances where substitute charters required under Clause 16.25 (Charter Breach, Expiration or Termination of Charter) have not been entered into by the Guarantor within ninety (90) days of such Charter Breach, that the aggregate Market Value of the Vessels then delivered shall not be less than 125 per cent. of the aggregate principal amount of the outstanding Loans relating to such Vessels.

17.9 Testing of Financial Covenants

- (a) Each of the financial covenants set out in Clauses 17.3 to 17.8 (inclusive) shall be tested by reference to each rolling twelve (12) month Measurement Period, provided always that the Interest and Principal Coverage Ratio referred to in Clause 17.7 shall be tested on the basis of the financial statements of the Guarantor for the last fiscal quarter of the Guarantor in the event of the occurrence of the circumstances set out in Clause 17.8.
- (b) The Guarantor shall provide a Compliance Certificate each quarter in respect of the financial covenants.

18. GUARANTEE AND INDEMNITY

18.1 Guarantee and Indemnity

In consideration of the agreement of the Lenders to make the Facility available to the Borrowers, the Guarantor:

- (a) irrevocably and unconditionally guarantees to the Facility Agent to discharge on first demand of the Facility Agent all of the liabilities and obligations of the Borrowers which the Borrowers have failed to discharge, including interest payable pursuant to Clause 7.3 (Interest on overdue amounts) from the date of demand until the date of payment, both before and after judgment; and
- (b) agrees, as a separate and independent obligation, that, if any of the liabilities and obligations of the Borrowers are not recoverable from the Guarantor under Clause 18.1(a) for any reason, the Guarantor will be liable to the Facility Agent, as a principal debtor by way of indemnity for the same amount as that for which it would have been liable had those liabilities and obligations of the Borrowers been recoverable and agrees to discharge its liability under this Clause 18.1(b) on first demand of the Facility Agent together with interest payable pursuant to Clause 7.3 (Interest on overdue amounts) from the date of demand until the date of payment, both before and after judgement.

18.2 Continuing Security

This Guarantee is a continuing security for the full amount of the liabilities and obligations of the Borrowers from time to time and shall remain in force notwithstanding the liquidation of the Borrowers or any change in the constitution of the Borrowers or of any of the Finance Parties or the absorption of or amalgamation by any of the Finance Parties in or with any other entity or the acquisition of all or any part of the assets or undertaking of any of the Finance Parties by any other entity.

18.3 Preservation of Guarantor's liability

The Finance Parties may without the consent of the Guarantor and without notice to the Guarantor and without in any way releasing or reducing the liabilities and obligations of the Guarantor under this Guarantee:

- (a) agree with the Borrowers to amend, novate, supplement or replace all or any of the Finance Documents to which the Guarantor is not a party;
- (b) agree with the Borrowers to increase or reduce the amount of the Facility or vary the terms and conditions for its repayment or reduction (including, without limitation, the rate and/or method of calculation of interest);
- (c) allow to the Borrowers or to any other person any time or other indulgence;
- (d) renew, release or refrain from enforcing any of the Finance Documents or any other security, guarantee or indemnity which any of the Finance Parties may now or in the future hold from the Borrowers or from any other person;
- (e) compound with the Borrowers or any other person;
- (f) enter into, renew, vary or terminate any other agreement or arrangement with the Borrowers with their agreement or with any other person; or
- (g) make any concession to the Borrowers or do or omit or neglect to do anything which might, but for this provision, operate to release or reduce the liability of the Guarantor under this Guarantee.

18.4 Continuing liability

The liability of the Guarantor under the Guarantee shall not be affected by:

- (a) the absence of or any defective, excessive or irregular exercise of any of the powers of the Borrowers;
- (b) any security given or payment made to any of the Finance Parties by the Borrowers or any other person being avoided or reduced under any law (whether English or foreign) relating to bankruptcy or insolvency or analogous circumstance in force from time to time;
- (c) the liquidation, administration, receivership or insolvency of the Guarantor or any of the other Security Parties;

- (d) any other security, guarantee or indemnity now or in the future held by any of the Finance Parties being defective, void or unenforceable, or the failure of any of the Finance Parties to take any security, guarantee or indemnity;
- (e) any composition, assignment or arrangement being made by any of the other Security Parties with any of its creditors;
- (f) the novation of any of the obligations and liabilities of the Borrowers; or
- (g) anything which would not have released or reduced the liability of the Guarantor had the liability of the Guarantor under Clause 18.1(a) been as a principal debtor and not as a guarantor.

18.5 Preservation of Finance Parties' rights

- (a) This Guarantee is in addition to any other security, guarantee or indemnity now or in the future held by any of the Finance Parties in respect of the obligations and liabilities of the Borrowers, whether from the Borrowers or the Guarantor, and shall not merge with, prejudice or be prejudiced by any such security, guarantee or indemnity or any contractual or legal right of any of the Finance Parties.
- (b) Any release, settlement, discharge or arrangement relating to the liabilities of the Guarantor under this Guarantee shall be conditional on no payment, assurance or security received by any of the Finance Parties in respect of the obligations and liabilities of the Borrowers being avoided or reduced under any law (whether English or foreign) in force from time to time relating to bankruptcy, insolvency or any (in the opinion of the Facility Agent) analogous circumstance and after any such avoidance or reduction, the Facility Agent shall be entitled to exercise all of its rights, powers, discretions and remedies under or pursuant to this Guarantee and/or any other rights, powers, discretions or remedies which it would otherwise have been entitled to exercise, as if no release, settlement, discharge or arrangement had taken place.
- (c) Following the complete discharge of the obligations and liabilities of the Borrowers, the Facility Agent shall be entitled to retain any security which it may hold for the liabilities of the Guarantor under this Guarantee until the Facility Agent is satisfied in its discretion that it will not have to make any payment under any law referred to in Clause 18.5(b).
- (d) Until all claims of the Finance Parties in respect of the obligations and liabilities to the Borrowers have been discharged in full:
 - (i) the Guarantor shall not be entitled to participate in any security held or sums received by any of the Finance Parties in respect of all or any part of the obligations and liabilities of the Borrowers;
 - (ii) the Guarantor shall not stand in the place of, or be subrogated for, any of the Finance Parties in respect of any security nor take any step to enforce any claim against the Borrowers nor claim or exercise any right of set off or counterclaim against the Borrowers nor make any claim in the bankruptcy or liquidation of the Borrowers in respect of any sums paid by the Guarantor to any of the Finance Parties or in respect of any sum which includes the proceeds of realisation of any security at any time held by any of the Finance Parties in respect of all or any part of the liabilities and obligations of the Guarantor; and

- (iii) the Guarantor shall not take any steps to enforce any claim which it may have against the Borrowers without the prior written consent of the Facility Agent and then only on such terms and subject to such conditions as the Facility Agent may impose.
- (e) The Finance Parties may, but shall not be obliged to, resort for their own benefit to any other means of payment at any time and in any order they think fit without releasing or reducing the liabilities and obligations of the Guarantor.
- (f) The Facility Agent may enforce this Guarantee either before or after resorting to any other means of payment and, in the latter case, without entitling the Guarantor to any benefit from or share in any such other means of payment for so long as the obligations and liabilities of the Borrowers have not been discharged in full when due.
- (g) The Guarantor confirms that it has not taken and will not take without the prior written consent of the Facility Agent (and then only on such terms and subject to such conditions as the Facility Agent may impose) any security from the Borrowers in connection with this Guarantee, and any security taken by the Guarantor notwithstanding this Clause 18.5(g) shall be held by the Guarantor in trust for the Facility Agent absolutely as a continuing security for the liabilities and obligations of the Guarantor.
- (h) The Guarantor agrees that it is, and will throughout the term of the Facility remain, a principal debtor in respect of its liabilities and obligations.

19. DEFAULT

19.1 Events of Default

Each of the events set out in this Clause 19 is an Event of Default.

19.2 Non-payment

A Security Party does not pay on the due date any amount payable by it under the Finance Documents in the manner required under the Finance Documents, unless the non-payment:

- (a) is caused by technical or administrative error; and
- (b) is remedied within three (3) Business Days of the due date.

19.3 Breach of other obligations

- (a) A Security Party does not comply with any term of Clause 16 (General Covenants) or Clause 17 (Financial Covenants), unless the non-compliance:
 - (i) is capable of remedy; and
 - (ii) is remedied within thirty (30) days of the earlier of the Facility Agent giving notice to the Security Parties and discovery (and for the purposes of this paragraph **discovery** means actual awareness).

The Security Parties acknowledge that for the purposes of paragraph (i) above, non-compliance with the following shall not be capable of remedy:

- (A) Clause 16.10(a) and 16.10(b) (Security), but in respect of subparagraph (b) only insofar as it relates to the Mortgage, the Time Charter, and Earnings Assignment and the Insurances Assignment;

- (B) Clause 16.12(a) (Registration of the Vessels);
- (C) the Obligatory Insurances being in full force and effect; and
- (D) Clause 17 (Financial Covenants),

provided always that, in the case of (A) and (B) above, if the non-compliance is caused by technical or administrative error only, is corrected within three (3) Business Days of the earlier of the Facility Agent giving notice to the Security Parties and discovery (**discovery** having the same meaning as in Clause 19.3(a)(ii)), and, in the case of (C) above, if the non-compliance is caused by technical or administrative error only, is corrected within one (1) Business Day and in each case the Facility Agent (acting on the good faith and reasonable instructions of the Majority Lenders) is satisfied that the Finance Parties have neither suffered nor will, in the future, suffer any material detriment (whether financial, to their security position or otherwise howsoever) as a result of the non-compliance.

- (b) The Borrowers fail to comply with the terms of Clause 6.2(b) or one of the events listed in Clause 6.5(a) occurs and the Guarantor does not comply with the terms of Clause 6.5(b) or Clause 6.6 within the time periods specified in Clauses 6.5 and 6.6.
- (c) Any Party (other than a Finance Party or the Account Bank) does not comply with any other term of the Finance Documents not already referred to in this Clause which the Facility Agent (acting on the good faith and reasonable instructions of the Majority Lenders) considers to be material, unless the non-compliance:
 - (i) is capable of remedy; and
 - (ii) is remedied within fourteen (14) days of the earlier of the Facility Agent giving notice and discovery by the relevant Party (**discovery** having the same meaning as in Clause 19.3(a)(ii)) of the non-compliance.

19.4 Misrepresentation

A representation made or repeated by the Security Parties (or by any other Party other than a Finance Party or the Account Bank) in any Finance Document or in any document delivered by or on behalf of the Security Parties under any Finance Document is incorrect in any respect which the Facility Agent (acting on the good faith and reasonable instructions of the Majority Lenders) considers to be material when made or deemed to be repeated, unless the circumstances giving rise to the misrepresentation:

- (a) are capable of remedy; and
- (b) are remedied within thirty (30) days of the earlier of the Facility Agent giving notice and the relevant Party becoming aware of the misrepresentation.

19.5 Cross-default

Any of the following occurs in respect of any Security Party:

- (a) any of its Financial Indebtedness is not paid when due (after the expiry of any originally applicable grace period);

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- (b) any of its Financial Indebtedness:
 - (i) becomes prematurely due and payable; or
 - (ii) is placed on demand; or
 - (iii) is capable of being declared by a creditor to be prematurely due and payable or being placed on demand, in each case, as a result of an event of default (howsoever described) and after the expiry of any applicable grace period; or
 - (c) any commitment for its Financial Indebtedness is cancelled or suspended as a result of an event of default (howsoever described),

unless the aggregate amount of Financial Indebtedness falling within paragraphs (a) to (c) above is less than US\$25,000,000 or its equivalent .

19.6 Insolvency

Any of the following occurs in respect of any Security Party:

- (a) it is, or is deemed for the purposes of any Applicable Law to be, unable to pay its debts as they fall due or insolvent;
- (b) it admits its inability to pay its debts as they fall due;
- (c) it suspends making payments on any of its debts or announces an intention to do so;
- (d) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling of any of its indebtedness; or
- (e) a moratorium is declared in respect of any of its indebtedness.

If a moratorium occurs in respect of a Security Party, the ending of the moratorium will not remedy any Event of Default caused by the moratorium.

19.7 Insolvency proceedings

- (a) Except as provided in paragraph (b) below, any of the following occurs in respect of a Security Party:
 - (i) any step is taken with a view to a moratorium, a composition, assignment or similar arrangement with any of its creditors;
 - (ii) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution to petition for or to file documents with a court for its winding-up, administration or dissolution or any such resolution is passed;
 - (iii) any person presents a petition, or files documents with a court for its winding-up, administration or dissolution;

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- (iv) an order for its winding-up, administration or dissolution is made;
 - (v) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets;
 - (vi) its directors, shareholders or other officers request the appointment of, or give notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer; or
 - (vii) any other analogous step or procedure is taken in any jurisdiction.
- (b) Paragraph (a) above does not apply to a frivolous or vexatious petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within fourteen (14) days.

19.8 Creditors' process

Any attachment, sequestration, distress, execution or analogous event affects any asset(s) of a Security Party, having an aggregate value of twenty five million Dollars (US\$25,000,000) or its equivalent and is not discharged within thirty (30) days.

19.9 Cessation of business

A Security Party ceases, or threatens to cease, to carry on business except as a result of any disposal not prohibited under this Agreement.

19.10 Failure to pay final judgment

A Security Party fails to comply with or pay any sum due from it under any final judgment or any final order made or given by any court of competent jurisdiction.

19.11 Effectiveness of Finance Documents

- (a) It is or becomes unlawful for any Party (other than a Finance Party or the Account Bank) to perform any of its material obligations under the Finance Documents.
- (b) Any material provision of a Finance Document is not effective or is alleged by a Security Party to be ineffective for any reason.
- (c) Any material provision of a Finance Document is not effective or is alleged by any Party (other than a Finance Party, a Security Party or the Account Bank) to be ineffective for any reason.
- (d) A Security Party repudiates any material provision of a Finance Document or evidences an intention to repudiate any material provision of a Finance Document.
- (e) Any Party (other than a Finance Party or the Account Bank) repudiates any material provision of a Finance Document or evidences an intention to repudiate any material provision of a Finance Document.

19.12 Invalidity of Security Documents

Any of the Security Documents ceases to be valid in any material respect or any of those Security Documents creating a Security Interest in favour of the Facility Agent ceases to provide a perfected first priority security interest in favour of the Facility Agent.

19.13 Acceleration

If an Event of Default is outstanding, the Facility Agent, if the Majority Lenders so instruct it, shall by notice to the Borrowers:

- (a) cancel the undrawn, uncanceled amount of the Maximum Facility Amount; and/or
- (b) declare that all or part of any amounts outstanding under the Finance Documents are:
 - (i) immediately due and payable; and/or
 - (ii) payable on demand by the Facility Agent.

Any notice given under this Subclause will take effect in accordance with its terms.

20. SECURITY

20.1 Facility Agent as trustee

Unless expressly provided to the contrary herein or in any Finance Document and except as otherwise required by Applicable Law, the Facility Agent holds any security created by a Security Document on trust for the Finance Parties.

20.2 Responsibility

The Facility Agent is not liable or responsible to any other Finance Party for:

- (a) any failure in perfecting or protecting the security created by any Security Document; or
- (b) any other action taken or not taken by it in connection with any Security Document, unless directly caused by its gross negligence or wilful misconduct.

20.3 Title

The Facility Agent may accept, without enquiry, the title (if any) a Security Party may have to any asset over which security is intended to be created by any Security Document.

20.4 Possession of documents

The Facility Agent is not obliged to hold in its own possession any Security Document, title deed or other document in connection with any asset over which security is intended to be created by a Security Document.

20.5 Investments

Except as otherwise provided in any Security Document, all moneys received by the Facility Agent under a Security Document will, until utilised, be invested in the name of, or under the

control of, the Facility Agent in any investments selected by the Facility Agent (acting on the instructions of the Majority Lenders). Additionally, those moneys may be placed on deposit in the name of, or under the control of, the Facility Agent at any bank or institution (including itself) and upon such terms as it may think fit. Any interest or profit earned by the Facility Agent in connection with such investments shall be that of the Borrowers and added to the Security Assets.

20.6 Approval

Each Finance Party confirms its approval of each Security Document.

20.7 Release of security

- (a) If a disposal of any Security Asset is made to a third party in the following circumstances:
- (i) the Majority Lenders agree to the disposal;
 - (ii) the disposal is allowed by the terms of the Finance Documents and will not result or could not reasonably be expected to result in any breach of any term of any Finance Document;
 - (iii) the disposal is being made at the request of the Facility Agent in circumstances where any security created by the Security Documents has become enforceable; or
 - (iv) the disposal is being effected by enforcement of a Security Document,
- or a prepayment is made pursuant to Clauses 6.3 (Removal of a Vessel), 6.5 (Mandatory prepayment – Sale, Total Loss or non delivery of a Vessel), 6.7 (Voluntary prepayment) or Clause 6.13 (Reduction of Maximum Facility Amount) and, in any such case, the Facility Agent is satisfied that the relevant Loan will be prepaid in full in accordance with Clause 6.3 (Removal of a Vessel) or 6.5(a)(i) (Mandatory prepayment – Sale, Total Loss or non delivery of a Vessel) as applicable at the time of the disposal or prepayment, the asset being disposed of or to which the prepayment relates will be released from any security over it created by a Security Document. However, the proceeds of any disposal or prepayment (or an amount corresponding to them) must be applied in accordance with the requirements of the Finance Documents (if any).
- (b) Following the Final Maturity Date, if the Loans and any other sums due and payable under any Finance Document have been irrevocably and unconditionally repaid in full to the satisfaction of the Finance Parties, then the relevant Mortgage and any other Security Interest shall be released.
- (c) If the Facility Agent is satisfied that a release is allowed under this Subclause, the Facility Agent must execute (at the request and expense of the Security Parties) any document which is reasonably required to achieve that release. Each other Finance Party irrevocably authorises the Facility Agent to execute any such document.

20.8 Co-security Agent

- (a) The Facility Agent may appoint a separate security agent or a co-security agent in any jurisdiction outside the People's Republic of China:
- (i) if the Facility Agent considers that without the appointment the interests of the Lenders under the Finance Documents might be materially and adversely affected;

- (ii) for the purpose of complying with any law, regulation or other condition in any jurisdiction; or
 - (iii) for the purpose of obtaining or enforcing a judgment or enforcing any Finance Document in any jurisdiction.
- (b) Any appointment under this Subclause will only be effective if the security agent or co-security agent confirms to the Facility Agent and the Security Parties in form and substance satisfactory to the Facility Agent that it is bound by the terms of this Agreement as if it were the Facility Agent.
 - (c) The Facility Agent may remove any security agent or co-security agent appointed by it and may appoint a new security agent or co-security agent in its place.
 - (d) The Borrowers must pay to the Facility Agent any reasonable remuneration paid by the Facility Agent to any security agent or co-security agent appointed by it, together with any related costs and expenses properly incurred by the security agent or co-security agent.

21. THE ADMINISTRATIVE PARTIES

21.1 Appointment and duties of the Facility Agent

- (a) Each Finance Party (other than the Facility Agent) irrevocably appoints the Facility Agent to act as its agent under the Finance Documents.
- (b) Each Finance Party irrevocably authorises the Facility Agent on its behalf to:
 - (i) perform the duties and to exercise the rights, powers and discretions that are specifically given to it under the Finance Documents, together with any other incidental rights, powers and discretions; and
 - (ii) execute each Finance Document expressed to be executed by the Facility Agent on that Party's behalf.
- (c) The Facility Agent has only those duties which are expressly specified in the Finance Documents. Those duties are solely of a mechanical and administrative nature.

21.2 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger in its capacity as Arranger has no obligations of any kind to any other Party in connection with any Finance Document.

21.3 No fiduciary duties

Except as specifically provided in a Finance Document, nothing in the Finance Documents makes an Administrative Party a trustee or fiduciary for any other Party or any other person. No Administrative Party needs to hold in trust any moneys paid to it for a Party or be liable to account for interest on those moneys.

21.4 Individual position of an Administrative Party

- (a) If it is also a Lender, each Administrative Party has the same rights and powers under the Finance Documents as any other Lender and may exercise those rights and powers as though it were not an Administrative Party.
- (b) Each Administrative Party may:
 - (i) carry on any business with a Security Party or its related entities (including acting as an agent or a trustee for any other financing); and
 - (ii) retain any profits or remuneration it receives under the Finance Documents or in relation to any other business it carries on with a Security Party or its related entities.

21.5 Reliance

The Facility Agent may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
- (c) engage, pay for and rely on professional advisors selected by it; and
- (d) act under the Finance Documents through its personnel and agents.

21.6 Majority Lenders' instructions

- (a) The Facility Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by the Majority Lenders will be binding on all the Lenders. In the absence of instructions, unless the Finance Documents expressly provide that the Facility Agent acts on the instructions of the Majority Lenders in exercising the relevant right, power or discretion, the Facility Agent may act as it considers to be in the best interests of all the Lenders.
- (b) Each Lender acknowledges and confirms that it shall act in a reasonable manner when reaching any decision as to the exercise or non-exercise of any right, power or discretion by the Facility Agent.
- (c) The Facility Agent may assume that unless it has received notice to the contrary, any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised.
- (d) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings in connection with any Finance Document.
- (e) The Facility Agent may require the receipt of security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it may incur in complying with the instructions of the Majority Lenders.

21.7 Responsibility

- (a) No Administrative Party is responsible to any other Finance Party for the adequacy, accuracy or completeness of:
 - (i) any Finance Document or any other document; or
 - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document.
- (b) Without affecting the responsibility of the Borrowers for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms that it:
 - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of the Borrowers and their related entities and the nature and extent of any recourse against any Party or its assets); and
 - (ii) has not relied exclusively on any information provided to it by any Administrative Party in connection with any Finance Document.

21.8 Exclusion of liability

- (a) The Facility Agent is not liable or responsible to any other Finance Party for any action taken or not taken by it in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent, in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in connection with any Finance Document. Any officer, employee or agent of the Facility Agent may rely on this Subclause and enforce its terms under the Contracts (Rights of Third Parties) Act 1999.

21.9 Default

- (a) The Facility Agent is not obliged to monitor or enquire whether a Default has occurred. The Facility Agent is not deemed to have knowledge of the occurrence of a Default.
- (b) If the Facility Agent:
 - (i) receives notice from a Party referring to this Agreement, describing a Default and stating that the event is a Default; or
 - (ii) is aware of the non-payment of any principal or interest or any fee payable to a Lender under this Agreement,it must promptly notify the Lenders.

21.10 Information

- (a) The Facility Agent must promptly forward to the person concerned the original or a copy of any document which is delivered to the Facility Agent by a Party for that person.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) Except as provided above, the Facility Agent has no duty:
 - (i) either initially or on a continuing basis to provide any Lender with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of the Guarantor or its related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
 - (ii) unless specifically requested to do so by a Lender in accordance with a Finance Document, to request any certificate or other document from the Security Parties.
- (d) In acting as the Facility Agent, the agency division of the Facility Agent is treated as a separate entity from its other divisions and departments. Any information acquired by the Facility Agent which, in its opinion, is acquired by it otherwise than in its capacity as the Facility Agent may be treated as confidential by the Facility Agent and will not be treated as information possessed by the Facility Agent in its capacity as such.
- (e) The Security Parties irrevocably authorise the Facility Agent to disclose to the other Finance Parties any information which is received by it in its capacity as the Facility Agent.

21.11 Indemnities

- (a) Without limiting the liability of the Security Parties under the Finance Documents, each Lender must indemnify the Facility Agent for that Lender's *Pro Rata* Share of any loss or liability incurred by the Facility Agent in acting as the Facility Agent, except to the extent that the loss or liability is caused by the Facility Agent's gross negligence or wilful misconduct.
- (b) The Facility Agent may deduct from any amount received by it for a Lender any amount due to the Facility Agent from that Lender under a Finance Document but unpaid.

21.12 Compliance

Each Administrative Party may refrain from doing anything (including disclosing any information) which might, based on the reasonable opinion of its legal counsel, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

21.13 Resignation of the Facility Agent

- (a) The Facility Agent may resign by giving written notice to the Lenders and the Borrowers, in which case the Majority Lenders shall appoint a successor facility agent of which the Borrowers approve, such approval not to be unreasonably withheld or delayed.
- (b) If no successor Facility Agent has been appointed under paragraph (a) above within thirty (30) days after notice of resignation was given, the Facility Agent may appoint a successor Facility Agent.
- (c) The resignation of the Facility Agent and the appointment of any successor facility agent will both become effective only when the successor facility agent notifies all the Parties that it accepts its appointment and confirms that it is satisfied that the rights under the Security Documents have been assigned or transferred to it. On giving the notification and confirmation, the successor facility agent will succeed to the position of the Facility Agent and the term **Facility Agent** will mean the successor facility agent.
- (d) The retiring Facility Agent must, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as the Facility Agent under the Finance Documents.
- (e) Upon its resignation becoming effective, this Clause will continue to benefit the retiring Facility Agent in respect of any action taken or not taken by it in connection with the Finance Documents while it was the Facility Agent and, subject to paragraph (d) above, it will have no further obligations in its capacity as Facility Agent under any Finance Document.
- (f) The Majority Lenders may, by notice to the Facility Agent, require it to resign under paragraph (a) above.

21.14 Relationship with Lenders

- (a) The Facility Agent may treat each Lender as a Lender entitled to payments under this Agreement and as acting through its Facility Office(s) until it has received not less than five (5) Business Days' prior notice from that Lender to the contrary.
- (b) The Facility Agent may at any time, and must if requested to do so by the Majority Lenders, convene a meeting of the Lenders.
- (c) The Facility Agent must keep a register of all the Parties and supply any other Party with a copy of the register on request. The register will include each Lender's Facility Office(s) and contact details for the purposes of this Agreement.

21.15 Notice period

Where this Agreement specifies a minimum period of notice to be given to the Facility Agent, the Facility Agent may, at its discretion, accept a shorter notice period.

21.16 Calculation and notification of Mandatory Cost

- (a) Each Lender shall, if it wishes to charge a Mandatory Cost in respect of a Loan, calculate such cost in accordance with Schedule 5 (calculation of Mandatory Cost) and inform the Facility Agent of the amount thereof on or before 3:00 pm (Beijing time) on the Rate Fixing Day for such Loan.
- (b) If a Lender fails to specify its cost under paragraph (a) above or notification thereof is received after the time mentioned in that paragraph, the Facility Agent will assume that such Lender has not incurred any such cost and shall be under no obligation to make claim therefor on the Borrowers.
- (c) No Mandatory Cost may be notified to the Facility Agent which is less than twenty base units of the currency of the Loan in respect of which such cost has been calculated.

22. EVIDENCE AND CALCULATIONS**22.1 Accounts**

Accounts maintained by the Facility Agent in connection with this Agreement are conclusive (save for manifest error) evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

22.2 Certificates and determinations

Any certification or determination by the Facility Agent of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

22.3 Calculations

Any interest or fee accruing under this Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or otherwise, depending on what the Facility Agent determines is market practice.

23. FEES**23.1 Commitment commission**

The Borrowers must pay to the Facility Agent for and on behalf of the Lenders, a commitment commission calculated at the rate of 0.20% per annum on the undrawn, uncanceled amount of the Loans together, throughout the Availability Period, such commission to accrue from day to day on the basis of a 360 day year and the actual number of days elapsed. The accrued commitment commission is payable on the last day of each successive period of three months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancellation amount at the time the cancellation becomes effective.

23.2 Upfront fee

The Borrowers must pay to the Facility Agent an upfront fee in the manner agreed in the Fee Letter between the Facility Agent and the Borrowers.

23.3 Facility Agent's Fee

The Borrowers must pay to the Facility Agent an agency fee in the manner agreed in the Fee Letter between the Facility Agent and the Borrowers.

23.4 Refund of fees

The fees referred to in this Clause 23 and the Fee Letter shall not be refunded under any circumstances whatsoever once they have been paid.

24. INDEMNITIES AND BREAK COSTS**24.1 Currency indemnity**

- (a) The Borrowers shall, as an independent obligation and within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs as a consequence of:
 - (i) the Finance Party receiving an amount in respect of a Security Party's liability under the Finance Documents; or
 - (ii) that liability being converted into a claim, proof, judgment or order,in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.
- (b) The Security Parties waive any right they may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

24.2 Other indemnities

- (a) The Borrowers shall, as an independent obligation and within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs as a consequence of:
 - (i) the occurrence of any Event of Default;
 - (ii) any failure by a Security Party to pay any amount due under a Finance Document on its due date;
 - (iii) (other than by reason of negligence or default by that Finance Party) a Loan (or part of a Loan) not being made after a Request has been delivered for that Loan; or
 - (iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment.The liability of the Borrowers in each case includes any cost, loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or any Loan.
- (b) The Borrowers must indemnify against any cost, loss or liability incurred by any Finance Party as a result of:
 - (i) investigating any event which that Finance Party reasonably believes to be a Default; or

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- (ii) acting or relying on any notice of a Security Party which that Finance Party reasonably believes to be genuine, correct and appropriately authorised.
- (c) The Borrowers must indemnify and agree to hold harmless the Finance Parties and in each case, each of its and their Affiliates and each of their respective officers, directors, employees, agents, advisors and representatives (each, an **Indemnified Party**) from and against any and all claims, damages, losses, liabilities, costs, legal expenses and expenses (altogether **Losses**), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any claim, investigation, litigation or proceeding (or the preparation of any defence with respect thereto) commenced or threatened in relation to the Finance Documents or the Related Contracts (or the transactions contemplated hereby or thereby) or any use made or proposed to be made with the proceeds of the Facility. This indemnity shall apply whether or not such claims, investigation, litigation or proceeding is brought by a Security Party, the shareholders of a Security Party or the creditors of a Security Party, an Indemnified Party or any other person, or an Indemnified Party is otherwise a party thereto, except to the extent such Losses are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or wilful misconduct.
- (d) No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Borrowers or any shareholders or creditors of the Borrowers for or in connection with the transactions referred to in paragraph (c) above, except for direct (as opposed to indirect or consequential) damages or losses to the extent such liability is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or wilful misconduct.
- (e) The Borrowers must indemnify and hold each Finance Party harmless on a full indemnity basis, from and against each and every Loss:
- (i) arising directly or indirectly out of or in any way connected with the ownership, possession, performance, transportation, management, sale, import to or export from any jurisdiction, control, use or operation, registration, navigation, certification, classification, management, manning, provisioning, the provision of bunkers and lubricating oils, testing, design, condition, delivery, acceptance, leasing, subleasing, chartering, insurance, maintenance, repair, service, modification, refurbishment, dry docking, survey, conversion, overhaul, replacement, removal, repossession, return, redelivery, storage, sale, disposal, the complete or partial removal, decommissioning, making safe, destruction, abandonment or loss by the Guarantor or any other person of either of the Vessels or caused by either of the Vessels becoming a wreck or an obstruction to navigation, whether or not such liability may be attributable to any defect in either of the Vessels or to the design, construction or use thereof or from any maintenance, service, repair, dry docking, overhaul, inspection or for any other reason whatsoever (whether similar to any of the foregoing or not), and regardless of when the same shall arise and whether or not either of the Vessels (or any part thereof) is in possession or control of the Guarantor or the Manager or any other person and whether or not the same is in United Kingdom waters or abroad;

- (ii) arising directly or indirectly out of or in any way connected with any Release of Hazardous Material, any Environmental Claim, or any breach of an Environmental Law or the terms and conditions of an Environmental Approval;
- (iii) as a consequence of any claim that any design, article or material in either of the Vessels or any part thereof or relating thereto or the operation or use thereof constitutes an infringement of patent, copyright, design or other proprietary right; or
- (iv) in preventing or attempting to prevent the arrest, seizure, taking in execution, requisition, impounding, forfeiture or detention of either of the Vessels or in securing or attempting to secure the release of either of the Vessels.

24.3 Break Costs

- (a) The Borrowers must pay to each Lender its Break Costs in accordance with this Agreement.
- (b) In respect of a Lender, Break Costs are the amount (if any) determined by the relevant Lender by which:
 - (i) the interest which that Lender would have received for the period from the date of receipt of payment of a Loan or an overdue amount to the last day of the current Term for that Loan or overdue amount if the principal or overdue amount received had been paid on the last day of that Term;
exceeds
 - (ii) the amount which that Lender would be able to obtain by placing an amount equal to the amount received by it on deposit with a leading bank in the appropriate interbank market for a period starting on the Business Day following receipt and ending on the last day of the applicable Term.
- (c) Each Lender must supply to the Borrowers details of the amount of any Break Costs claimed by it under this Clause.

25. EXPENSES

25.1 Initial costs

The Borrowers must pay to each Finance Party the amount of all reasonable costs and expenses (including legal fees) incurred by it in connection with (but not limited to) the negotiation, preparation, printing and execution of the Finance Documents.

25.2 Subsequent costs

The Borrowers must pay to each Finance Party the amount of all reasonable costs and expenses (including legal fees) incurred by it in connection with:

- (a) the negotiation, preparation, printing and execution of any Finance Document (other than a Transfer Certificate) executed after the date of this Agreement; and

(b) any amendment, waiver or consent requested by or on behalf of the Borrowers or specifically allowed by this Agreement. The Borrowers shall not be required to bear the amount of any costs and expenses (including legal fees) incurred by a Lender or a New Lender (as that term is defined in Clause 28.2 (Assignments and transfers by Lenders)) in connection with any voluntary transfer made by a Lender under this Agreement or any of the Security Agreements. In the event that a Lender is required to undertake any such transfers as a result of the provisions of Clause 11.4 (Mitigation), any costs of that Lender or a New Lender arising out of such transfer shall be payable by the Borrowers.

25.3 Enforcement costs

The Borrowers must pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement or attempted enforcement of, or the preservation or attempted preservation of any rights under, any Finance Document.

26. WAIVER OF CONSEQUENTIAL DAMAGES

In no event shall any Finance Party be liable on any theory of liability for any special, indirect, consequential or punitive damages and the Security Parties hereby waive, release and agree (for themselves and on behalf of their Subsidiaries) not to sue upon any such claim for any such damages, unless caused by the fraud, wilful default or recklessness of the relevant Finance Party in performance of any of its obligations under this Agreement or any of the Finance Documents.

27. AMENDMENTS AND WAIVERS

27.1 Procedure

- (a) Except as provided in this Clause 27, no term of the Finance Documents may be amended or waived without the agreement of the Security Parties and the Majority Lenders. The Facility Agent may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause.
- (b) The Facility Agent must promptly notify the other Parties of any amendment or waiver effected by it under paragraph (a) above. Any such amendment or waiver is binding on all the Parties.

27.2 Exceptions

- (a) An amendment or waiver which relates to:
 - (i) the definition of **Majority Lenders** in Clause 1.1 (Definitions);
 - (ii) the definition of any of **Vessel 1** and **Vessel 2** in Clause 1.1 (Definitions);
 - (iii) an extension of the date of payment of any amount to a Lender under the Finance Documents;
 - (iv) a reduction in the amount of any payment of principal, interest, fee or other amount payable to a Lender under the Finance Documents;

- (v) an increase in, or an extension of, a Commitment or the Total Commitments;
- (vi) a release of a Security Party;
- (vii) a term of a Finance Document which expressly requires the consent of each Lender;
- (viii) the right of a Lender to assign or transfer its rights or obligations under the Finance Documents;
- (ix) a reduction in the Margin or the Interest Rate;
- (x) the release of security; or
- (xi) this Clause,

may only be made with the consent of all the Lenders and the Security Parties such consent not to be unreasonably withheld or delayed.

- (b) An amendment or waiver which relates to the rights or obligations of an Administrative Party may only be made with the consent of that Administrative Party, the Majority Lenders and the Security Parties.

27.3 Change of currency

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Finance Documents will be amended to the extent the Facility Agent (acting reasonably and on the instructions of the Majority Lenders and after consultation with the Security Parties) determines is necessary to reflect the change.

27.4 Waivers and remedies cumulative

The rights of each Finance Party under the Finance Documents:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law; and
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

28. CHANGES TO THE PARTIES

28.1 Assignments and transfers by Security Parties

No Security Party may assign or transfer any of its rights and obligations under the Finance Documents without the prior consent of all the Lenders.

28.2 Assignments and transfers by Lenders

- (a) A Lender (the **Existing Lender**) may, subject to the following provisions of this Subclause, at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement to another bank, financial institution or to

a trust, fund or other entity which is regularly engaged or established for the purpose of making, purchasing or otherwise investing in loans, securities or other financial assets (the **New Lender**), provided always that:

- (i) each assignment or transfer shall be uniform, and not a varying percentage of all rights and obligations under this Agreement;
 - (ii) each assignment or transfer shall not result in increased liability to the Borrowers; and
 - (iii) the Facility Agent shall provide to the Borrowers details of the proposed new lenders at least seven (7) Business Days prior to the proposed transfer date and the Borrowers shall approve or object to the identity of any one or more of the proposed new lenders on such list (such approval not to be unreasonably withheld or delayed). The relevant Lender shall be entitled to effect a transfer or assignment to any proposed new lender on such list to which the Borrowers have not objected on reasonable grounds within such seven (7) Business Day period.
- (b) An Existing Lender may at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement:
- (i) to an Affiliate of the Existing Lender; or
 - (ii) following the occurrence and during the continuation of an Event of Default, without the consent of the Borrowers.
- (c) Unless the Borrowers otherwise agree (acting reasonably), a transfer of part of a Commitment or the rights and obligations under this Agreement by the Existing Lender must be in a minimum amount of twenty five million Dollars (US\$25,000,000) unless the Commitment of the Existing Lender is less than such amount, in which case the whole of the Commitment of the Existing Lender may be transferred.
- (d) A transfer of obligations will be effective only if either:
- (i) the obligations are novated in accordance with the following provisions of this Clause 28; or
 - (ii) the New Lender confirms to the Facility Agent and the Borrowers in form and substance reasonably satisfactory to the Facility Agent and the Borrowers that it is bound by the terms of this Agreement.
- (e) On the transfer becoming effective in this manner, the relevant Lender will be released from its obligations under this Agreement to the extent that they are transferred to the New Lender.
- (f) Any reference in this Agreement to a Lender includes a New Lender but excludes a Lender if no amount is or may be owed to or by it under this Agreement.

28.3 Procedure for transfer by way of novations

- (a) In this Subclause:

Transfer Date means, for a Transfer Certificate, the later of:

- (i) the proposed Transfer Date specified in that Transfer Certificate; and
 - (ii) the date on which the Facility Agent executes that Transfer Certificate.
- (b) A novation is effected if:
- (i) the Existing Lender and the New Lender deliver to the Facility Agent a duly completed Transfer Certificate; and
 - (ii) the Facility Agent executes it.
- (c) On the Transfer Date:
- (i) the New Lender will assume the rights and obligations of the Existing Lender expressed to be the subject of the novation in the Transfer Certificate in substitution for the Lender; and
 - (ii) the Existing Lender will be released from those obligations and cease to have those rights.
- (d) Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Facility Agent to execute any duly completed Transfer Certificate on its behalf.

28.4 Limitation of responsibility of Existing Lender

- (a) Unless expressly agreed to the contrary, an Existing Lender is not responsible to a New Lender for:
- (i) the legality, validity, effectiveness, completeness, accuracy, adequacy or enforceability of any Finance Document or any other document;
 - (ii) the financial condition of the Security Parties;
 - (iii) the performance and observance by the Security Parties of their obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statement or information (whether written or oral) made in or supplied in connection with any Finance Document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender that it:
- (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of the Security Parties and their related entities and the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement; and
 - (ii) has not relied exclusively on any information supplied to it by the Existing Lender in connection with any Finance Document.

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- (c) Nothing in any Finance Document requires an Existing Lender to:
 - (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause; or
 - (ii) support any losses incurred by the New Lender by reason of the non-performance by the Security Parties of their obligations under any Finance Document or otherwise.

28.5 Costs resulting from change of Lender or Facility Office

If:

- (a) a Lender assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date of assignment, transfer or change occurs, the Borrowers would be obliged to pay a Tax Payment or an Increased Cost,

then, unless the assignment, transfer or change is made by a Lender to mitigate any circumstances giving rise to a Tax Payment, Increased Cost or a right to be prepaid and/or cancelled by reason of illegality, the Borrowers need only pay that Tax Payment or Increased Cost to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

28.6 Changes to the Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Facility Agent must (in consultation with the Borrowers) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

29. DISCLOSURE OF INFORMATION

Each Finance Party may disclose such information as that Finance Party shall consider appropriate in respect of information supplied to it, by or on behalf of the Security Parties, the Seaspan Group, the Charterers or the Finance Documents to:

- (a) in the case of any other Finance Party, any of its Affiliates; or
- (b) any other person who has not been objected to by the Borrowers pursuant to Clause 28.2(a)(iii) (Assignments and transfers by Lenders), to (or through) whom an Existing Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement or with (or through) whom a Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement or the Borrowers; or
- (c) any person to whom, and to the extent that, information is required to be disclosed by any Applicable Law; or
- (d) any other Finance Party; or
- (e) to its and the Security Parties' professional advisors,

PROVIDED ALWAYS that, in relation to paragraph (b) above, the person to whom the information is to be given has entered into a Confidentiality Undertaking. Except as provided in this Clause, a Lender may not disclose any information about the Security Parties, the Seaspan Group, the Charterers or the Finance Documents to any person.

30. SET-OFF

A Finance Party may set off any matured obligation owed to it by a Security Party under the Finance Documents against any obligation (whether or not matured) owed by that Finance Party to that Security Party, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, that Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

31. PRO RATA SHARING

31.1 Redistribution

If any amount owing by the Borrowers under this Agreement to a Lender (the **recovering Lender**) is discharged by payment, set-off or any other manner other than through the Facility Agent under this Agreement (a **recovery**), then:

- (a) the recovering Lender must, within three (3) Business Days, supply details of the recovery to the Facility Agent;
- (b) the Facility Agent must calculate whether the recovery is in excess of the amount which the recovering Lender would have received if the recovery had been received by the Facility Agent under this Agreement; and
- (c) the recovering Lender must pay to the Facility Agent an amount equal to such excess (the **redistribution**).

31.2 Effect of redistribution

- (a) The Facility Agent must treat a redistribution as if it were a payment by the Borrowers under this Agreement and distribute it among the Lenders, other than the recovering Lender, accordingly.
- (b) When the Facility Agent makes a distribution under paragraph (a) above, the recovering Lender will be subrogated to the rights of the Finance Parties which have shared in that redistribution.
- (c) If and to the extent that the recovering Lender is not able to rely on any rights of subrogation under paragraph (b) above, the Borrowers will owe the recovering Lender a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
 - (i) a recovering Lender must subsequently return a recovery, or an amount measured by reference to a recovery, to the Borrowers; and
 - (ii) the recovering Lender has paid a redistribution in relation to that recovery,

each Finance Party must reimburse the recovering Lender all or the appropriate portion of the redistribution paid to that Finance Party, together with interest for the period while it held the re-distribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

31.3 Exceptions

Notwithstanding any other term of this Clause, a recovering Lender need not pay a redistribution to the extent that:

- (a) it would not, after the payment, have a valid claim against the Borrowers in the amount of the redistribution; or
- (b) it would be sharing with another Finance Party any amount which the recovering Lender has received or recovered as a result of legal or arbitration proceedings, where:
 - (i) the recovering Lender notified the Facility Agent of those proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those proceedings but did not do so or did not take separate legal or arbitration proceedings as soon as reasonably practicable after receiving notice of them.

32. SEVERABILITY

If a term of a Finance Document is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of the Finance Documents; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of the Finance Documents.

33. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts and by facsimile, provided that original signed copies are provided within a reasonable period of time thereafter. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

34. NOTICES

34.1 In writing

- (a) Any communication in connection with a Finance Document must be in writing and, unless otherwise stated, may be given in person, by post, fax, e-mail or by any other electronic communication approved by the Facility Agent.
- (b) For the purpose of the Finance Documents, an electronic communication will be treated as being in writing.
- (c) Unless it is agreed to the contrary, any consent or agreement required under a Finance Document must be given in writing.

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- (d) Communications sent by the Facility Agent in the normal course of business will not be signed.

34.2 Contact details

- (a) Except as provided below, the contact details of each Party for all communications in connection with the Finance Documents are those notified by that Party for this purpose to the Facility Agent on or before the date it becomes a Party.
- (b) The contact details of the Borrowers and the Guarantor for this purpose are:
- Address: Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F40000
Fax number: (852) 254 01689
Attention: Sai Chu, Chief Financial Officer
- with a copy to Seaspanship Management Ltd. of:
- Address: 2600-200 Granville Street, Vancouver, B.C., Canada V6C 1S4
Fax number: 604-331-0925
Attention: Gerry Wang, Chief Executive Officer
- (c) The contact details of the Facility Agent for this purpose are:
- Address: No.55 Fuxingmen Nei Avenue, Xicheng District, Beijing
Fax number: (86) 10 6610 7712
Attention: Lan Tao, Manager, Shipping Finance
- (d) A Party may change its contact details by giving five (5) Business Days' notice to the Facility Agent or (in the case of the Facility Agent) to the other Parties.
- (e) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

34.3 Effectiveness

- (a) Except as provided below, any communication in connection with a Finance Document will be deemed to be given as follows:
- (i) if delivered in person, at the time of delivery;
 - (ii) if posted, ten (10) days after being deposited in the post, postage prepaid, in a correctly addressed envelope;
 - (iii) if by fax, when received in legible form; and
 - (iv) if by e-mail or any other electronic communication, when received in legible form.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication to the Facility Agent will only be effective on actual receipt by it.

34.4 Borrowers

All communications under the Finance Documents to or from the Borrowers must be sent through the Facility Agent or with a copy to the Facility Agent.

34.5 Entire Agreement

This Agreement and the other Finance Documents entered into pursuant to this Agreement contain the whole agreement between the parties relating to the transactions contemplated by this Agreement and supersede all previous agreements between the parties relating to such transactions.

35. LANGUAGE

- (a) Any notice given in connection with a Finance Document must be in English.
- (b) Any other document provided in connection with a Finance Document must be:
 - (i) in English; or
 - (ii) (unless the Facility Agent otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

36. GOVERNING LAW

This Agreement is governed by English law.

37. ENFORCEMENT**37.1 Jurisdiction**

- (a) The English courts have jurisdiction to settle any dispute in connection with any Finance Document.
- (b) The English courts are the most appropriate and convenient courts to settle any such dispute.
- (c) This Clause is for the benefit of the Lenders only. To the extent allowed by law, the Lenders may take:
 - (i) proceedings in any other court; and
 - (ii) concurrent proceedings in any number of jurisdictions.

37.2 Service of process

- (a) The Security Parties irrevocably appoint Clifford Chance Secretaries Limited of 10 Upper Bank Street, London, E14 5JJ as its agent under the Finance Documents for service of process in any proceedings before the English courts.
- (b) If any person appointed as process agent is unable for any reason to act as agent for service of process, the Security Parties must immediately appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

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- (c) The Security Parties agree that failure by a process agent to notify them of any process will not invalidate the relevant proceedings.
 - (d) This Clause does not affect any other method of service allowed by law.

37.3 Waiver of immunity

The Security Parties irrevocably and unconditionally:

- (a) agree not to claim any immunity from proceedings brought by a Finance Party against them in relation to a Finance Document and to ensure that no such claim is made on their behalf;
- (b) consent generally to the giving of any relief or the issue of any process in connection with those proceedings; and
- (c) waive all rights of immunity in respect of them or their assets.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

ORIGINAL LENDERS

<u>Name of Original Lender</u>	<u>Commitments (US\$)</u>
Industrial and Commercial Bank of China Limited No.55 Fuxingmen Nei Avenue Xicheng District Beijing P.R. China, 100031	150,000,000

SCHEDULE 2

PART 1A

INITIAL CONDITION PRECEDENT DOCUMENTS

1. Security Parties

- (a) A certified copy* of the constitutional documents of each of the Security Parties or, if the Facility Agent already has a copy, a certificate of that Security Party certifying that the copy in the Facility Agent's possession is still correct, complete and in full force and effect as at a date no earlier than the date of the Request together with an up to date Certificate of Goodstanding dated no more than ten (10) Business Days prior to the first Utilisation Date.
- (b) A certified copy* of a resolution of the board of directors of each of the Security Parties (unless such resolution in relation to the issues below is still in full force and effect):
 - (i) approving the terms of, and the transactions contemplated by, each Finance Document and each Related Contract to which that Security Party is a party and resolving that it executes each such Finance Document and each Related Contract, then to be executed;
 - (ii) authorising a specified person or persons to execute each Finance Document and each Related Contract on its behalf to which it is a party, then to be executed; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with each Finance Document and each Related Contract to which it is a party, then to be executed.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph 1(b) above.
- (d) A certified copy* of all other resolutions, consents, licences, exemptions and filings, corporate, official or otherwise which the Lender may reasonably require in connection with this Agreement or any other Finance Document.

2. Finance Documents and Related Contracts

- (a) A duly executed original of this Agreement.
- (b) A duly executed original of each relevant Pre-delivery Assignment.
- (c) A duly executed original of each Time Charter and Earnings Assignment.
- (d) A duly executed original of the Fee Letter.
- (e) A duly executed original of the Share Pledge.
- (f) A certified copy* of each Time Charter and Charter Guarantee, if applicable, duly executed.
- (g) A certified copy* of each Shipbuilding Contract, duly executed.

-
- (h) A certified copy* of each Refund Guarantee.
 - (i) Duly executed originals of all notices of assignment required to be served under each Security Document referred to above and faxed copies of the acknowledgements (except in the case of the Charterer, Builder and Refund Guarantor) thereof (where it is not possible to provide originals of the same, with such originals to follow as soon as practicable after the first Utilisation Date), duly executed by each relevant counterparty.

3. Other documents

- (a) A copy of any other authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, any Finance Document or any Related Contract or for the validity and enforceability of any Finance Document or any Related Contract.
- (b) A letter from Clifford Chance Secretaries Limited agreeing to its appointment as process agent for the Security Parties under the Finance Documents.

4. Legal opinions

- (a) A legal opinion of Stephenson Harwood, English legal advisors to the Lenders, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.
- (b) A legal opinion of Poles, Tublin, Stratakis, Gonzalez & Weichert, LLP, Marshall Island legal advisors to the Facility Agent, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.

5. Other Requirements

- (a) All fees due and payable under the Fee Letter have been paid or will be paid in accordance with the terms of the Fee Letter.

PART 1B

CONDITIONS SUBSEQUENT TO INITIAL DRAWING

1. Finance Documents and Related Contracts

- (a) A duly executed original of the Retention Account Charge.
- (b) A duly executed original of the relevant Management Agreement Assignment.
- (c) A duly executed original of each of the Manager's Undertakings.
- (d) A certified copy* of the Management Agreement, duly executed.

* Each certified copy document must be certified by a director, officer or duly authorised attorney of the relevant Security Party as being true and complete as at a date no earlier than the date of the Request for a Loan.

SCHEDULE 2

PART 2

DELIVERY DATE CONDITIONS PRECEDENT DOCUMENTS

At the time of delivery of each Vessel, the Facility Agent shall require the following documentation from the Guarantor:-

1. Guarantor

- (a) A certificate of each of the Security Parties certifying that the constitutional documents have not been amended since they were first delivered to the Facility Agent.
- (b) A certified copy of a resolution of the board of directors of the Guarantor (unless such a resolution in relation to the issues below is still in force):
 - (i) authorising a specified person or persons to execute the relevant Mortgage and the relevant Insurance Assignment and authorising a specified person or persons to execute such necessary documentation as is required to permit the Guarantor to take physical possession of the relevant Vessel; and
 - (ii) authorising a specified person or persons, on its behalf, to sign or despatch all other documents and notices to be signed or despatched by it under or in connection with the relevant Mortgage and authorising a specified person or persons, on its behalf, to sign or despatch all other documents and notices to be signed or despatched as necessary to take physical possession of the relevant Vessel.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraphs (b) (i) and (ii) above.

2. Documents

- (a) A duly executed original of the relevant Mortgage;
- (b) A duly executed original of the relevant Deed of Covenants;
- (c) A duly executed original of the relevant Insurances Assignment;
- (d) A copy of any other authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Security Documents or for the validity and enforceability of any of those documents.

3. The Vessel to be delivered

- (a) A certified copy* of:
 - (i) a classification certificate in respect of the Vessel showing the Vessel to be in class without recommendation, condition or qualification or, in the event that this is not available, a faxed copy with a certified copy to follow as soon as practicable after the relevant Delivery Date;
 - (ii) a valid Interim Safety Management Certificate for the Vessel;

-
- (iii) a valid Document of Compliance; and
 - (iv) a valid International Ship Security Certificate for the Vessel.
- (b) Evidence acceptable to the Facility Agent that the Vessel has been delivered to the Guarantor under the relevant Shipbuilding Contract on the Delivery Date and title (as described in paragraph 1(a)(ii) of Schedule 3) to the Vessel will pass to the Guarantor.

4. Insurance

- (a) A certified copy of all current insurance policies in respect of the Vessel.
- (b) A duly executed and, where necessary, notarised notice of assignment (and acknowledgement of the same) of the Obligatory Insurances in respect of the Vessel duly executed by the Guarantor substantially in the form provided for in the Insurances Assignment.
- (c) Fax confirmation from each broker, insurer and club concerned with the Obligatory Insurances of the Vessel that:
 - (i) the relevant cover is in effect;
 - (ii) they will accept notice of assignment of the Obligatory Insurances in favour of the Facility Agent and execute an acknowledgement of the notice in the form required by the Facility Agent;
 - (iii) they will restrict their lien for unpaid premiums under any fleet policy to unpaid premiums in respect of that Vessel only;
 - (iv) they will issue a letter of undertaking in the current LIBA form (in the case of Lloyds brokers), in the form provided for in the Insurances Assignment (in the case of non-Lloyds brokers and insurers other than clubs) or in their current standard form (in the case of clubs);
 - (v) they will accept endorsement of a loss payable clause on the policies in the form provided for in the Insurances Assignment (in the case of brokers and insurers other than clubs) or will note the interest of the Facility Agent in the entry for the Vessel by way of a loss payable clause in their current standard form (in the case of clubs); and
 - (vi) they are not aware of any mortgage, charge, assignment or other encumbrance affecting the Obligatory Insurances with which they are concerned (other than any previously disclosed by the Guarantor to the Facility Agent in writing).
- (d) A final insurance report prepared by the Facility Agent, acceptable to the Lenders.

5. Legal Opinions

- (a) A legal opinion of Stephenson Harwood, English legal advisers to the Lenders, addressed the Facility Agent as agent for and on behalf of itself and the Lenders.
- (b) A legal opinion of Stephenson Harwood & Lo, Hong Kong legal advisers to the Lenders, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.

6. Other Requirements

- * Each certified copy document must be certified by a director, officer or duly authorised attorney of the relevant Security Party as being true and complete as at a date no earlier than the Delivery Date of a Vessel.

SCHEDULE 3

CONDITIONS SUBSEQUENT TO DELIVERY DATE

The Facility Agent shall require the following documentation and evidence from the Guarantor, in respect of a Vessel at the time provided for in Clause 3.1 (d).

1. Evidence

- (a) Evidence that:-
 - (i) the Mortgage in respect of the Vessel has been duly recorded in the Hong Kong Shipping Register and constitutes a first priority security interest over the Vessel and that all taxes and fees payable to the Hong Kong Shipping Register in respect of that Vessel have been paid in full;
 - (ii) the title to the Vessel is held by the Guarantor free of all Security Interests other than Permitted Liens; and
 - (iii) the Vessel is provisionally registered in the name of the Guarantor, as appropriate, as a Hong Kong flag ship at the port of Hong Kong.
- (b) Confirmation acceptable to the Facility Agent that the Guarantor has accepted the Vessel pursuant to the terms of the relevant Shipbuilding Contract and executed a protocol of delivery and acceptance.
- (c) Confirmation acceptable to the Facility Agent from the Guarantor that the Charterer has accepted the Vessel pursuant to the terms of the relevant Time Charter.
- (d) A copy of the commercial invoice in respect of the Vessel.
- (e) A copy of the builder's certificate in respect of the Vessel.

SCHEDULE 4

FORM OF PAYMENT REQUEST

To: Industrial and Commercial Bank of China Limited

From: SEASPAN FINANCE II CO. LTD. and SEASPAN FINANCE III CO. LTD.

Date: []

US\$150,000,000 Credit Agreement dated 2007 (the Credit Agreement)

1. We wish to borrow a Loan from you as follows:

(a) Utilisation Date: []

(b) Amount/currency: []

(c) Vessel:

2. Term: [] months

3. Payment Instructions:

To include provisions that:

4. We confirm that each condition specified in Clause 3.2 (Further conditions precedent) of the Credit Agreement is satisfied on the date of this Request.

5. We confirm that evidence of [costs / payments] to which the Loan relates is attached to this Request.

By:

SEASPAN FINANCE II CO. LTD. and SEASPAN FINANCE III CO. LTD.

Authorised Signatory

SCHEDULE 5

CALCULATION OF THE MANDATORY COST

1 General

The Mandatory Cost is the weighted average of the rates calculated below by the Facility Agent on the first day of a Term. The Facility Agent must distribute each amount of Mandatory Cost among the Lenders on the basis of the rate for each Lender.

2 For a Lender lending from a Facility Office in the U.K.

- (d) The relevant rate for a Lender lending from a Facility Office in the U.K. is the arithmetic mean of the rates notified by each of the Reference Banks to the Facility Agent and calculated in accordance with the following formulae:

$$\frac{E x}{300} \text{ per cent. per annum}$$

where on the day of application of the formula:

E is the charge payable by the Reference Bank to the Financial Services Authority under the fees rules (but, for this purpose, calculated by the Facility Agent on a notional basis as being the average of the fee tariffs within fee-block Category A1 (Deposit acceptors) of the fees rules, applying any applicable discount and ignoring any minimum fee required under the fees rules) and expressed in pounds per £1 million of the tariff base of that Reference Bank.

- (e) For the purposes of this paragraph:
- (i) eligible liabilities and special deposit have the meanings given to them at the time of application of the formula by the Bank of England;
 - (ii) fees rules means the then current rules on periodic fees in the Supervision Manual of the FSA Handbook; and
 - (iii) tariff base has the meaning given to it in the fees rules.
- (f) Each rate calculated in accordance with a formula is, if necessary, rounded upward to four decimal places.
- (g) (i) Each Reference Bank must supply to the Facility Agent the information required by it to make a calculation of the rate for that Reference Bank. The Facility Agent may assume that this information is correct in all respects.
- (i) If a Reference Bank fails to do so, the Facility Agent may assume that the Reference Bank's obligations in respect of cash ratio deposits, special deposits and the fees rules are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.
 - (ii) The Facility Agent has no liability to any Party if its calculation over or under compensates any Lender.

3 For a Lender lending from a Facility Office in a Participating Member State

- (a) The relevant rate for a Lender lending from a Facility Office in a Participating Member State is the percentage rate per annum notified by that Lender to the Facility Agent as its cost of complying with the minimum reserve requirements of the European Central Bank.
- (b) If a Lender fails to specify a rate under paragraph (a) above, the Facility Agent will assume that the Lender has not incurred any such cost.

4 Changes

The Facility Agent may, after consultation with the Borrowers and the Lenders, notify all the Parties of any amendment to this Schedule which is required to reflect:

- (i) any change in law or regulation; or
- (ii) any requirement imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any successor authority).

Any notification will be, in the absence of manifest error, conclusive and binding on all the Parties.

SCHEDULE 6

FORM OF TRANSFER CERTIFICATE

To: SEASPAN FINANCE II CO. LTD. and SEASPAN FINANCE III CO. LTD.

Copied to: Seaspans Corporation

From: [THE EXISTING BANK] and [THE NEW BANK]

Date: []

US\$150,000,000 Credit Agreement dated [], 2007 (the Credit Agreement)

We refer to Clause 28.3 (Procedure for transfer by way of novations) of the Credit Agreement.

1. We [] (the **Existing Bank**) and [] (the **New Bank**) agree to the Existing Bank and the New Bank novating all the Existing Bank's rights and obligations referred to in the Schedule in accordance with Clause 28.3. (Procedure for transfer by way of novations).
2. The specified date for the purposes of Clause 28.3(a) (Procedure for transfer by way of novations) is [date of novation].
3. The Facility Office and address for notices of the New Bank for the purposes of Clause 34.2 (Contact details) are set out in the Schedule attached to this Certificate.
4. This Novation Certificate is governed by English law.

THE SCHEDULE

Rights and obligations to be novated

[Choose one of the following options (a) or (b):]

- (a) all of the rights and obligations of the Existing Lender in respect of the Facility - principal amount US\$[].
- (b) the principal amount of US\$[] in respect of each of the Loans and all the rights and obligations attached to the same-total principal amount US\$[].

[**New Bank**]

[Facility Office Address for notices]

[Existing Bank]

[New Bank]

By:

By:

Date:

Date:

The Transfer Date is confirmed by the Facility Agent as [].

Industrial and Commercial Bank of China Limited

By:

SCHEDULE 7**REDUCTION SCHEDULE**

Commitment Reduction Date	Reduction Amount US\$	Debt O/S US\$
1	0	150,000,000
2	0	150,000,000
3	0	150,000,000
4	0	150,000,000
5	0	150,000,000
6	0	150,000,000
7	3,513,261	146,486,739
8	3,615,000	142,871,739
9	3,720,000	139,151,739
10	3,827,772	135,323,967
11	3,938,804	131,385,163
12	4,053,098	127,332,065
13	4,170,652	123,161,413
14	4,291,467	118,869,946
15	4,416,033	114,453,913
16	4,544,022	109,909,891
17	4,675,761	105,234,130
18	4,811,413	100,422,717
19	4,950,978	95,471,739
20	5,094,456	90,377,283
21	5,242,337	85,134,946
22	5,394,294	79,740,652
23	5,550,652	74,190,000
24	5,711,739	68,478,261

SCHEDULE 8

COMPLIANCE CERTIFICATE

To: Industrial and Commercial Bank of China Limited as Facility Agent

From: Seaspan Corporation

US\$150,000,000 Credit Agreement dated _____, 2007 (the Credit Agreement)

2. Terms defined in the Credit Agreement have the same meaning in this Certificate.
3. I/We hereby certify that as of [] the status of the financial covenants set out in Clause 17 (Financial Covenants) of the Credit Agreement are as follows:
 - (a) **Tangible Net Worth** : the Tangible Net Worth of the Guarantor is not less than four hundred and fifty million Dollars (US\$450,000,000).
 - (b) **Gearing**: the Total Borrowings do not exceed 65 per cent. of Total Assets.
 - (c) **Net Interest Coverage Ratio** : the Interest Coverage Ratio is greater than 2.50 to 1.
 - (d) **Interest and Principal Coverage Ratio** : the Interest and Principal Coverage Ratio is not less than 1.1 to 1.
 - (e) the aggregate Market Value of the Vessels is not less than 125 per cent. of the aggregate principal amount of the outstanding Loans*

* delete if circumstances in Clause 17.8 of the Credit Agreement have not occurred

[]

Yours faithfully,

[_____]

Chief Executive Officer

[or]

Chief Financial Officer

SCHEDULE 9

ANNUAL COMPLIANCE CERTIFICATE

To: Industrial and Commercial Bank of China Limited as Facility Agent

From: Seaspan Corporation

US\$150,000,000 Credit Agreement dated _____, 2007 (the Credit Agreement)

Terms defined in the Credit Agreement have the same meaning in this Certificate.

1. I/We hereby certify that [no Default has occurred and is continuing or is outstanding] [a Default under Clause [] of [*specify document*] is outstanding and the following steps are being taken to remedy it [].
2. [Except as set out below, the representations set out in Clause 14 (Representations) of the Credit Agreement are deemed to be repeated as at the date hereof.]
3. I/We hereby attach a list of the estimated dates of the intended dry docking of the Vessels actually delivered on or before the date of this Certificate.
4. I/We hereby certify that as of [] the status of the financial covenants set out in Clause 17 (Financial Covenants) of the Credit Agreement are as follows:
 - (a) **Tangible Net Worth** : the Tangible Net Worth of the Guarantor is not less than four hundred and fifty million Dollars (US\$450,000,000).
 - (b) **Gearing**: the Total Borrowings do not exceed 65 per cent. of Total Assets.
 - (c) **Net Interest Coverage Ratio** : the Interest Coverage Ratio is greater than 2.50 to 1.
 - (d) **Interest and Principal Coverage Ratio** : the Interest and Principal Coverage Ratio is not less than 1.1 to 1.
 - (e) the aggregate Market Value of the Vessels is not less than 125 per cent. of the aggregate principal amount of the outstanding Loans*

* delete if circumstances in Clause 17.8 of the Credit Agreement have not occurred

[]

Yours faithfully,

[_____]

Chief Executive Officer

[or]

Chief Financial Officer

SCHEDULE 10

STANDING PAYMENT INSTRUCTIONS

US\$ Payment Details:

Beneficiary's Bank:

Swift:

Account No.:

Beneficiary:

Swift:

Reference:

Further credit:

SCHEDULE 11

ESTIMATED ADDBACK RELATING TO CERTAIN DELIVERED VESSELS* DEPRECIATION

Date	Amount of Add Back (US\$)
9/30/05	207,588,000
12/31/05	205,843,000
3/31/06	204,099,000
6/30/06	202,354,000
9/30/06	200,610,000
12/31/06	198,866,000
3/31/07	197,121,000
6/30/07	195,377,000
9/30/07	193,632,000
12/31/07	191,888,000
3/31/08	190,143,000
6/30/08	188,399,000
9/30/08	186,655,000
12/31/08	184,910,000
3/31/09	183,166,000
6/30/09	181,420,001
9/30/09	179,677,000
12/31/09	177,932,000
3/31/10	176,188,000
6/30/10	174,443,000
9/30/10	172,699,000
12/31/10	170,955,000

3/31/11	169,210,000
6/30/11	167,466,000
9/30/11	165,721,000
12/31/11	163,977,000
3/31/12	162,232,000
6/30/12	160,488,000
9/30/12	158,744,000
12/31/12	156,999,000
3/31/2013	155,255,000
6/30/2013	153,510,000
9/30/2013	151,766,000
12/31/2013	150,021,000
3/31/14	148,258,000
6/30/14	146,513,000
9/30/14	144,768,000
12/31/14	143,023,000
3/31/15	141,278,000
6/30/15	139,533,000
9/30/15	137,788,000
12/31/15	136,043,000
3/31/16	134,298,000
6/30/16	132,553,000
9/30/16	130,808,000
12/31/16	129,063,000
3/31/17	127,318,000
6/30/17	125,573,000
9/30/17	123,828,000
12/31/17	122,083,000

3/31/18	120,338,000
6/30/18	118,593,000
9/30/18	116,848,000
12/31/18	115,103,000
3/31/19	113,358,000
6/30/19	111,613,000
9/30/19	109,868,000
12/31/19	108,123,000
3/31/20	106,378,000
6/30/20	104,633,000
9/30/20	102,888,000
12/31/20	101,143,000
3/31/21	99,398,000
6/30/21	97,653,000
9/30/21	95,908,000
12/31/21	94,163,000
3/31/22	92,418,000
6/30/22	90,673,000
9/30/22	88,928,000
12/31/22	87,183,000

* The “certain delivered vessels” of the Guarantor referred to in this Schedule are as follows:

CSCL Hamburg
 CSCL Chiwan
 CSCL Ningbo
 CSCL Dalian
 CSCL Felixstowe
 CSCL Oceania
 CSCL Africa

CSCL Vancouver

CSCL Sydney

CSCL New York

SIGNATORIES

Borrowers

SEASPAN FINANCE II CO. LTD.

By: /s/ Gerry Wang

SEASPAN FINANCE III CO. LTD.

By: /s/ Gerry Wang

Guarantor

SEASPAN CORPORATION

By: /s/ Gerry Wang

The Arranger

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED

By: /s/ Lucy Frenen

Lucy Frenen
Attorney-in-Fact

Original Lenders

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED

By: /s/ Lucy Frenen

Lucy Frenen
Attorney-in-Fact

The Facility Agent

INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED

By: /s/ Lucy Frenen

Lucy Frenen
Attorney-in-Fact

EXECUTION VERSION

AGREEMENT

DATED MARCH 17, 2008

US\$291,200,000 CREDIT FACILITY

for

**SEASPAN CORPORATION
(as Borrower)**

arranged by

**FORTIS BANK S.A./N.V., NEW YORK BRANCH
and THE EXPORT-IMPORT BANK OF KOREA**

with

**FORTIS BANK S.A./N.V., NEW YORK BRANCH
as Facility Agent and Security Trustee**

and

**FORTIS BANK S.A./N.V., NEW YORK BRANCH
as Swap Agent**

**STEPHENSON HARWOOD
One St Paul's Churchyard
London EC4M 8SH
Tel: +44 (0)20 7329 4422
Fax: +44 (0)20 7329 7100
(Ref: 814)**

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THIS AGREEMENT is dated 2008

BETWEEN:

- (1) **SEASPAN CORPORATION**, a corporation incorporated according to the laws of the Republic of the Marshall Islands with its registered office at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the **Borrower**);
- (2) **FORTIS BANK S.A./N.V., NEW YORK BRANCH**, acting as sole bookrunner;
- (3) **FORTIS BANK S.A./N.V., NEW YORK BRANCH, and THE EXPORT-IMPORT BANK OF KOREA**, as mandated lead arrangers (the **Arrangers**);
- (4) **FORTIS BANK S.A./N.V., NEW YORK BRANCH, SWEDBANK AB (PUBL) and THE EXPORT-IMPORT BANK OF KOREA**, as original lenders (the **Original Lenders**);
- (5) **FORTIS BANK S.A./N.V., NEW YORK BRANCH**, acting as administrative agent and security trustee (in such capacity the **Facility Agent**); and
- (6) **FORTIS BANK S.A./N.V. NEW YORK BRANCH** as Swap agent (the **Swap Agent**).

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

Account Bank means Fortis Bank (Nederland) N.V. situated at Coolingsingel 93, 3012 AE Rotterdam, The Netherlands or any other bank or financial institution with which, with the prior written consent of the Facility Agent (acting in accordance with the instructions of the Majority Lenders), the Retention Account is at any time held.

Administrative Party means the Arranger or the Facility Agent.

Advisory Fee means the advisory fee payable in accordance with Clause 23.3.

Affiliate means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company.

Agreement means this credit agreement, including any schedules or appendices hereto, as amended from time to time.

Annual Compliance Certificate means the form of certificate attached at Schedule 9 (Annual Compliance Certificate).

Applicable Interest Rate means any of the Pre-Delivery Tranche A Interest Rate, the Pre-Delivery Tranche B Interest Rate, the Pre-Delivery Revolver Interest Rate, the Post-Delivery Tranche A Interest Rate, the Post-Delivery Tranche B Interest Rate or the Post-Delivery Revolver Interest Rate.

Applicable Law means any or all applicable law (whether civil, criminal or administrative), common law, statute, statutory instrument, treaty, convention, regulation, directive, by-law,

demand, decree, ordinance, injunction, resolution, order, judgment, rule, permit, licence or restriction (in each case having the force of law) and codes of practice or conduct, circulars and guidance notes generally accepted and applied by the global container shipping industry, in each case of any government, quasi-government, supranational, federal, state or local government, statutory or regulatory body, court, agency or association relating to all laws, rules, directives and regulations, national or international, public or private in any applicable jurisdiction from time to time.

Applicable Margin means, in respect of the Tranche A Loan, the aggregate of the CIRR and the Exposure Margin, in respect of the Tranche B Loan, either the Pre-Delivery Tranche B Margin or the Post-Delivery Tranche B Margin as the case may be and, in respect of the Revolving Credit, either the Pre-Delivery Revolver Margin or the Post-Delivery Revolver Margin, as the case may be.

Approved Valuers means Braemar Seascope Shipping Limited and H. Clarkson & Co. Ltd. or such other independent reputable shipbroker acceptable to the Facility Agent and the Borrower.

Break Costs means the amount (if any) which a Lender is entitled to receive under this Agreement as compensation if any part of a Loan or overdue amount is prepaid other than on the last day of a Term for such Loan or overdue amount or, as the case may be, the amount (if any) which the Swap Bank is entitled to receive under this Agreement as compensation if the Swap Agreement is terminated early, each as determined pursuant to Clause 24.3 (Break Costs) hereof.

Builder means:

- (a) in respect of Vessel 1, Hyundai Samho Heavy Industries Co. Ltd., a corporation organised and existing under the laws of the Republic of Korea; and
- (b) in respect of Vessel 2, Hyundai Heavy Industries Co. Ltd., a corporation organised and existing under the laws of the Republic of Korea

Business Day means a day (other than a Saturday or a Sunday) on which banks are open for general business in London, England; New York, the United States of America; Vancouver, Canada; Seoul, the Republic of Korea and Rotterdam, the Netherlands.

Cash and Cash Equivalents shall have the meaning given to it in Clause 17.1 (Financial Covenants).

Change of Control means the acquisition, directly or indirectly, by any person or group other than the Seaspan Group of beneficial ownership of more than fifty per cent. (50%) of the aggregate outstanding voting power of the equity interests of the Borrower.

Charter Breach means:

- (a) the failure by the Charterer to make payment of hire under a Time Charter for a period of three (3) months; or
- (b) any other breach by the Charterer which would give the Borrower the right to terminate the applicable Time Charter.

Charter Default means a default by the Charterer that results in the Borrower having an obligation to prepay all or any of the Loans pursuant to Clause 16.25(b) (Charter Breach, Expiration or Termination of Time Charter).

Charterer means COSCO Container Lines Co., Ltd. of Shanghai, People's Republic of China, or any substitute charterer from time to time in accordance with the provisions of Clause 16.25 (Charter Breach, Expiration or Termination of Time Charter).

CIRR means 5.33% per annum, being the commercial interest reference rate quoted by the OECD on the date on which KEXIM received the formal application for the Loans from the Borrower.

Commitment means:

- (a) for an Original Lender, the aggregate amount set opposite its name in Schedule 1 (Original Lenders) under the heading **Commitments** and the amount of any other commitment to advance funds under this Agreement it acquires; and
- (b) for any other Lender, the amount of any commitment to advance funds under this Agreement it acquires, to the extent not cancelled, transferred or reduced under this Agreement.

Compliance Certificate means the form of certificate attached at Schedule 8 (Compliance Certificate).

Confidentiality Undertaking means a confidentiality undertaking in a form agreed between the Borrower and the Facility Agent.

Date of Total Loss means, in respect of a Vessel, the date of Total Loss of that Vessel which date shall be deemed to have occurred:

- (a) in the case of an actual total loss, on the actual date and at the time that Vessel was lost or, if such date is not known, on the date on which that Vessel was reported lost;
- (b) in the case of a constructive total loss, upon the date and at the time notice of abandonment is given to the Insurers for the time being (provided a claim for total loss is admitted by such Insurers) or, if such Insurers do not forthwith admit such a claim, at the earliest of the date and time at which either a total loss is subsequently admitted by the Insurers or a total loss is subsequently adjudged by a competent court of law or arbitration tribunal to have occurred or one hundred and eighty (180) days from the date of notice of abandonment;
- (c) in the case of a compromised, agreed or arranged total loss, on the date upon which a binding agreement as to such compromised, agreed or arranged total loss has been entered into by the Insurers;
- (d) in the case of requisition for title or other compulsory acquisition, on the date upon which the relevant requisition for title or other compulsory acquisition occurs; and
- (e) in the case of capture, seizure, arrest, detention, requisition for hire or confiscation by any government or by persons acting or purporting to act on behalf of any government or by any other person which deprives the Borrower or, as the case may be, the relevant Charterer of the use of that Vessel for more than sixty (60) days, upon the expiry of the period of sixty (60) days after the date upon which the relevant capture, seizure, arrest, detention, requisition or confiscation occurred.

Deed of Covenants means, in respect of a Vessel, the deed of covenants entered into or to be entered into by the Borrower and the Facility Agent collateral to the Mortgage over that Vessel in the form of Appendix 3.

Default means:

- (a) an Event of Default; or
- (b) an event which would be (with the expiry of a grace period, the giving of notice or the making of any determination under the Finance Documents or any combination of them) an Event of Default.

Delivery Date means, in respect of a Vessel, the date of actual delivery of that Vessel to the Borrower under the terms of the relevant Shipbuilding Contract.

Delivery Date Instalment means, in respect of a Vessel, the amount due and payable by the Borrower in accordance with the relevant Shipbuilding Contract and to be deposited at a bank designated by the relevant Builder on or at least three (3) Business Days prior to the relevant Delivery Date under that Shipbuilding Contract.

Dollars or **US\$** means the lawful currency for the time being of the United States of America.

Drawing means, in respect of any Loan under the Facility, the amount of each advance made by the Lenders.

Earnings means, in respect of a Vessel, all present and future moneys and claims which are earned by or become payable to or for the account of the Borrower in connection with the operation or ownership of that Vessel and including but not limited to:

- (a) freights, passage and hire moneys (howsoever earned);
- (b) remuneration for salvage and towage services;
- (c) demurrage and detention moneys;
- (d) all moneys and claims in respect of the requisition for hire of that Vessel; and
- (e) payments received in respect of any off-hire insurance.

Environment means:

- (a) any land including, without limitation, surface land and sub-surface strata, sea bed or river bed under any water (as referred to below) and any natural or man-made structures;
- (b) water including, without limitation, coastal and inland waters, surface waters, ground waters and water in drains and sewers; and
- (c) air including, without limitation, air within buildings and other natural or man-made structures above or below ground.

Environmental Approvals means any permit, licence, approval, ruling, variance, exemption or other authorisation required under applicable Environmental Laws.

Environmental Claim means any claim by any person or persons or any governmental, judicial or regulatory authority which arises out of any breach, contravention or violation of Environmental Law or of the existence of any liability or potential liability arising from such breach, contravention or violation or the presence of Hazardous Material in contravention of Environmental Laws. In this context, claim means: a claim for damages, compensation, fines, penalties or any other payment of any kind whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action by any governmental, judicial or regulatory authority; and any form of enforcement or regulatory action.

Environmental Laws means any or all Applicable Law relating to or concerning:

- (a) pollution or contamination of the Environment, any ecological system or any living organisms which inhabit the Environment or any ecological system;
- (b) the generation, manufacture, processing, distribution, use (including abuse), treatment, storage, disposal, transport or handling of Hazardous Materials; and
- (c) the emission, leak, release, spill or discharge into the Environment of noise, vibration, dust, fumes, gas, odours, smoke, steam, effluvia, heat, light, radiation (of any kind), infection, electricity or any Hazardous Material and any matter or thing capable of constituting a nuisance or an actionable tort or breach of statutory duty of any kind in respect of such matters,

including, without limitation, the following laws of the United States of America: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Hazardous Materials Transportation Act, as amended, the Oil Pollution Act of 1990, as amended, the Resource Conservation and Recovery Act, as amended, and the Toxic Substances Control Act, as amended, together, in each case, with the regulations promulgated and the guidance issued pursuant thereto.

Environmental Representative means the Borrower and the Manager together with their respective employees and all of those persons for whom the Borrower or the Manager is responsible under any Applicable Law in respect of any activities undertaken in relation to any of the Vessels.

Equity Contribution means, in respect of each Vessel, no less than twenty per cent (20%) of the Vessel Delivered Costs to be contributed by the Borrower towards the cost of acquiring that Vessel.

Event of Default means an event specified as such in Clause 19 (Default) of this Agreement.

Excess Risks means, in respect of a Vessel:

- (a) the proportion of claims for general average, salvage and salvage charges which are not recoverable as a result of the value at which that Vessel is assessed for the purpose of such claims exceeding her hull and machinery insured value; and
- (b) collision liabilities not recoverable in full under the hull and machinery insurance by reason of those liabilities exceeding such proportion of the insured value of that Vessel as is covered by the hull and machinery insurance.

Exposure Margin means 0.65% per annum.

Facility means the credit facility made available under this Agreement.

Facility Office means in respect of a Lender, the office through which that Lender will perform its obligations under this Agreement from time to time, which at the date of this Agreement is the address shown for such Lender in Schedule 1 (Original Lenders) or such other address as a Lender may notify to the Facility Agent from time to time.

Fee Letter means any letter entered into by reference to this Agreement between one or more Administrative Parties and the Borrower setting out the amount of certain fees referred to in this Agreement.

Finance Document means:

- (a) this Agreement;
- (b) each Security Document;
- (c) the Swap Agreement;
- (d) the Fee Letter;
- (e) each Manager's Undertaking;
- (f) a Transfer Certificate; and
- (g) any other document designated as such by the Facility Agent and the Borrower.

Finance Party means a Lender, a Swap Bank or an Administrative Party.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any acceptance credit;
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any redeemable preference share;
- (e) any agreement treated as a finance or capital lease in accordance with U.S. GAAP;
- (f) receivables sold or discounted (otherwise than on a non-recourse basis);
- (g) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;
- (h) any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount);
- (i) any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing;

(j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution; or

(k) any guarantee, indemnity or similar assurance against financial loss of any person.

Hazardous Material means any element or substance, whether natural or artificial, and whether consisting of gas, liquid, solid or vapour, whether on its own or in any combination with any other element or substance, which is listed, identified, defined or determined by any Environmental Law or other Applicable Law to be, to have been, or to be capable of being or becoming harmful to mankind or any living organism or damaging to the Environment, including, without limitation, oil (as defined in the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended).

Holding Company means a holding company within the meaning of section 736 of the Companies Act 1985.

Increased Cost means:

(a) an additional or increased cost;

(b) a reduction in the rate of return under a Finance Document or on its overall capital; or

(c) a reduction of an amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates but only to the extent attributable to that Finance Party having entered into any Finance Document or funding or performing its obligations under any Finance Document.

Instalment means, in respect of each Shipbuilding Contract, an amount due and payable by the Borrower under the terms of that Shipbuilding Contract.

Insurances Assignment means, in respect of a Vessel, the assignment of the Obligatory Insurances to be granted in favour of the Facility Agent by the Borrower in the form of Appendix 1 together with any and all notices and acknowledgements entered into in connection therewith.

Insurers means the underwriters or insurance companies with whom any Obligatory Insurances are effected and the managers of any protection and indemnity or war risks association in which any of the Vessels may at any time be entered.

ISM Code means the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organization Assembly as Resolutions A.741(18) and A.788(19), as the same may have been or may be amended or supplemented from time to time. The terms “safety management system”, “Safety Management Certificate”, “Document of Compliance” and “major non-conformity” shall have the same meanings as are given to them in the ISM Code.

ISPS Code means the International Ship and Port Facility Security Code adopted by the International Maritime Organization Assembly as the same may have been or may be amended or supplemented from time to time.

Junior Revolver means the revolving credit facility in the amount of nineteen million eight hundred and seventy one thousand six hundred Dollars (US\$19,871,600) to be made available during the Pre-Delivery Period and to be fully subordinate to the Senior Revolver and to the Term Loans.

KEXIM means The Export-Import Bank of Korea.

KEXIM Guarantee means the guarantee agreement dated on or about the date hereof and made between the Facility Agent and KEXIM, pursuant to which KEXIM has agreed to guarantee the payments to the Tranche B Lenders.

Lender means:

- (a) an Original Lender; or
- (b) any person which becomes a party to this Agreement after the date of this Agreement pursuant to Clause 28.2 (Assignment and transfers by Lenders); and **Lenders** means all of them.

LIBOR means for a Term of any Loan or overdue amount:

- (a) the applicable Screen Rate; or
- (b) if no Screen Rate is available for the relevant currency or Term of that Loan or overdue amount, the arithmetic mean (rounded upward to four decimal places) of the rates, as supplied to the Facility Agent at its request, quoted by the Reference Banks to leading banks in the London interbank market,

as of 11.00 a.m. on the second London Business Day before the start of the Term for the offering of deposits in the currency of that Loan or overdue amount for a period comparable to that Term.

Loans means any loan drawn down under this Facility being either a Term Loan or a Revolving Credit (each a **Loan**).

London Business Day means a day (other than a Saturday or a Sunday) on which banks are open for business in London.

Losses means each and every liability, loss, charge, claim, demand, action, proceeding, damage, judgment, order or other sanction, enforcement, penalty, fine, fee, commission, interest, lien, salvage, general average, cost and expense of whatsoever nature suffered or incurred by or imposed on the Lenders.

Majority Lenders means Lenders:

- (a) whose share in the outstanding Loans and whose undrawn Commitments then aggregate exceed 66.7% of the aggregate of all the outstanding Loans and the undrawn Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose undrawn Commitments then aggregate exceed 66.7% of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated exceed 66.7% of the Total Commitments immediately before the reduction, provided always that in calculating the Commitment of each Lender, the Commitment amounts under the Tranche B Loan will be treated as part of KEXIM's Commitment.

Management Agreement means the management agreement made or to be made between the Borrower and the Manager.

Management Agreement Assignment means the assignment of the Management Agreement granted or to be granted in favour of the Facility Agent by the Borrower in the form of Appendix 6 together with any and all notices and acknowledgements entered into in connection therewith.

Manager means Seaspan Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM 11, Bermuda or such other professional manager or managers as may be approved by the Facility Agent (acting in accordance with the instructions of the Majority Lenders) from time to time.

Manager's Undertaking means a letter of undertaking to be issued by the Manager to the Facility Agent confirming it shall not make a claim to security ranking ahead of the Lenders' security in respect of a Vessel in form and substance satisfactory to the Facility Agent.

Mandatory Cost means, as the context so requires, the amount calculated by each Lender and notified to the Facility Agent in accordance with Clause 21.16 or the aggregate of the amounts so calculated and notified.

Market Value means, in respect of a Vessel, the average of two valuations each certified in Dollars and carried out by two Approved Valuers within the last six months, reporting to the Facility Agent by way of written reports in form and substance satisfactory to the Facility Agent (acting reasonably) on the basis of a sale for prompt delivery of the Vessel for cash (free of Security Interests), on a without charter basis and at arm's-length on normal commercial terms as between willing seller and buyer.

Material Adverse Effect means a material adverse effect on:

- (a) the ability of the Borrower to perform all of its payment obligations under this Agreement; or
- (b) the validity or enforceability of this Agreement.

Maturity Date means the last day of the Term of a Revolving Credit.

Maximum Available Loan Amount means, in respect of a Vessel, the lesser of (i) eighty per cent (80%) of the Vessel Delivered Costs and (ii) one hundred and forty five million six hundred thousand Dollars (US\$145,600,000) being the total of the Maximum Available Tranche A Loan Amount, the Maximum Available Tranche B Loan Amount and the Maximum Available Revolver Amount.

Maximum Available Revolver Amount means, in respect of a Vessel, twenty nine million one hundred and twenty thousand Dollars (US\$29,120,000).

Maximum Available Tranche A Loan Amount means, in respect of a Vessel, eighty one million five hundred and thirty six thousand Dollars (US\$81,536,000).

Maximum Available Tranche B Loan Amount means, in respect of a Vessel, thirty four million, nine hundred and forty four thousand Dollars (US\$34,944,000).

Maximum Facility Amount means, subject to Clause 6.8 (Automatic cancellation), two hundred and ninety one million two hundred thousand Dollars (US\$291,200,000) being the total of the Maximum Available Loan Amounts for both Vessels.

Maximum Revolver Facility Amount means fifty eight million two hundred and forty thousand Dollars (US\$58,240,000).

Maximum Tranche A Facility Amount means one hundred and sixty three million seventy two thousand Dollars (US\$163,072,000).

Maximum Tranche B Facility Amount means sixty nine million eight hundred and eighty eight thousand Dollars (US\$69,888,000).

Measurement Period means, at any time, the last four (4) fiscal quarters for the Borrower provided always that until four (4) fiscal quarters have elapsed from the date of this Agreement, the period from the date of this Agreement until the date of determination.

Mortgage means, in respect of a Vessel, the first priority Hong Kong ship mortgage to be given by the Borrower in favour of the Facility Agent, in respect of each Vessel, on the Delivery Date of that Vessel in the form attached at Appendix 2.

Obligatory Insurances means in respect of each Vessel:

- (a) all contracts and policies of insurance and all entries in clubs and/or associations which are from time to time required to be effected and maintained in accordance with this Agreement in respect of each of the Vessels; and
- (b) all benefits under the contracts, policies and entries under paragraph (a) above and all claims in respect of them and the return of premiums.

OECD means the Organisation for Economic Co-operation and Development.

Opportunity Costs means the amount by which:

- (a) the sum of the present values as determined by KEXIM, as discounted from the scheduled dates for payment of interest under this Agreement, of the amounts of interest at CIRR at the time of the loan application which otherwise would have accrued, but for the prepayment, on the prepaid principal amount to the scheduled repayment dates exceeds
- (b) the sum of the present values as determined by KEXIM, as discounted from the scheduled dates for payment of interest under this Agreement, of the amount of interest which would have accrued, but for the prepayment, on the prepaid principal amounts to the scheduled repayment dates if interest were calculated at the discount rate of CIRR in effect on the prepayment date for the period from the prepayment date until the Term Loan Final Maturity Date.

Party means a party to this Agreement or any Finance Document.

Permitted Liens means, in respect of a Vessel:

- (a) Security Interests created by the Security Documents;

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- (b) liens for unpaid crew's wages including wages of the master and stevedores employed by the Vessel, outstanding in the ordinary course of trading for not more than one calendar month after the due date for payment;
 - (c) liens for salvage;
 - (d) liens for classification or scheduled dry docking or for necessary repairs to that Vessel whose aggregate cost does not exceed US\$1,500,000 at any one time in respect of that Vessel;
 - (e) liens for collision;
 - (f) liens for master's disbursements incurred in the ordinary course of trading;
 - (g) statutory and common law liens of carriers, warehousemen, mechanics, suppliers, materials men, repairers or other similar liens, including maritime liens, in each case arising in the ordinary course of business, outstanding for not more than one month whose aggregate value does not exceed US\$500,000; and

in the case of paragraphs (b) to (g) inclusive provided that the amounts which give rise to such liens are paid when due (or, in the case of paragraph (b) or (g) above, within one month of such amount being outstanding) or, if not paid when due are being disputed in good faith by appropriate proceedings (and for the payment of which adequate reserves or security are at the relevant time maintained or provided), provided further that such proceedings, whether by payment of adequate security into Court or otherwise, do not give rise to a material risk of the relevant Vessel or any interest therein being seized, sold, forfeited or otherwise lost or of criminal liability on the Facility Agent.

Post-Delivery Revolver Margin means 0.85% per annum.

Post-Delivery Tranche A Interest Rate means the CIRR plus the Exposure Margin.

Post-Delivery Tranche B Margin means 0.35% per annum.

Post-Delivery Period means, in respect of a Vessel, the period from the Delivery Date of that Vessel until the Term Loan Final Maturity Date.

Pre-delivery Assignment means, in respect of a Vessel, the assignment of the Shipbuilding Contract and/or the Refund Guarantees granted or to be granted by the Borrower in favour of the Facility Agent, together with all notices entered into in connection therewith, substantially in the form of the relevant document attached as Appendix 5.

Pre-Delivery Period means, in respect of a Vessel, the period from the date of the First Drawing under this Agreement in respect of the Loan relating to that Vessel, to the Delivery Date of that Vessel.

Pre-Delivery Revolver Margin means 0.85% per annum.

Pre-Delivery Tranche A Interest Rate means the CIRR plus the Exposure Margin.

Pre-Delivery Tranche B Margin means 0.35% per annum.

Pro Rata Share means:

- (a) for the purpose of determining a Lender's share in a utilisation of the Facility, the proportion which its Commitment bears to the Total Commitments; and
- (b) for any other purpose on a particular date:
 - (i) the proportion which a Lender's share of the Loans (if any) bears to all the Loans;
 - (ii) if there is no Loan outstanding on that date, the proportion which its Commitment bears to the Total Commitments on that date; or
 - (iii) if the Total Commitments have been cancelled, the proportion which its Commitment bore to the Total Commitments immediately before being cancelled.

Quarter Day means each of the 15th March, 15th June, 15th September, 15th December in each year provided always that such date is a Business Day.

Rate Fixing Day means two (2) London Business Days before the first day of a Term, or unless market practice differs in the London interbank market for a currency, in which case the Rate Fixing Day for that currency will be determined by the Facility Agent in accordance with market practice in the London interbank market (and if quotations would normally be given by leading banks in the London interbank market on more than one day, the Rate Fixing Day will be the last of those days).

Reference Banks means the Facility Agent, Swedbank AB (publ) and any other bank or financial institution appointed as such by the Facility Agent (acting on the instructions of the Majority Lenders) under this Agreement.

Refund Guarantees means, in respect of a Vessel, the one or more refund guarantees, issued by a Refund Guarantor in favour of the Borrower or such other refund guarantees as may replace the same from time to time (with the approval of the Facility Agent, acting on the instructions of the Majority Lenders).

Refund Guarantor means National Agricultural Cooperative Federation of Korea or such other refund guarantor (being an international bank with a minimum rating of BBB+ by S&P or any other bank approved by the Facility Agent, acting on the instructions of the Majority Lenders) as may replace the same from time to time.

Related Contracts means any or all of the following (as the context requires):

- (a) the Shipbuilding Contracts;
- (b) the Refund Guarantees;
- (c) the Obligatory Insurances;
- (d) the Time Charters;
- (e) the Management Agreement; and
- (f) the KEXIM Guarantee.

Release means an emission, spill, release or discharge into or upon the air, surface water, groundwater, or soils of any Hazardous Materials for which the Borrower has any liability under Environmental Law, except in accordance with a valid Environmental Approval.

Repayment Date means, in respect of a Term Loan, each date which is either (or both) a Tranche A Repayment Date and/or a Tranche B Repayment Date.

Repayment Instalment means, in respect of a Term Loan, each instalment which is either (or both) a Tranche A Repayment Instalment and/or a Tranche B Repayment Instalment payable for repayment of that Term Loan in accordance with the relevant Repayment Schedule.

Repayment Schedule means the schedule of Repayment Dates as detailed in Schedule 7 (Repayment Schedule), to be replaced as required in accordance with Clause 5.1(b).

Request means a request made by the Borrower for a Drawing, substantially in the form of Schedule 4 (Form of Request).

Required Insurance Amount means, in respect of a Vessel, at any date of determination, 120% of the aggregate principal amount of the outstanding Loans which are attributable to such Vessel.

Requisition Compensation means, in respect of a Vessel, all moneys or other compensation payable by reason of requisition for title to, or other compulsory acquisition of, that Vessel including requisition for hire.

Retention Account means the bank account to be opened by the Borrower with the Account Bank and designated “Seaspan Corporation—Retention Account”.

Retention Account Charge means the fixed charge or, as the case may be, pledge in respect of all monies standing to the credit from time to time of the Retention Account granted or to be granted by the Borrower in favour of the Facility Agent on or about the date of this Agreement, together with any and all notices and acknowledgements entered into in connection therewith.

Revolver Lenders means the lenders detailed in Schedule 1 as Revolver Lenders and any New Lenders in respect of a Revolving Credit.

Revolving Credit means, in respect of a Vessel, all moneys advanced to the Borrower by the Revolver Lenders.

Revolving Credit Availability Period means the period from and including the date of this Agreement, to and including the Revolving Credit Final Maturity Date.

Revolving Credit Final Maturity Date means the earlier of (a) the twelfth anniversary of the Delivery Date of the Vessel which is delivered latest in time and (b) 31 December 2023.

Rollover Loan means one or more Revolving Credit:

- (a) to be made on the same day that a maturing Revolving Credit is due to be repaid in accordance with Clause 5.2(a);
- (b) the aggregate amount of which is equal to or less than the maturing Revolving Credit; and

(c) to be made for the purpose of refinancing a maturing Revolving Credit.

Screen Rate means, for LIBOR, and in respect of a Term, the percentage rate per annum for a period substantially the same as the relevant Term displayed on page 3750 of the Reuters screen. If the relevant page is replaced or the service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate.

Seaspan Group means:

- (a) any of Kyle Washington, Kevin Washington, Gerry Wang, Graham Porter, Dennis Washington or any of their estate, spouse, and/or descendants; or
- (b) any trust for the benefit of the persons listed in (a) above; or
- (c) an Affiliate of any of the persons listed in (a) or (b) above.

Secured Liabilities means all present and future obligations and liabilities (actual or contingent) of the Borrower to the Finance Parties or any of them under or in connection with any Finance Document.

Security Agreements means:

- (a) the Pre-delivery Assignments;
- (b) the Mortgages;
- (c) the Deeds of Covenant;
- (d) the Insurances Assignments;
- (e) the Management Agreement Assignment;
- (f) the Manager's Undertaking;
- (g) the Time Charter and Earnings Assignments;
- (h) the Retention Account Charge; and
- (i) any other document designated as such in writing by the Borrower and the Facility Agent.

Security Assets means any asset which is the subject of a Security Interest created by a Security Document and any interest or profit in respect of an investment in accordance with Clause 20.5 (Investments).

Security Document means:

- (a) each Security Agreement; and
- (b) any other document evidencing or creating security over any asset of the Borrower to secure any obligation of the Borrower to the Finance Parties or any of them under the Finance Documents.

Security Interest means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect.

Senior Revolver means the revolving credit facility in the amount of thirty one million seven hundred and ninety four thousand five hundred and sixty Dollars (US\$31,794,560) to be made available during the Pre-Delivery Period.

Shipbuilding Contract means, in respect of each Vessel, the agreement between, in certain cases amongst others, the relevant Builder and the Borrower dated 8 September 2007.

S & P means Standard & Poor's Ratings Group and any successor thereto.

Subsidiary means:

- (a) a subsidiary within the meaning of section 736 of the Companies Act 1985; and
- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of section 258 of the Companies Act 1985.

Swap Agent means Fortis Bank S.A./N.V. New York Branch as agent for and on behalf of itself and the Swap Banks.

Swap Agreement means the ISDA Master Agreement entered into or to be entered into between (amongst others) the Swap Banks and the Borrower in respect of interest rate swaps in respect of any Tranche B Loan or Revolving Credit.

Swap Banks means the Swap Agent, any Tranche B Lender and any Revolver Lender which provides interest rate hedging facilities to the Borrower in respect of any Tranche B Loan or Revolving Credit.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including, without limitation, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Tax Deduction means a deduction or withholding for or on account of Tax made from a payment under a Finance Document by a payer for or on account of Tax imposed on that payer by any jurisdiction from which such payment is made or within which such payment arises.

Tax Payment means a payment made by the Borrower to a Lender in any way relating to a Tax Deduction or under any indemnity given by the Borrower in respect of Tax under any Finance Document.

Term means each period determined under this Agreement by reference to which interest payable on a Revolving Credit or a Drawing under a Term Loan, or an overdue amount is calculated, as the case may be.

Term Loan means either the Tranche A Loan or the Tranche B Loan and **Term Loans** means both together.

Term Loan Availability Period means, in respect of the Term Loans in respect of a Vessel, the period from and including the date of this Agreement to and including the later of (a) the date which falls six months from the relevant scheduled delivery date of that Vessel as at the date of the Agreement and (b) the last day on which delivery of the relevant Vessel may occur under the relevant Shipbuilding Contract.

Term Loan Final Maturity Date means, in respect of the Term Loans in respect of a Vessel, the earlier of (a) the day which is the twelfth anniversary of the Delivery Date of the Vessel to which those Term Loans relate and (b) 31 December 2023.

Time Charter means, in respect of each Vessel, the time charterparty entered into by the Borrower and the Charterer or such other time charterparty entered into from time to time in respect of a Vessel in accordance with this Agreement.

Time Charter and Earnings Assignment means, in respect of a Vessel, the assignment of the Time Charter and the Earnings granted or to be granted by the Borrower in favour of the Facility Agent in the form attached at Appendix 4, together with any and all notices entered into in connection therewith.

Total Commitments means the aggregate of the Commitments of all the Lenders.

Total Loss means in relation to a Vessel:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Vessel;
- (b) requisition for title or other compulsory acquisition of that Vessel otherwise than by requisition for hire;
- (c) capture, seizure, arrest, detention, or confiscation of that Vessel by any government or by persons acting or purporting to act on behalf of any government or by any other person which deprives the Borrower of that Vessel or as the case may be the Charterer of the use of that Vessel for more than sixty (60) days after that occurrence; and
- (d) requisition for hire of that Vessel by any government or by persons acting or purporting to act on behalf of any government which deprives the Borrower or as the case may be the Charterer of the use of that Vessel for a period of sixty (60) days, other than a charter of the Vessel to a government or government agency approved by the Borrower and by the Facility Agent (acting on the instructions of the Majority Lenders).

Tranche A Lenders means the lenders detailed in Schedule 1 as Tranche A Lenders together with any New Lenders in respect of a Tranche A Loan.

Tranche A Loan means, in respect of a Vessel, all moneys advanced to the Borrower by the Tranche A Lenders.

Tranche A Repayment Date means, in respect of a Tranche A Loan, each of the forty eight (48) dates which fall on the Quarter Days as detailed in the Repayment Schedule. In the event that the Delivery Date of a Vessel to which a Tranche A Loan relates is a Quarter Day, the first Repayment Date in respect of that Tranche A Loan shall be the next Quarter Day. If the Delivery Date of a Vessel to which a Tranche A Loan relates falls on any day other than a Quarter Day, the first repayment date of that Tranche A Loan shall be the second Quarter Day after the Delivery Date of the Vessel to which that Tranche A Loan relates. In any event, the final Tranche A Repayment Date shall fall on the Term Loan Final Maturity Date.

Tranche A Repayment Instalment means, in respect of a Tranche A Loan, each instalment which is payable for repayment of that Loan in accordance with the relevant Repayment Schedule.

Tranche B Lenders means the lenders detailed in Schedule 1 as Tranche B Lenders together with any New Lenders in respect of a Tranche B Loan.

Tranche B Loan means, in respect of a Vessel, all moneys advanced to the Borrower by the Tranche B Lenders.

Tranche B Repayment Date means, in respect of a Tranche B Loan, each of the forty eight (48) dates which fall on the Quarter Days as detailed in the Repayment Schedule. In the event that the Delivery Date of a Vessel to which a Tranche B Loan relates is a Quarter Day, the first Repayment Date in respect of that Tranche B Loan shall be the next Quarter Day. If the Delivery Date of a Vessel to which a Tranche B Loan relates falls on any day other than a Quarter Day, the first repayment date of that Tranche B Loan shall be the second Quarter Day after the Delivery Date of the Vessel to which that Tranche B Loan relates. In any event, the final Tranche B Repayment Date shall fall on the Term Loan Final Maturity Date.

Tranche B Repayment Instalment means, in respect of a Tranche B Loan, each instalment which is payable for repayment of that Loan in accordance with the relevant Repayment Schedule.

Transfer Certificate means a certificate, substantially in the form of Schedule 6 (Form of Transfer Certificate), with such amendments as the Facility Agent and the Borrower may approve or reasonably require or any other form agreed between the Facility Agent and the Borrower.

U.S. GAAP means generally accepted accounting principles adopted and accepted in the United States of America (i) on the date of this Agreement when used in the context of calculating the financed covenants set out in Clause 17 and (ii) otherwise, from time to time.

Utilisation Date means each date on which the Facility or any part thereof is utilised.

Vessel 1 means the 13,100 TEU vessel to be constructed in accordance with the relevant Shipbuilding Contract, with Hull No. S453.

Vessel 2 means the 13,100 TEU vessel to be constructed in accordance with the relevant Shipbuilding Contract, with Hull No. 2178.

Vessel Contract Price means, in respect of each Vessel, one hundred and sixty five million two hundred and eighty four thousand Dollars (US\$165,284,000) as evidenced in the relevant Shipbuilding Contract

Vessel Costs means, in respect of each Vessel, the aggregate of:

- (a) costs and expenses in connection with the Shipbuilding Contract in excess of the Vessel Contract Price (such costs and expenses to be documented to the reasonable satisfaction of the Facility Agent);
- (b) fees, commissions, interest, costs and expenses due prior to the Delivery Date under the Finance Documents; and
- (c) legal fees.

Vessel Delivered Costs means, in respect of each Vessel, the aggregate of:

- (a) the Vessel Contract Price; and

(b) the Vessel Costs;

which amount shall be in the maximum amount of one hundred and eighty two million Dollars (US\$182,000,000) in total per Vessel and three hundred and sixty four million Dollars (US\$364,000,000) in total.

Vessels means together Vessel 1 and Vessel 2 and **Vessel** means either of them.

1.2 Construction

(a) In this Agreement, unless the contrary intention appears, a reference to:

(i) an **amendment** includes a supplement, novation, restatement or re-enactment and **amended** will be construed accordingly;

assets includes present and future properties, revenues and rights of every description;

an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;

disposal means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;

indebtedness includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money;

a **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality and their successors in title, permitted assigns and permitted transferees; and

a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(ii) a currency is a reference to the lawful currency for the time being of the relevant country;

(iii) a Default being outstanding means that it has not been cured, remedied or waived;

(iv) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;

(v) a Clause, a Subclause or a Schedule is a reference to a clause or subclause of, or a schedule to, this Agreement;

(vi) a Finance Document or another document is a reference to that Finance Document or other document as amended;

(vii) a time of day is a reference to London time; and

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- (viii) words importing the plural shall include the singular and vice versa.
- (b) Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on (and including) one day in a calendar month and ending on (but excluding) the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
 - (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
 - (iii) notwithstanding subparagraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless expressly provided to the contrary in a Finance Document, a person who is not a party to a Finance Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any term of any Finance Document, the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of that Finance Document.
- (d) Unless the contrary intention appears or unless the context otherwise permits:
- (i) a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement;
 - (ii) a word or expression used in any other Finance Document or in any notice given in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement; and
 - (iii) any obligation of the Borrower under the Finance Documents which is not a payment obligation remains in force in accordance with its terms for so long as any payment obligation of the Borrower is or may be outstanding under the Finance Documents.
- (e) The headings in this Agreement do not affect its interpretation.

2. FACILITY AND PURPOSE

2.1 Facility

Subject to the terms of this Agreement, the Lenders shall make available to the Borrower a term loan and revolving credit facility in a maximum aggregate amount equal to the Maximum Facility Amount. The term loan facility shall be made available in two Term Loans, one per Vessel, and each Term Loan shall be capable of being drawn, up to the aggregate of the Maximum Available Tranche A Loan Amount and Maximum Available Tranche B Loan Amount on the dates described in Clause 4.2(a). The revolving credit facility shall be made available, in the Pre-Delivery Period in two facilities; the Junior Revolver and the Senior Revolver and in the Post-Delivery Period the Revolving Credit shall be capable of being drawn, up to the Maximum Revolver Facility Amount on the dates described in Clause 4.2 (a).

2.2 Purpose

Each Loan may be used only in or towards:

- (a) financing or refinancing the Vessel Delivered Costs of a Vessel or Vessels including reimbursing the Borrower for any amount of Vessel Delivered Costs paid by the Borrower, provided always that sums included in the Vessel Delivered Costs and not covered by the aggregate amount of the Refund Guarantees (other than the Delivery Date Instalment) shall not exceed one million Dollars (US\$1,000,000) per Vessel; and
- (b) in respect of the Revolving Credit only, general corporate purposes during the Post-Delivery Period.

2.3 No obligation to monitor

No Finance Party is obliged to monitor or verify the utilisation of any Loan.

2.4 Nature of a Finance Party's rights and obligations

Unless otherwise agreed by all the Finance Parties:

- (a) the obligations of a Finance Party under the Finance Documents are several;
- (b) failure by a Finance Party to perform its obligations does not affect the obligations of any other Party under the Finance Documents;
- (c) no Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents;
- (d) the rights of a Finance Party under the Finance Documents are separate and independent rights;
- (e) a Finance Party may, except as otherwise stated in the Finance Documents, separately enforce those rights; and
- (f) a debt arising under the Finance Documents to a Finance Party is a separate and independent debt.

3. CONDITIONS PRECEDENT

3.1 Conditions precedent documents

- (a) A Request in respect of a Drawing under a Loan shall not be given until the Facility Agent has notified the Borrower and the Lenders that it has received all of the documents and evidence set out in Part 1 of Schedule 2 (Initial Conditions Precedent Documents) in form and substance satisfactory to the Facility Agent or that it expects to receive outstanding documents or evidence on or before the date of the relevant Drawing. The Facility Agent must give this notification to the Borrower and the Lenders promptly upon being so satisfied.
- (b) As soon as reasonably practicable following the date of the first Drawing under the Facility but, in any event, within ninety (90) days of such date, the Borrower shall procure that a legal opinion in form and substance reasonable satisfactory to the Facility Agent, issued by Global Law Office, People's Republic of China legal

advisors to the Lenders, is provided to the Facility Agent, in respect of the execution of the Time Charters, such opinion to be addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.

- (c) A Request representing the amount of a Delivery Date Instalment may not be given until the Facility Agent has notified the Borrower and the Lenders that it has received all of the documents and evidence set out in Part 2 of Schedule 2 (Delivery Date Conditions Precedent Documents) in form and substance satisfactory to the Facility Agent or that it expects to receive outstanding documents or evidence on or before the relevant Delivery Date. The Facility Agent must give this notification to the Borrower and the Lenders promptly upon being so satisfied.
- (d) If the Borrower has made a request in respect of a Delivery Date Instalment, the Borrower will not sign a protocol of delivery and acceptance in respect of the Vessel to which that Request relates unless the Facility Agent has confirmed that the conditions referred to in Clause 3.1(a) or Clause 3.1(c) (as applicable) have been or will, simultaneously with such signing, be satisfied.
- (e) Immediately following the date upon which a Vessel is delivered the Borrower shall provide to the Facility Agent all documents and evidence set out in Schedule 3 (Conditions Subsequent to Delivery Date) in form and substance satisfactory to the Facility Agent.

3.2 Further conditions precedent

The obligations of each Lender to advance any Loan are subject to the further conditions precedent that on both the date of the Request and the Utilisation Date for that Loan:

- (a) the representations made under Clause 14 (Representations) are correct in all material respects; and
- (b) no Default or, in the case of a Rollover Loan, no Event of Default is outstanding or would result from that Drawing or that Rollover Loan being made.

4. UTILISATION

4.1 Giving of Requests

- (a) The Borrower may borrow a Loan by giving to the Facility Agent a duly completed Request in respect of a Drawing under that Loan.
- (b) Unless the Facility Agent otherwise agrees, the latest time for receipt by the Facility Agent of a duly completed Request is 11.00 a.m. (Seoul time) five (5) Business Days prior to the date of the proposed borrowing.
- (c) Each Request is irrevocable.
- (d) A Request for a Rollover Loan will not be required.

4.2 Completion of Requests

A Request for a Loan will not be regarded as having been duly completed unless:

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- (a) the Utilisation Date is a Business Day falling within the Term Loan Availability Period or the Revolving Credit Availability Period and, in respect of a Drawing under a Term Loan, is a date which falls not more than forty eight (48) hours prior to the date on which the relevant Instalment under the relevant Shipbuilding Contract falls due;
- (b) in respect of a Drawing under a Loan:
- (i) in respect of the first Drawing it is in an amount of at least nine million nine hundred and thirty five thousand eight hundred Dollars (US\$9,935,800) being that part of the Junior Revolver relating to that Vessel (the **Subordinated Portion**) but not exceeding the aggregate of (x) the balance of the amount of the Instalment paid or payable to the relevant Builder after deducting therefrom the Subordinated Portion and (y) the Vessel Costs in respect of that Vessel due on the relevant Utilisation Date;
 - (ii) in respect of a Drawing other than the Drawing referred to in paragraph (i) and the Drawing of a Delivery Date Instalment, is in an amount not exceeding the aggregate of (x) the balance of the amount of the Instalment paid or payable to the relevant Builder, (y) the Vessel Costs in respect of that Vessel due on the relevant Utilisation Date (less the amount of any Vessel Costs which have been reimbursed to the Borrower in an earlier Drawing) and (z) the sums to be capitalised on that Utilisation Date in accordance with Clause 4.4 (Capitalisation);
 - (iii) in respect of the Drawing on the Delivery Date, it is in an amount not exceeding (x) the balance of the amount of the Delivery Date Instalment payable to the relevant Builder less the Equity Contribution, (y) the Vessel Costs in respect of that Vessel not taken into account in paragraphs (i) and (ii) above and (z) the sums to be capitalised on that Utilisation Date in accordance with Clause 4.4 (Capitalisation);
 - (iv) the amount requested for the Drawing does not exceed, when aggregated with (x) existing Drawings under that Loan, (y) the amounts to be drawn down under any other Request under that Loan issued for drawdown on the proposed Utilisation Date and (z) any amounts capitalised or to be capitalised on the proposed Utilisation Date pursuant to Clause 4.4 (Capitalisation) the Maximum Available Loan Amount.
- (c) it requests that the amount of the Drawing shall be drawn down pro rata between the Tranche A Loan, Tranche B Loan and Senior Revolver for any Drawing other than a Drawing in respect of a Delivery Date and pro rata between the Tranche A Loan, Tranche B Loan and Revolving Credit for any Drawing in respect of a Drawing on a Delivery Date;
- (d) the amount requested for the Drawing during the Post-Delivery Period under the Revolving Credit exceeds one million Dollars (US\$1,000,000); and
- (e) the proposed Term complies with this Agreement.

Only one Drawing may be requested in a Request.

4.3 Advance of Loans

- (a) The Facility Agent must promptly and in any event three (3) Business Days before the Rate Fixing Day notify each Lender of the details of the requested Drawing and the amount of its share in that Drawing.
- (b) The amount of each Lender's share of the Drawing will be its Pro Rata Share on the proposed Utilisation Date.
- (c) No Lender is obliged to participate in a Drawing if, as a result, its share in the Loans would exceed its Commitment.
- (d) If the conditions set out in this Agreement have been met, each Lender must make its share in the Drawing available by the Utilisation Date through its Facility Office.

4.4 Capitalisation

To the extent permitted under Clause 4.3 (Advance of Loans) during the Pre-Delivery Period, in respect of a Vessel, the commitment fee payable in accordance with Clause 23.1 and interest calculated and payable in accordance with Clause 7.2 relating to that Vessel and the Vessel Costs, shall accrue on the relevant Loan and shall, on the last day of each Term during such period, be capitalised and added to the principal amount of the Loans outstanding provided always that such sum does not exceed the Maximum Available Facility Amount and that the sum not covered by the aggregate amount of the Refund Guarantees does not exceed US\$1,000,000 per Vessel.

5. REPAYMENT

5.1 Repayment of Term Loans

- (a) The Borrower must repay each Term Loan to the Facility Agent on each Repayment Date for that Term Loan in accordance with the Repayment Schedule.
- (b) The Facility Agent shall notify the Borrower and the Lenders of any change in the amount or the timing of any Repayment Instalment, as soon as practicable after the Delivery Date for the relevant Vessel. In the event of any such notification, the Facility Agent shall replace the relevant Repayment Schedule attached at Schedule 7 with a new Repayment Schedule reflecting the correct Repayment Instalments and the correct Repayment Dates and promptly provide a copy thereof to the Borrower and the Lenders.
- (c) In any event, each Term Loan shall be repaid in full on the Term Loan Final Maturity Date.

5.2 Repayment of Revolving Credit

- (a) The Borrower must repay each Revolving Credit to the Facility Agent in full on its Maturity Date. Subject to the other terms of this Agreement, any amounts repaid under this paragraph (a) may be reborrowed.
- (b) On the Maturity Date of a Revolving Credit (other than the Revolving Credit Final Maturity Date), provided that:
 - (i) no Event of Default has occurred and is continuing;

- (ii) the time for prepayment following the occurrence of a mandatory prepayment event which is continuing has not yet occurred; and
 - (iii) the Borrower has not given notice in accordance with Clause 6.7 (Voluntary prepayment), and such Revolving Credit will be rolled over for another Term and become a Rollover Loan.
- (c) In any event, each Revolving Credit shall be repaid in full on the Revolving Credit Final Maturity Date.

6. PREPAYMENT AND CANCELLATION

6.1 Mandatory prepayment—illegality

- (a) If it becomes, or to the knowledge of any Lender is to become, unlawful in any jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or a Finance Document or to fund or maintain its share in one or more of the Loans (the **Event of Illegality**), that Lender shall notify the Facility Agent and the Borrower.
- (b) After notification under paragraph (a) above, the Borrower and that Lender shall thereafter consult with each other and use reasonable commercial efforts for a period of thirty (30) days or in the event that the Event of Illegality takes effect before the expiration of thirty (30) days, for the maximum number of days available before the Event of Illegality takes effect with a view to restructuring the Facility in such a way as to avoid the effect of the Event of Illegality.
- (c) If agreement cannot be reached between the parties within the period specified in paragraph (b) above:
 - (i) the Borrower shall repay the share of that Lender in the relevant Loan or Loans on the date specified in paragraph (d) below to the extent required to resolve the illegality; and
 - (ii) the Commitment of that Lender will be immediately cancelled.
- (d) The date for repayment of a Lender's share in a Loan or Loans will be:
 - (i) the last day of the current Term of that Loan; or
 - (ii) if earlier, the date specified by that Lender in the notice delivered to the Borrower (being no earlier than the last day of any applicable grace period permitted by Applicable Law).

6.2 Mandatory prepayment—Change of Control of Borrower

- (a) The Borrower must promptly notify the Facility Agent if it becomes aware of a Change of Control.
- (b) After notification under paragraph (a) above or if the Facility Agent otherwise becomes aware of the same and (acting on the instructions of the Majority Lenders) so notifies the Borrower at any time within thirty (30) days, the Borrower shall make

an offer to the Facility Agent within five (5) Business Days of such notice to repay all of the outstanding Loans within thirty (30) days of such notice. Any failure of the Borrower to make an offer in accordance with this Clause will be an Event of Default (and not subject to any applicable grace periods set out in Clause 19 hereof).

6.3 Mandatory prepayment—Removal of a Vessel

The Borrower may elect to remove a Vessel from this Facility by notifying the Facility Agent of the removal of the Vessel and prepaying the outstanding loans in respect of such Vessel. Upon such payment, the Vessel will no longer be considered to be a Vessel for the purpose of this Facility and the Facility Agent will comply with the terms of Clause 20.7 (Release of Security).

6.4 Mandatory prepayment—Charter Breach, Expiration or Termination of Charter

Unless the Borrower complies with the provisions of Clause 16.25(c) (Charter Breach, Expiration or Termination of Time Charter) as the case may be, or the Facility Agent receives additional security satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders), upon the Charter Breach, expiration or termination of a Time Charter in accordance with 16.25(c) (Charter Breach, Expiration or Termination of Time Charter), the Borrower shall be obliged to prepay the outstanding Loans pro-rata to the extent necessary to ensure that the aggregate of the Market Value of the Vessels then delivered is not less than 125% of the aggregate principal amount of the outstanding Loans in respect of these Vessels.

6.5 Mandatory prepayment—Sale, Total Loss or non-delivery of a Vessel

- (a) The Borrower shall prepay the proportion of the Loans then outstanding that the Market Value of the Vessel the subject of the sale, Total Loss or non-delivery bears to the aggregate Market Value of the Vessels in the following circumstances and at the following times:
 - (i) if that Vessel is sold, on or before the date falling ninety (90) days after the date on which the sale is completed by delivery of that Vessel to a buyer; or
 - (ii) if there is a Total Loss on or before the date falling ninety (90) days after the Date of Total Loss; or
 - (iii) if a Vessel is not delivered, on or before the date falling one hundred and twenty (120) days after the cancellation of a Shipbuilding Contract.
- (b) The Borrower shall, immediately on receipt of the same, credit to the Retention Account the sale, Total Loss or Refund Guarantee proceeds received by the Borrower in respect of the Vessel the subject of the sale, Total Loss or non-delivery. Such proceeds shall remain in the Retention Account until they are to be applied in or towards satisfaction of the prepayment obligations of the Borrower pursuant to Clause 6.5(a).

6.6 Mandatory prepayment-invalidity of KEXIM Guarantee

If for any reason not directly or substantially attributable to any of the Tranche B Lenders or the Facility Agent (or any of them):

- (a) the KEXIM Guarantee ceases to be valid in any material respect other than in the circumstances set out in Clause 19.13 (Invalidity of KEXIM Guarantee); or

(b) KEXIM gives notice to the Facility Agent to determine its obligations thereunder, and the Tranche B Lenders determine in good faith that there has been or could be a Material Adverse Effect, the Borrower shall (after the expiry of a ninety (90) day period during which the Borrower and the Facility Agent shall consult with each other and use reasonable commercial efforts to restructure the Facility or replace the KEXIM Guarantee with a new form of security) be obliged to prepay the Tranche B Loan in full.

6.7 Voluntary prepayment

- (a) The Borrower may, by giving not less than thirty (30) days' prior written notice to the Facility Agent, prepay a Term Loan in whole or from time to time in part on a Repayment Date.
- (b) The Borrower may, by giving not less than five (5) days' prior written notice to the Facility Agent, prepay in whole or from time to time in part on the last day of any Term the Revolving Credit in the Post-Delivery Period. No prepayment of the Junior Revolver is permitted during the Pre-Delivery Period.
- (c) A prepayment must be in a minimum amount or multiples of US\$1,000,000.
- (d) Any voluntary prepayment under this Clause 6.7, (i) in respect of a Term Loan, shall be applied against the Repayment Instalments of the relevant Term Loan in the order of their maturity and shall be applied pro-rata in respect of the amounts outstanding to the Tranche A Lenders and the Tranche B Lenders and, (ii) in respect of the Revolving Credit, shall be applied against the Revolving Credit *pro rata* unless the Borrower nominates in writing that the prepayment is to be applied first against a specific Revolving Credit then outstanding.

6.8 Automatic cancellation

- (a) The Commitment of each of the Tranche A Lenders and Tranche B Lenders will be automatically cancelled at the close of business on the last day of the relevant Term Loan Availability Period.
- (b) The obligation of a Revolver Lender to advance the undrawn amount of its Commitment in respect of a Revolving Credit will be automatically cancelled at the close of business on the last day of the Revolving Credit Availability Period.

6.9 Voluntary cancellation

- (a) The Borrower may, by giving not less than five (5) Business Days' prior notice to the Facility Agent, cancel the unutilised amount of the Total Commitments in whole or in part.
- (b) Partial cancellation of the Total Commitments must be in a minimum amount of US\$5,000,000 and in integral multiples of US\$1,000,000 in excess of US\$5,000,000.
- (c) Any cancellation in part will be applied against the Commitment of each Lender *pro rata* .

6.10 Voluntary prepayment and cancellation

- (a) If the Borrower is, or will be, required to pay to a Lender a Tax Payment or an Increased Cost, the Borrower may, while the requirement continues, give notice to the Facility Agent requesting prepayment and cancellation in respect of that Lender.
- (b) After notification under paragraph (a) above:
 - (i) the Borrower must repay or prepay that Lender's share in each Loan made to it on the date specified in paragraph (c) below; and
 - (ii) the Commitment of that Lender will be immediately cancelled.
- (c) The date for repayment or prepayment of a Lender's share in a Loan(s) will be the last day of the current Term for the relevant Loan or, if earlier, the date specified by the Borrower in the notice delivered to the Facility Agent.

6.11 Partial Prepayment of Term Loans

- (a) Except where this Clause 6 expressly provides otherwise, any partial prepayment of a Term Loan will be applied against the remaining Repayment Instalments in respect of that Term Loan, in the order of their maturity and shall be applied pro-rata in respect of the amounts outstanding to the Tranche A Lenders and the Tranche B Lenders.
- (b) Upon any such partial prepayment, the Facility Agent shall replace the relevant Repayment Schedule attached as Schedule 7 with a new Repayment Schedule reflecting the correct Repayment Instalments and promptly provide a copy thereof to the Borrower, the Tranche A Lenders and the Tranche B Lenders.
- (c) No amount of a Term Loan prepaid under this Agreement may be subsequently reborrowed.

6.12 Reborrowing of Revolving Credit

- (a) Any prepayment of a Revolving Credit under Clause 6.1 (Mandatory prepayment—illegality), Clause 6.2 (Mandatory prepayment—Change of Control of Borrower) and Clause 6.8 (Automatic cancellation) may not be reborrowed.
- (b) Any other prepayment of a Revolving Credit may be reborrowed.

6.13 Miscellaneous provisions

- (a) Any notice of prepayment and/or cancellation under this Agreement is irrevocable and must specify the relevant date(s).
- (b) All prepayments under this Agreement must be made with accrued interest on the amount prepaid. All prepayments shall also be subject to Break Costs in respect of any amounts prepaid to the Tranche B Lenders and Revolver Lenders in accordance with Clause 24.3 (Break Costs). Any prepayment in accordance with Clause 6.7 (Voluntary Prepayment) and Clause 6.10 (Voluntary Prepayment and Cancellation) shall also be subject to the Opportunity Costs incurred by the Tranche A Lenders in respect of the voluntary prepayment amount.

- (c) Any prepayment in accordance with Clause 6.5 (mandatory prepayment—Sale, Total Loss or non-delivery of a Vessel) shall be subject to a prepayment fee payable to the Tranche A Lenders equal to (i) 1% of the amount of principal prepaid if such prepayment is made on or before the fourth anniversary of the Delivery Date of that Vessel, (ii) 0.75% of the amount of principal prepaid if such prepayment is made after the fourth anniversary of the Delivery Date but on or before the eighth anniversary of the Delivery Date of that Vessel and (iii) 0.50% of the amount of principal prepaid if such prepayment is made after the eighth anniversary of the Delivery Date of that Vessel.
- (d) If the Borrower cancels the Tranche A Loan relating to a Vessel prior to the delivery of that Vessel, the Borrower shall pay to the Tranche A Lender a prepayment fee of 0.50% of the Maximum Available Tranche A Loan Amount.
- (e) No prepayment or cancellation is allowed except in accordance with the express terms of this Agreement.

7. INTEREST

7.1 Calculation of interest

- (a) The rate of interest on each Tranche A Loan for each Term during the Pre-Delivery Period is the Pre-Delivery Tranche A Interest Rate.
- (b) The rate of interest on each Tranche B Loan for each Term during the Pre-Delivery Period is the percentage rate per annum equal to the aggregate of the applicable:
 - (i) Pre-Delivery Tranche B Margin; and
 - (ii) LIBOR (together, the **Pre-Delivery Tranche B Interest Rate**).
- (c) The rate of interest on each Revolving Credit for each Term during the Pre-Delivery Period is the percentage rate per annum of the applicable:
 - (i) Pre-Delivery Revolver Margin; and
 - (ii) LIBOR (together, the **Pre-Delivery Revolver Interest Rate**).
- (d) The rate of interest on each Tranche A Loan for each Term during the Post-Delivery Period is the Post-Delivery Tranche A Interest Rate.
- (e) The rate of interest on each Tranche B Loan for each Term during the Post-Delivery Period is the percentage rate per annum equal to the aggregate of the applicable:
 - (i) Post-Delivery Tranche B Margin; and
 - (ii) LIBOR (together, the **Post-Delivery Tranche B Interest Rate**).
- (f) The rate of interest on each Revolving Credit for each Term during the Post-Delivery Period is the percentage rate per annum equal to the aggregate of:
 - (i) the Post-Delivery Revolver Margin; and
 - (ii) LIBOR (together, the **Post-Delivery Revolver Interest Rate**).

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- (g) Interest shall be calculated by reference to the actual number of days elapsed and on the basis of a year of 360 days. Interest shall accrue from and including the first day of each Term to but excluding the last day of such Term.

7.2 Payment of interest

Except where it is provided to the contrary in this Agreement, the Borrower must pay accrued interest on each Loan on the last day of each Term. During the Pre-Delivery Period in respect of a Vessel, interest shall accrue on each Loan on the basis set out in Clause 7.1 above and shall, on the last day of each Term during the Pre-Delivery Period, be capitalised and added to the amount of that Loan outstanding.

7.3 Interest on overdue amounts

- (a) If the Borrower fails to pay any amount payable by it under the Finance Documents, it must immediately on demand by the Facility Agent pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment.
- (b) If the overdue amount is a principal amount of a Loan or is an amount accruing in respect of interest on a Loan and becomes due and payable prior to the last day of its current Term, then:
- (i) the first Term for that overdue amount will be the unexpired portion of that Term and the rate of interest on the overdue amount for that first Term will be two per cent. (2%) per annum above the Applicable Interest Rate; and
 - (ii) thereafter, any subsequent Term for that overdue amount shall be selected by the Facility Agent (acting on the instructions of the Majority Lenders, acting reasonably) who may select successive Terms of any duration up to six (6) months, and the rate of interest on the overdue amount will be two per cent. (2%) per annum above the Applicable Interest Rate.

After the expiry of the first Term for that overdue amount, the rate on the overdue amount will be calculated in accordance with paragraph (c) below.

- (c) In respect of any amounts outstanding other than in accordance with paragraph (b) above, interest on such overdue amount is payable at a rate determined by the Facility Agent to be two per cent. (2%) per annum above the Applicable Interest Rate. For this purpose, the Facility Agent may (acting on the instructions of the Majority Lenders, acting reasonably) select successive Terms of any duration of up to six (6) months.
- (d) Interest (if unpaid) on an overdue amount will be compounded with that overdue amount at the end of each of its Terms but will remain immediately due and payable.

7.4 Notification of rates of interest

The Facility Agent must promptly notify each Party of the determination of a rate of interest under this Agreement and the Mandatory Cost payable, if any.

7.5 Mandatory Cost

Subject to Clause 21.16, the Borrower shall pay to the Facility Agent the Mandatory Cost, if any, for each Loan on the last day of the Term in respect of which it has been calculated.

8. TERMS

8.1 Selection

- (a) In respect of each Term Loan:
- (i) each Term Loan has successive Terms;
 - (ii) the first Term for a Term Loan will start on its Utilisation Date and will end on the next Quarter Day; and
 - (iii) subject to the following provisions of this Clause and sub-paragraph (ii) above, each Term for a Term Loan shall be a period of three months.
- Notwithstanding Clause 7.2, during the Post-Delivery Period, the Borrower shall pay all accrued interest on each Repayment Date.
- (b) In respect of the Revolving Credit:
- (i) Each Revolving Credit has one Term only.
 - (ii) The Term for a Revolving Credit (other than the first Revolving Credit) shall, subject to Clause 8.1(b), be the same as the then current Term for all then outstanding Revolving Credits.
 - (iii) The Borrower must select the Term for the first Revolving Credit in the relevant Request and shall be entitled to select (by written notice to the Facility Agent) the Term for each Rollover Loan. Subject to the following provisions of this Clause 8, each such Term for a Revolving Credit or Rollover Loan shall be for a period of one, three or six months or such other period requested by the Borrower and accepted by the Facility Agent (acting on the instructions of the Revolver Lenders). If the Borrower fails to select a Term for a Revolving Credit, that Term will, subject to the other provisions of this Clause 8, be three (3) months.
 - (iv) The Term for a Rollover Loan will be the same duration as the previous Term for such Revolving Credit unless the Borrower provides to the Facility Agent an irrevocable notice pursuant to Clause 8.1(b)(iii) requesting a different Term in accordance with Clause 8.1(b)(iii) no later than 11.00 am (New York Time) three (3) Business Days before the Rate Fixing Day for that Term.
 - (v) Subject only to Clause 8.1(b)(vi), the Term for all Rollover Loans shall be the same.
 - (vi) The Borrower may, on or before the time a Request is given, request that a Term for a Revolving Credit is not consolidated with existing Terms for other Revolving Credit then outstanding. No more than five (5) such non-consolidated Revolving Credit may be outstanding at any one time. In the event of such a request, the Borrower must select both the Term for such

Revolving Credit in the relevant Request and when such Revolving Credit is rolled over and the provisions of Clause 8.1 (b)(iii) will apply to such selection.

8.2 Consolidation

- (a) The First Term for a Drawing under a Term Loan will commence on its Utilisation Date and each subsequent Term shall commence on the last day of the previous Term provided always that the first Term for the second and subsequent Drawings under a Term Loan shall end on the last day of the current Term for existing Drawings under that Term Loan or, in the case of the Final Term for a Term Loan, on its Term Loan Final Maturity Date.
- (b) The Term for a Revolving Credit will commence on its Utilisation Date and unless the Borrower requests otherwise in accordance with Clause 8.1(b)(vi) above, the Term for each Revolving Credit will be consolidated with the Term for all other outstanding Revolving Credit.

8.3 End of Term on a Delivery Date

If a Term in relation to a Revolving Credit or a Drawing under a Term Loan would otherwise overrun the Delivery Date of the Vessel to which the relevant Loan relates, it will be shortened so that it ends on the Delivery Date of that Vessel. Each subsequent Term will be ascertained in accordance with Clause 8.2.

8.4 No overrunning the Term Loan Final Maturity Date or Revolving Credit Final Maturity Date

If a Term would otherwise overrun the Term Loan Final Maturity Date or Revolving Credit Final Maturity Date, as the case may be, it will be shortened so that it ends on the Term Loan Final Maturity Date or Revolving Credit Final Maturity Date, as the case may be.

8.5 Other adjustments

The Facility Agent and the Borrower may enter into such other arrangements as they may agree for the adjustment of Terms and the consolidation and/or splitting of Loans.

9. MARKET DISRUPTION

9.1 Failure of the Reference Bank to supply a rate

If LIBOR is to be calculated by reference to the Reference Banks but if the Reference Banks are unable to supply a rate by 11.00 a.m. London time on the Rate Fixing Day, the applicable LIBOR will be calculated in accordance with Clause 9.2 (Market disruption).

9.2 Market disruption

- (a) A market disruption event shall arise where:
 - (i) no, or only one, Reference Bank supplies a rate by 11.00 a.m. on the Rate Fixing Day; or
 - (ii) the Facility Agent receives by close of business on the Rate Fixing Day notification from any Lender or Lenders whose aggregate shares in the

relevant Loan exceed 35% of that Loan that the cost to them of obtaining matching deposits in the relevant interbank market is in excess of LIBOR for the relevant Term.

- (b) The Facility Agent must promptly notify the Borrower and the Lenders of a market disruption event.
- (c) After notification under paragraph (b) above, the rate of interest on the affected Loan for the relevant Term will be the aggregate of:
 - (i) the Applicable Margin;
 - (ii) the rate notified to the Facility Agent by those Lenders as soon as practicable, and in any event before interest is due to be paid in respect of that Term, to be that which expresses as a percentage rate per annum the cost to those Lenders of funding that Loan from whatever source each of them may reasonably select; and
 - (iii) any increase in Mandatory Cost above the level of Mandatory Cost prevailing at the date of this Agreement.

9.3 Alternative basis of interest or funding

- (a) If a market disruption event occurs and the Facility Agent or the Borrower so require, the Borrower and the Facility Agent must enter into negotiations for a period of not more than thirty (30) days with a view to agreeing to an alternative basis for determining the rate of interest and/or funding for the affected Loan and any future Loan.
- (b) Any alternative basis agreed between the Borrower and the Facility Agent will be, with the prior written consent of all the Lenders, binding on all the Parties hereto.

10. TAXES

10.1 Tax gross-up

- (a) The Borrower must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by an Applicable Law.
- (b) If a Tax Deduction is required by an Applicable Law to be made by the Borrower or, as the case may be, the Facility Agent, the amount of the payment due from the Borrower will be increased, or, as the case may be, the Borrower shall make an additional payment, so that the amount (after making the Tax Deduction) received by the recipient is equal to the payment which would have been due if no Tax Deduction had been required.
- (c) If the Borrower is required to make a Tax Deduction, the Borrower must make the minimum Tax Deduction and must make any payment required in connection with that Tax Deduction within the time allowed by the Applicable Law.
- (d) Within fifteen (15) days of making either a Tax Deduction or a payment required in connection with a Tax Deduction the Borrower must deliver to the Facility Agent for the relevant Finance Party, documents or other information (or certified copies

thereof) evidencing satisfactorily to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

10.2 Tax Indemnity

Without prejudice to the provisions of Clause 10.1 (Tax gross-up), if any Lender is required to make any payment on account of Tax solely as a result of its entry into any Finance Document (not being a Tax imposed on the net income of a Lender or its Facility Office by the jurisdiction in which it is incorporated, or the jurisdiction in which its Facility Office is located or on the capital of that Lender employed in such jurisdiction or jurisdictions) on any sum received or receivable under the Finance Documents (including, without limitation, any sum received or receivable under this Clause 10.2) or any liability in respect of any such payment is asserted, imposed, levied or assessed against a Lender, the Borrower shall (within three (3) Business Days of demand by the Facility Agent) indemnify that Lender against such payment or liability, together with any interest, penalties and expenses payable or incurred in connection therewith.

10.3 Tax Credit

If a Lender or, as the case may be, the Facility Agent determines in its absolute discretion, acting in good faith, that it has received, realised, utilised and retained a Tax benefit by reason of any deduction or withholding in respect of which the Borrower has made an increased payment or paid a compensating sum under this Clause 10 that Lender or, as the case may be, the Facility Agent shall, provided it has received all amounts which are then due and payable by the Borrower under any of the provisions of this Agreement and the other Finance Documents, pay to the Borrower (to the extent that Lender or, as the case may be, the Facility Agent can do so without prejudicing the amount of that benefit and the right of that Lender, or as the case may be, the Facility Agent to obtain any other benefit, relief or allowance which may be available to it), such amount, if any, as that Lender, or as the case may be, the Facility Agent shall determine in its absolute discretion acting in good faith, will leave that Lender, or as the case may be, the Facility Agent in no better and no worse position than it would have been in if the deduction or withholding had not been required and so that it retains no benefit as a result of the receipt of such deduction.

10.4 Notification of Claim

A Lender making, or intending to make, a claim under Clause 10.2 (Tax Indemnity) shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.

10.5 Conduct of Business by the Finance Parties

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

10.6 Stamp taxes

The Borrower must pay and indemnify each Finance Party against any stamp duty, registration or other similar Tax payable by a Finance Party in connection with the entry into, performance or enforcement of any Finance Document, except for any such Tax payable in connection with entering into a Transfer Certificate.

10.7 Value added taxes

Any amount (including costs and expenses) payable under a Finance Document by the Borrower is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Borrower must pay to the relevant Finance Party (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.

11. INCREASED COSTS

11.1 Increased Costs

Except as provided below in this Clause 11, the Borrower must pay to a Finance Party the amount of any Increased Cost incurred by that Finance Party or its Affiliates as a result of:

- (a) the introduction of, or any change in, or any change in the interpretation or application of, any law or regulation of general application to financial institutions in the jurisdiction of such Finance Party; or
- (b) compliance with any law or regulation, made after the date of this Agreement.

11.2 Exceptions

The Borrower need not make any payment for an Increased Cost to the extent that the Increased Cost is:

- (a) compensated for under another Clause or would have been but for an exception to that Clause;
- (b) a Tax on the overall net income of the relevant Finance Party or any of its Affiliates; or
- (c) attributable to the relevant Finance Party or any of its Affiliates, wilfully failing to comply with any law or regulation.

11.3 Claims

If a Finance Party intends to make a claim for an Increased Cost it must notify the Borrower promptly of the circumstances giving rise to, and the amount of, the claim.

11.4 Mitigation

- (a) Each Finance Party must, in consultation with the Borrower, use its best endeavours to mitigate any circumstances which arise and which result or would result in any Increased Cost being payable to that Finance Party.

- (b) The Borrower must indemnify that Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of any step taken by it under paragraph (a) above.
- (c) A Finance Party is not obliged to take any step under this Subclause if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

11.5 Replacement of Lender

Following a claim by a Lender for an Increased Cost, the Borrower shall, with the consent of the Facility Agent (acting on the instructions of the Majority Lenders), be entitled to oblige such Lender to transfer its Commitment to a Lender or new lender pursuant to the terms of Clause 28 (Changes to the Parties).

12. RETENTION ACCOUNT

12.1 Maintenance of Retention Account

The Borrower shall maintain the Retention Account with the Account Bank until the Revolving Credit Final Maturity Date, free of Security Interests and rights of set-off other than as created by or pursuant to the Security Documents.

12.2 Transfers to Retention Account

- (a) The Borrower shall procure that upon receipt of any amounts representing proceeds of a sale, Total Loss or, upon non delivery of a Vessel, sums received pursuant to the Refund Guarantees or from the Builder or, if any terminations fees are payable under any Time Charter, proceeds following the termination of that Time Charter, such amounts are paid into the Retention Account.
- (b) Upon the occurrence of an Event of Default which is continuing, the Borrower shall procure that all Earnings in respect of the Vessels are transferred into the Retention Account.

12.3 Application of Retention Account

- (a) In the event that a mandatory prepayment obligation arises under Clause 6.5(a) upon a sale, Total Loss or non delivery of a Vessel, the Borrower shall procure that there is transferred from the Retention Account (and irrevocably authorises the Facility Agent to instruct the Account Bank to transfer from the Retention Account) to the Facility Agent in prepayment of the relevant Loan any amounts as may be required pursuant to Clause 6.5 and (unless an Event of Default shall have occurred and be continuing) the balance of the proceeds of a sale, Total Loss or non delivery of the relevant Vessel, following the transfer referred to above, may be released to such other account as the Borrower shall designate.
- (b) In the event that a charter termination event arises under Clause 16.25(b) in which charter termination fees are payable, the Borrower shall procure that there is transferred from the Retention Account (and irrevocably authorizes the Facility Agent to instruct the Account Bank to transfer from the Retention Account) (i) if the Borrower arranges a substitute charterer in accordance with Clause 16.25(b), to such other account as the Borrower may designate, the charter termination fee relating to the relevant Vessel; or (ii) if a mandatory prepayment obligation arises under Clause 6.4, to the Facility Agent in prepayment of the relevant Loan, an amount necessary to

comply with the prepayment required in Clause 6.4, following which the balance of the charter termination fees, if any, may be released to such other account as the Borrower shall designate.

- (c) Following the occurrence of an Event of Default which is continuing, any moneys standing to the credit of the Retention Account shall be applied in accordance with Clause 13.7 (Payments).

12.4 Restriction on withdrawal

During the term of the Facility, no sum may be withdrawn from the Retention Account (except in accordance with this Clause 12) without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

13. PAYMENTS

13.1 Place

- (a) Unless a Finance Document specifies that payments under it are to be made in another manner, all payments by a Party (other than the Facility Agent) under the Finance Documents must be made to the Facility Agent to such account in New York, the United States of America as it may notify in advance in writing to that Party for this purpose.
- (b) Notwithstanding paragraph (a) above, any payment to be made under the Finance Documents by the Facility Agent to a Lender shall be made in accordance with that Lender's Standing Payment Instruction.

13.2 Funds

Payments under the Finance Documents to the Facility Agent must be made for value on the due date at such times and in such funds as the Facility Agent may specify to the Party concerned as being customary at the time for the settlement of transactions in the relevant currency in the place for payment. Any payment received by the Facility Agent after 5:00 pm New York time shall be deemed to have been received on the next Business Day.

13.3 Distribution

- (a) Each payment received by the Facility Agent under the Finance Documents for another Party must, except as provided below, be made available by the Facility Agent to that Party by payment (as soon as practicable after receipt) to its account with such office or bank as it may notify to the Facility Agent for this purpose by not less than five (5) Business Days' prior notice.
- (b) The Facility Agent may apply any amount received by it from the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards the purchase of any amount of any currency to be so applied.
- (c) Where a sum is paid to the Facility Agent under this Agreement for another Party, the Facility Agent is not obliged to pay that sum to that Party until it has established that it has actually received it. However, the Facility Agent may assume that the sum has been paid to it, and, in reliance on that assumption, make available to that Party a corresponding amount. If it transpires that the sum has not been received by the

Facility Agent, that Party must immediately on demand by the Facility Agent refund any corresponding amount made available to it together with interest on that amount from the date of payment to the date of receipt by the Facility Agent at a rate calculated by the Facility Agent to reflect its cost of funds.

- (d) For the purposes of this Clause 13 (Payments) **Standing Payment Instruction** means:
- (i) in relation to a Lender which is a Lender on the date of this Agreement, payment instructions set below the name of that Lender in Schedule 10 (Standing Payment Instructions); or
 - (ii) in relation to a Lender which becomes a Lender after the date of this Agreement, payment instructions set out in the Transfer Certificate to which that Lender is a party,
- or such other payment instructions the Lender may notify to the Facility Agent by not less than five (5) Business Days' notice.

13.4 Currency

All amounts payable under the Finance Documents are payable in Dollars provided always that amounts payable in respect of costs and expenses are payable in the currency in which those costs and expenses are incurred.

13.5 No set-off or counterclaim

All payments made by the Borrower under the Finance Documents must be made without set-off or counterclaim.

13.6 Business Days

- (a) If a payment under the Finance Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal under this Agreement interest is payable on that principal at the rate payable on the original due date.

13.7 Payments

- (a) If any Administrative Party receives a payment insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, then, except to the extent otherwise provided in any Finance Document, all the proceeds of the enforcement of the security conferred by the Security Agreements shall be applied by the Administrative Party towards the obligations of the Borrower under the Finance Documents in the following order:
 - (i) **first**, in or towards payment or satisfaction *pro rata* of all costs, charges, sales taxes, expenses and liabilities incurred and payments made by the Finance Parties or any receiver and all remuneration payable to the Finance Parties or any receiver under or pursuant to the Security Documents including, without limitation, legal expenses, re-instatement costs and any costs incurred in recovering possession of the Security Assets;

- (ii) **second** , in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Finance Parties to the extent not recovered under paragraph (i) above under this Agreement and the Security Documents;
 - (iii) **third** , in or towards payment *pro rata* of any accrued but unpaid interest payable to the Finance Parties under this Agreement and the Security Documents;
 - (iv) **fourth** , in or towards payment *pro rata* of:
 - (A) any fees or Opportunity Costs payable to the Tranche A Lenders pursuant to Clause 6.13(b), (c) and (d) (Miscellaneous provisions), any Break Costs of the Tranche B Lenders or, during the Post-Delivery Period, Revolver Lenders due but unpaid and payable to the Finance Parties under this Agreement and the Security Documents; and
 - (B) any principal in respect of this Agreement and the Security Documents due but unpaid;
 - (v) **fifth** , in or towards payment *pro rata* to the Finance Parties of any other amounts which are due but unpaid by the Borrower to any of the Finance Parties under the Finance Documents in such order as the Finance Parties shall in their absolute discretion determine;
 - (vi) **sixth** , in or towards payment *pro rata* of any Break Costs of the Revolver Lenders during the Pre-Delivery Period due but unpaid and payable to the Finance Parties under this Agreement and the Security Documents;
 - (vii) **seventh** , in or towards payment *pro rata* to the Revolver Lenders of any amounts which are due but unpaid by the Borrower in respect of the Junior Revolver:
 - (viii) **eighth** of Break Costs of the Swap Banks due but unpaid under the Swap Agreement; and
 - (ix) **ninth** , after all amounts payable or which may become payable under the Finance Documents have been paid in full and the Finance Documents have been discharged and the payments under subparagraph (vii) have been made, in or towards payment of the surplus, if any, to the Borrower or other persons entitled thereto.
- (b) The Facility Agent must, if so directed by all the Lenders, vary the order set at subparagraphs 13.7(a)(ii) to 13.7(a)(vii) above.
 - (c) This Clause 13.7 will override any appropriation made by the Borrower.

13.8 Timing of payments

If a Finance Document does not provide for when a particular payment is due, that payment will be due within three (3) Business Days of demand by the relevant Finance Party.

14. REPRESENTATIONS

14.1 Representations

The representations set out in this Clause 14 are made, unless otherwise stated, by the Borrower to the Finance Parties.

14.2 Status

- (a) It is a limited liability company, duly incorporated and validly existing under the laws of the Republic of the Marshall Islands and listed on the New York Stock Exchange.
- (b) It and each of its Subsidiaries, if any, has the power to own its assets and carry on its business as it is being conducted.
- (c) No person or group other than the Seaspam Group owns or will beneficially own more than 50% of the aggregate outstanding voting power of the equity interests of the Borrower.

14.3 Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.

14.4 Legal validity

Subject to any general principles of law limiting its obligations and referred to in any legal opinion required under this Agreement, each Finance Document to which it is a party is its legally binding, valid and enforceable obligation.

14.5 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party do not conflict in any material respect with:

- (a) any law or regulation applicable to it;
- (b) its or any of its Subsidiaries' constitutional documents; or
- (c) any document which is binding upon it or any of its Subsidiaries or any of its or its Subsidiaries' assets.

14.6 No Default

- (a) No Default is outstanding or will result from the execution of, or the performance of any transaction contemplated by, any Finance Document.
- (b) No other event is outstanding which constitutes a default under any document which is binding on it or any of its Subsidiaries or any of its or its Subsidiaries' assets to an extent or in a manner which is reasonably likely to have a Material Adverse Effect.

14.7 Authorisations

Except for registration of (i) the Mortgages at the Hong Kong Shipping Register, (ii) any Security Agreement creating a charge over Security Assets of the Borrower with the Hong Kong Registrar of Companies or (iii) any relevant Security Agreement under the Companies Act 1985, all authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Finance Documents have been obtained or effected (as appropriate) and are in full force and effect.

14.8 Financial statements

The audited consolidated financial statements of the Borrower most recently delivered to the Facility Agent together with any other financial information supplied to the Facility Agent by the Borrower:

- (a) have been prepared in accordance with U.S. GAAP, consistently applied;
- (b) have been audited in accordance with U.S. GAAP; and
- (c) fairly represent, in all material respects, its financial condition (consolidated, if applicable) as at the date to which they were drawn up,

except, in each case, as disclosed to the contrary in those financial statements or other information.

14.9 No material adverse change

There has been no material adverse change in the ability of the Borrower to make all the required payments under this Agreement or the validity or enforceability of this Agreement since the date of incorporation of the Borrower or following the receipt by the Facility Agent of an Annual Compliance Certificate, since the date of the then latest Annual Compliance Certificate.

14.10 Litigation

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency (including, but not limited to, investigative proceedings) which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against the Borrower.

14.11 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with all its other present and future unsecured and unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

14.12 Taxes on payments

All amounts payable by it to the Facility Agent under the Finance Documents and the Related Contracts may be made without any Tax Deduction.

14.13 Stamp duties

Except as notified in writing to and accepted by the Facility Agent, no stamp or registration duty or similar Tax or charge is payable in its jurisdiction of incorporation in respect of any Finance Document or Related Contract.

14.14 Environment

At and at all times after the Delivery Date of a Vessel, and except as may already have been disclosed by the Borrower in writing to the Facility Agent:

- (a) the Borrower and its Environmental Representatives have, without limitation, complied with the provisions of all applicable Environmental Laws in relation to each Vessel then delivered;
- (b) the Borrower and its Environmental Representatives have obtained all requisite Environmental Approvals in relation to each Vessel then delivered and are in compliance with such Environmental Approvals;
- (c) neither the Borrower nor any of its Environmental Representatives have received notice of any Environmental Claim in relation to the relevant Vessel which alleges that the Borrower is not in compliance with applicable Environmental Laws in relation to such Vessel or Environmental Approvals in relation to such Vessel;
- (d) there is no Environmental Claim in relation to any delivered Vessel pending or threatened which is such that a first class owner or operator of vessels such as the Vessels, making all due enquiries and complying in all respects with its obligations under the ISM Code, ought to have known about; and
- (e) there has been no Release of Hazardous Materials by or in respect of any delivered Vessel about which a first class owner or operator of vessels such as the Vessels making all due enquiries and complying in all respects with its obligations under the ISM Code ought to have known about.

14.15 Security Interests

No Security Interest exists over its or any of its Subsidiary's assets which would cause a breach of Clause 16.5 (Security Interests).

14.16 Security Assets

The Borrower is solely and absolutely entitled to the Security Assets over which it has or will create any Security Interest pursuant to the Security Documents to which it is, or will be, a party and there is no agreement or arrangement under which it is obliged to share any proceeds of or derived from such Security Assets with any third party.

14.17 ISM Code compliance

In respect of each Vessel, from the Delivery Date in respect of that Vessel, the Borrower is in full compliance with the ISM Code in respect of that Vessel.

14.18 ISPS Code Compliance

In respect of each Vessel, from the Delivery Date in respect of that Vessel, the Borrower is in full compliance with the ISPS Code in respect of that Vessel.

14.19 No amendments to Related Contracts

Other than as notified to and agreed by the Facility Agent in writing, there have been no amendments to any of the Related Contracts.

14.20 Money Laundering

Any borrowing by the Borrower and the performance of its obligations hereunder and under the other Finance Documents to which it is a party will be for its own account and will not involve any breach by it of any law or regulatory measure relating to money laundering as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities or any equivalent law or regulatory measure in any other jurisdiction.

14.21 Insolvency

- (a) The Borrower is neither unable, nor admits or has admitted its inability, to pay its debts or has suspended making payments on any of its debts.
- (b) The Borrower, by reason of actual or anticipated financial difficulties neither has commenced, nor intends to commence, negotiations with one or more of its creditors with a view to rescheduling any of its Financial Indebtedness.
- (c) The value of the assets of the Borrower is not less than its liabilities (taking into account contingent and prospective liabilities).
- (d) No moratorium has been, or may, in the reasonably foreseeable future be, declared in respect of any indebtedness of the Borrower.
- (e) No reorganisation or liquidation of the Borrower has occurred.

14.22 Immunity

- (a) The execution by it of each Finance Document to which it is a party constitutes, and the exercise by it of its rights and performance of its obligations under each such Finance Document will constitute, private and commercial acts performed for private and commercial purposes.
- (b) It will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

14.23 No adverse consequences

- (a) It is not necessary under the laws of its jurisdiction of incorporation:
 - (i) in order to enable the Facility Agent or any Lender to enforce its rights under any Finance Document; or
 - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document, that the Facility Agent or any Lender should be licensed, qualified or otherwise entitled to carry on business in its jurisdiction of incorporation; and

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- (b) Neither the Facility Agent nor any Lender will be deemed to be resident, domiciled or carrying on business in its jurisdiction of incorporation by reason only of the execution, performance and/or enforcement of any Finance Document.

14.24 Jurisdiction/governing law

- (a) Its:
 - (i) irrevocable submission under this Agreement to the jurisdiction of the courts of England;
 - (ii) agreement that this Agreement is governed by English law; and
 - (iii) agreement not to claim any immunity to which it or its assets may be entitled, are legal, valid and binding under the laws of its jurisdiction of incorporation.
- (b) Any judgment obtained in England will be recognised and be enforceable by the courts of its jurisdiction of incorporation, subject to any statutory or other conditions of such jurisdiction.

14.25 Charters

In respect of each Vessel, any Time Charter in respect of that Vessel shall be in full force and effect.

14.26 Times for making representations

- (a) The representations set out in this Clause 14 are made by the Borrower on the date of this Agreement.
- (b) Unless a representation is expressed to be given at a specific date, each representation is deemed to be repeated by the Borrower during the Pre-Delivery Period on each Utilisation Date and on the date of each Request and, during the Post-Delivery Period, annually on each anniversary of the Delivery Date when the Borrower shall provide to the Facility Agent an Annual Compliance Certificate.
- (c) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

15. INFORMATION COVENANTS

15.1 Financial statements

- (a) The Borrower must supply to the Facility Agent in sufficient copies (which may take the form of an electronic copy) for all the Lenders:
 - (i) its audited consolidated financial statements for each of its financial years ending after the date hereof;
 - (ii) its interim unaudited financial statements for the first half-year of each of its financial years; and

- (iii) if and to the extent the Borrower is required by any Applicable Law to produce quarterly financial statements, the quarterly financial statements for the Borrower as the case may be for the first and third quarters of each of its financial years ending after the date hereof.
- (b) The Borrower must supply to the Facility Agent copies of the audited financial statements of the Charterer for each of its financial years within five (5) Business Days of such financial statements becoming available to the Borrower but in any event within one hundred and twenty (120) days of the end of the relevant financial period.
- (c) All financial statements must be supplied promptly after they are available and:
 - (i) in the case of audited financial statements of the Borrower, within ninety (90) days of the end of the relevant financial period;
 - (ii) in the case of interim semi-annual financial statements of the Borrower, within ninety (90) days of the end of the relevant financial period; and
 - (iii) in the case of interim quarterly financial statements of the Borrower, within sixty (60) days of the end of the relevant financial period.
- (d) The Facility Agent shall send to each Lender all of the financial statements received by it under this Clause 15.1 within five (5) days of receipt of such financial statements.

15.2 Form of financial statements

- (a) The Borrower must ensure that each set of its financial statements supplied under this Agreement fairly represents the financial condition (consolidated or otherwise) of the Borrower as at the date to which those financial statements were drawn up.
- (b) The Borrower must notify the Facility Agent of any change to the basis on which its audited financial statements are prepared.
- (c) If requested by the Facility Agent, the Borrower must supply or procure that the following are supplied to the Facility Agent:
 - (i) a full description of any change notified under paragraph (b) above; and
 - (ii) sufficient information to enable the Facility Agent to make a proper comparison between the financial position shown by the set of financial statements prepared on the changed basis and its most recent audited consolidated financial statements delivered to the Facility Agent under this Agreement.
- (d) If requested by the Facility Agent, the Borrower must enter into discussions for a period of not more than thirty (30) days with a view to agreeing to any amendments required to be made to this Agreement to place the Facility Agent in the same position as it would have been in if the change had not happened.
- (e) If no agreement is reached under paragraph (d) above on the required amendments to this Agreement, the Borrower must ensure that its auditors certify those amendments; the certificate of the auditors will be, in the absence of manifest error, binding on all the Parties.

15.3 Compliance Certificate

- (a) The Borrower must supply to the Facility Agent a Compliance Certificate in the form attached at Schedule 8 on a quarterly basis (the first such Compliance Certificate to be provided on the first Quarter Day following the date of the first drawdown under the Facility).
- (b) The Borrower must supply to the Facility Agent an Annual Compliance Certificate in the form attached at Schedule 9 with each set of its annual audited consolidated financial statements sent to the Facility Agent under this Agreement.
- (c) Each Compliance Certificate supplied by the Borrower must be signed by its chief financial officer or chief executive officer.

15.4 Access to Books and Records

Upon the request of the Facility Agent, the Borrower shall provide the Facility Agent and any of its representatives, professional advisors and contractors with access to, and permit inspection of, its books and records, in each case at reasonable times and upon reasonable notice.

15.5 Information—miscellaneous

The Borrower must supply to the Facility Agent in sufficient copies (which may take the form of an electronic copy) for all the Lenders:

- (a) copies of all documents despatched by it to its creditors generally or any class of them at the same time as they are despatched;
- (b) copies of all notices and minutes relating to any Extraordinary General Meeting of its shareholders at the same time as they are despatched;
- (c) promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it and which might, if adversely determined, have a Material Adverse Effect; and
- (d) promptly on request, such further information, in sufficient copies for all the Lenders, regarding the financial condition and operations of the Borrower as the Facility Agent may reasonably request.

15.6 Notification of Default

- (a) Unless the Facility Agent has already been so notified, the Borrower must notify the Facility Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly on request by the Facility Agent but not more often than once in each period of 12 months, unless the Facility Agent, acting reasonably, believes an Event of Default has occurred and is continuing (in which event the Facility Agent shall be entitled to make such requests as and when it considers it appropriate to do so), the Borrower must supply to the Facility Agent a certificate, signed by two of its

authorised signatories on its behalf, certifying that no Default is outstanding or, if a Default is outstanding, specifying the Default and the steps, if any, being taken to remedy it.

15.7 Year end

The Borrower may not change its financial year end.

16. GENERAL COVENANTS

16.1 General

The Borrower agrees to be bound by the covenants set out in this Clause 16 relating to it.

16.2 Authorisations

The Borrower must promptly obtain, maintain and comply, in all material respects, with the terms of any authorisation required under any Applicable Law to enable it to perform its obligations under, or for the validity or enforceability of, any Finance Document.

16.3 Compliance with laws

The Borrower must comply and must procure that the Manager complies in all respects with all Applicable Laws to which it is subject where failure to do so is reasonably likely to have a Material Adverse Effect.

16.4 Pari passu ranking

The Borrower must ensure that its payment obligations under the Finance Documents rank at least *pari passu* with all its other present and future unsecured and unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

16.5 Security Interests

The Borrower shall not, and the Borrower shall procure that the Manager does not, create or permit to subsist any Security Interest over the Obligatory Insurances or any other Security Assets or any Related Contract other than:

- (a) Permitted Liens; or
- (b) with the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

16.6 No other business assets or Financial Indebtedness

The Borrower shall not engage in any business other than the direct or indirect ownership, operation and chartering of container vessels and any business incidental thereto, nor shall the Borrower incur any Financial Indebtedness to be secured in any way on the Vessels, or any of them, or any other Security Asset other than the Financial Indebtedness contemplated by this Agreement. The Borrower may incur any other indebtedness or issue guarantees against financial loss of any person on an unsecured basis or secured on assets which are not, and will not at any time be, Security Assets.

16.7 Payment of dividends

The Borrower shall not pay any dividends or make any other distributions (whether by loan or otherwise) to shareholders unless, under Applicable Law and accounting principles in its jurisdiction of incorporation it is entitled to distribute as dividends or such other distribution and no Event of Default has occurred and is continuing.

16.8 Change of business

- (a) The Borrower must ensure that no change is made to the general nature of its business from that carried on at the date of this Agreement other than the direct or indirect ownership, operation and chartering of container vessels and any business incidental thereto.
- (b) The Borrower must maintain its place of business, and keep its corporate documents and records, at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960, and the Borrower will not establish, or do anything as a result of which it would be deemed to have, a place of business in any country other than the Republic of the Marshall Islands, provided that the Borrower may establish a place of business and may keep its corporate records and documents in Hong Kong and Vancouver or either of them if the Facility Agent (acting on the instructions of the Majority Lenders) is satisfied that such establishment in such location does not adversely affect the validity, enforceability or effectiveness of any Security Agreement and does not give rise to any requirement under any Applicable Law for a Tax Deduction.

16.9 Mergers

The Borrower shall not enter into any amalgamation, demerger, merger or reconstruction otherwise than under an intra-group re-organisation on a solvent basis or other transaction agreed by the Facility Agent (acting on the instructions of the Majority Lenders).

16.10 Security

The Borrower:

- (a) will procure, on the Delivery Date in respect of a Vessel, that the relevant Mortgage is, and continues to be, registered as a first priority mortgage on the Hong Kong Shipping Register in respect of that Vessel;
- (b) without prejudice to paragraph (a) will procure that the Mortgages and any other security conferred by it under any Security Document are registered as a first priority interest with the relevant authorities within the period prescribed by the Applicable Laws and is maintained and perfected with the relevant authorities;
- (c) will at its own cost ensure that any Finance Document validly creates the obligations and Security Interests which it purports to create; and
- (d) without limiting the generality of paragraph (a) above, will at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority, pay any stamp, registration or similar tax payable in respect of any Finance Document, give any notice or take any other step which, in the reasonable opinion of the Facility Agent, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

16.11 Transactions with affiliated companies

The Borrower may not enter into any material transaction with any Affiliate of it unless it is either (i) to comply with any obligations the Borrower may have under the Finance Documents or (ii) on an arm's length basis or on terms reasonably consistent with and having a substantially similar commercial effect to an arm's length transaction.

16.12 Registration of the Vessels

The Borrower shall and procure that the Manager shall:

- (a) procure and maintain with effect from the Delivery Date of the relevant Vessel the valid and effective provisional registration of the Vessel under the flag of Hong Kong in the name of the Borrower and shall effect permanent registration of the Vessel within two months from the Delivery Date of the relevant Vessel, or such other flag of equivalent reputation as is satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders such approval not to be unreasonably withheld), and shall ensure nothing is done or omitted by which the registration of the Vessels would or might be defeated or imperilled; and
- (b) not change the registered owner, the name or port of registration of the Vessels without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders) (such consent not to be unreasonably withheld).

16.13 [Intentionally omitted]

16.14 Classification and repair

The Borrower will, and will procure that the Manager will from the Delivery Date of each Vessel:

- (a) ensure that such Vessel is surveyed from time to time as required by the classification society in which the Vessel is for the time being entered and maintain and preserve the Vessel in good working order and repair, ordinary wear and tear excepted, and in any event in such condition as will entitle each to the classification (acceptable to the Facility Agent (acting on the instructions of the Majority Lenders)) that it has as of the Delivery Date with Lloyds Register, (or to the equivalent classification in another internationally recognised classification society of like standing acceptable to the Facility Agent (acting on the instructions of the Majority Lenders)), free of all overdue requirements and recommendations of that classification society;
- (b) procure that all repairs to or replacement of any damaged, worn or lost parts or equipment shall be effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of the Vessel;
- (c) not remove any material part of any of such Vessel, or any item of equipment installed on such Vessel unless the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security Interest (other than a Permitted Lien) or any right in favour of any person other than the Facility Agent and becomes on installation on that Vessel the property of the Borrower and subject to the security

constituted by the relevant Security Document(s) provided that the Borrower may install and remove equipment owned by a third party if the equipment can be removed without any risk of damage to a Vessel;

- (d) ensure that each Vessel complies with all Applicable Laws from time to time applicable to vessels registered under the laws and flag of Hong Kong or such other flag, under which such Vessel may be registered from time to time in accordance with this Agreement; and
- (e) not without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders) (such consent not to be unreasonably withheld), cause or permit to be made any substantial change in the structure, type or performance characteristics of such Vessel and provide notification of such substantial changes in structure, type or performance characteristics of such Vessel to the Facility Agent and, furthermore, provide confirmation to the Facility Agent that such substantial change in structure, type or performance characteristics of any of the Vessels shall not result in a breach of any covenant under this Agreement.

16.15 Lawful and Safe Operation

The Borrower will, and will procure that the Manager will, at all times after the Delivery Date of each Vessel:

- (a) operate each Vessel and cause each of the Vessels to be operated in a manner consistent in all material respects with any and all laws, regulations, treaties and conventions (and all rules and regulations issued thereunder) from time to time applicable to the Vessel;
- (b) not cause or permit any of the Vessels to trade with, or within the territorial waters of any country in which her safety could reasonably be expected to be imperilled by exposure to piracy, terrorism, arrest, requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize;
- (c) not cause or permit any of the Vessels to be employed in any manner which will or may give rise to any reasonable degree of likelihood that such Vessel would be liable to requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize;
- (d) not cause or permit any of the Vessels to be employed in any trade or business which is forbidden by international law or is illicit or in carrying illicit or prohibited goods;
- (e) in the event of hostilities in any part of the world (whether war be declared or not) not cause or permit any of the Vessels to be employed in carrying any contraband goods and that she does not trade in any zone after it has been declared a war zone by any authority or by any of that Vessel's war risks Insurers unless that Vessel's Insurers shall have confirmed to the Borrower that such Vessel is held covered under the Obligatory Insurances for the voyage(s) in question; and
- (f) not charter any of the Vessels or permit any of the Vessels to serve under any contract of affreightment with any foreign country or national of any foreign country which would be contrary to Applicable Law or would render any Finance Document or the security conferred by the Security Documents unlawful.

16.16 Repair of the Vessels

The Borrower will not and will procure that the Manager will not, at any time after the Delivery Date of a Vessel put such Vessel into the possession of any person for the purpose of work being done upon her beyond the amount of US\$5,000,000 (or equivalent), other than for classification or scheduled dry docking unless such person shall have given an undertaking to the Facility Agent not to exercise any lien on that Vessel or Obligatory Insurances for the cost of that work or otherwise.

16.17 Arrests and Liabilities

The Borrower will, and will procure that the Manager will, at all times after the Delivery Date of a Vessel:

- (a) pay and discharge all obligations and liabilities whatsoever which have given or may give rise to liens (other than liens arising in the ordinary course of operation of any of the Vessels in each case for amounts the payment of which is not yet due or, if due and payable, is being disputed in good faith by appropriate proceeding (and for the payment of which adequate reserves have been provided or are and continue to be available)) on or claims enforceable against any of the Vessels and take all reasonable steps to prevent a threatened arrest of any of the Vessels;
- (b) notify the Facility Agent promptly in writing of the levy of either distress on any of the Vessels or her arrest, detention, seizure, condemnation as prize, compulsory acquisition or requisition for title or use and (save in the case of compulsory acquisition or requisition for title or use) obtain her release within thirty (30) days;
- (c) pay and discharge when due all dues, taxes, assessments, governmental charges, fines and penalties lawfully imposed on or in respect of any of the Vessels or the Borrower except those which are being disputed in good faith by appropriate proceedings (and for the payment of which adequate reserves have been provided or are and continue to be available) and provided that the continued existence of such dues, taxes, assessments, governmental charges, fines or penalties does not give rise to any reasonable degree of likelihood that any of the Vessels would be liable to arrest, requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize; and
- (d) pay and discharge all other obligations and liabilities whatsoever in respect of any of the Vessels and the Obligatory Insurances except those which are being disputed in good faith by appropriate proceedings (and for the payment of which adequate reserves have been provided or are and continue to be available) and provided that the continued existence of those obligations and liabilities in respect of any of the Vessels and the Obligatory Insurances does not give rise to any reasonable degree of likelihood that the Vessel would be liable to arrest, requisition, confiscation, forfeiture, seizure, destruction or condemnation as prize and provided always that each Vessel remains properly managed and insured at all times in accordance with the terms of this Agreement.

16.18 Related Contracts

The Borrower shall not take any action, enter into any document or agreement or omit to take any action or to enter into any document or agreement which would, or could reasonably be expected to, cause any Related Contract to cease to remain in full force and effect and shall use all reasonable endeavours to procure that each other party to any Related Contract does

not take any action, enter into any document or agreement or omit to take any action or to enter into any document or agreement which would, or could reasonably be expected to, cause any Related Contract to cease to remain in full force and effect.

16.19 Environment

The Borrower shall, and shall procure that the Manager shall, at all times after the Delivery Date of a Vessel:

- (a) comply with all applicable Environmental Laws including, without limitation, requirements relating to the establishment of financial responsibility (and shall require that all Environmental Representatives of the Borrower comply with all applicable Environmental Laws and obtain and comply with all required Environmental Approvals, which Environmental Laws and Environmental Approvals relate to any of the Vessels or her operation or her carriage of cargo); and
- (b) promptly upon the occurrence of any of the following events, provide to the Facility Agent a certificate of an officer of the Borrower or of the Borrower's agents specifying in detail the nature of the event concerned:
 - (i) the receipt by the Borrower or any Environmental Representative (where the Borrower has knowledge of the receipt) of any Environmental Claim; or
 - (ii) any Release of Hazardous Materials.

16.20 Information regarding the Vessels

The Borrower shall, and shall procure that the Manager shall, at all times after the Delivery Date of a Vessel:

- (a) promptly notify the Facility Agent of the occurrence of any accident, casualty or other event which has caused or resulted in or may cause or result in a Vessel being or becoming a Total Loss;
- (b) promptly notify the Facility Agent of any material requirement or recommendation made by any Insurer or classification society or by any competent authority which is not complied with in a timely manner;
- (c) annually provide the Facility Agent with a schedule setting outgoing and all intended dry dockings of any of the Vessels, such schedule to form part of the Annual Compliance Certificate;
- (d) promptly notify the Facility Agent of any Environmental Claim being made in connection with any of the Vessels or its operation;
- (e) promptly notify the Facility Agent of any claim for breach of the ISM Code being made in connection with any of the Vessels or its operation;
- (f) promptly notify the Facility Agent of any claim for breach of the ISPS Code being made in connection with any of the Vessels or its operation;
- (g) give to the Facility Agent from time to time on request such information, in sufficient copies (which may take the form of electronic copies) for all the Lenders, as the Facility Agent may reasonably require regarding any of the Vessels, her employment, position and engagements;

- (h) provide the Facility Agent with copies of the classification certificate of the Vessels and of all periodic damage or survey reports on any of the Vessels which the Facility Agent may reasonably request;
- (i) promptly furnish the Facility Agent with full information of any casualty or other accident or damage to any of the Vessels involving an amount in excess of US\$1,500,000 (or equivalent);
- (j) give to the Facility Agent and its duly authorised representatives reasonable access to either of the Vessels for the purpose of conducting on board inspections and/or surveys of the Vessels and pay the reasonable expenses incurred by the Facility Agent in connection with the inspections and/or surveys provided that, unless a Default has occurred and is continuing, such inspections and/or surveys shall not take place at the expense of the Borrower and the Facility Agent shall co-operate with the Borrower in respect of the timing for and the place where such surveys take place in order to minimise disruption to the activities of any of the Vessels; and
- (k) if the Facility Agent reasonably believes an Event of Default may have occurred, furnish to the Facility Agent from time to time upon reasonable request certified copies of the ship's log in respect of any of the Vessels.

16.21 Provision of further information

The Borrower shall, and shall procure that the Manager shall, as soon as practicable following receipt of a request by the Facility Agent, provide the Facility Agent, with sufficient copies for all the Lenders, with any additional or further financial or other information relating to any of the Vessels, the Obligatory Insurances or to any other matter relevant to, or to any provision of, a Finance Document which the Facility Agent may reasonably request.

16.22 Management

The Borrower shall, and shall procure that the Manager shall, ensure that at all times after the Delivery Date of a Vessel:

- (a) the relevant Vessel is managed by the Manager; and
- (b) the Manager shall not terminate or materially vary the terms of its management or appoint an alternative manager except in accordance with the Management Agreement, provided that the Borrower shall be entitled so to do with the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

However, in the event that the Manager's appointment as manager of either one of the Vessels ceases or is terminated in circumstances where it was not possible for the Borrower to obtain the prior written consent of the Facility Agent, the Borrower shall promptly and in any event within ten (10) days from the date of the termination of the Manager's appointment, provide to the Facility Agent details of a replacement manager, such manager to be satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders).

16.23 Proceeds from sale or Total Loss of a Vessel

- (a) The Borrower shall procure that the proceeds from a sale or Total Loss of the relevant Vessel shall immediately upon receipt by the Borrower be paid into the Retention Account in accordance with Clause 12.2 for application by the Facility Agent in accordance with Clause 12.3, unless an Event of Default has occurred and is continuing, in which case the proceeds from a sale or Total Loss of the relevant Vessel shall immediately upon receipt by the Borrower be paid to the Facility Agent for application in accordance with Clause 13.7 (Payments).
- (b) For and so long as the Borrower holds any such proceeds as referred to in paragraph (a) it shall do so on trust for the Facility Agent.

16.24 Charters

- (a) The Borrower will not let any of the Vessels on demise, consecutive voyage or voyage charter for any period without the consent of the Facility Agent (acting on the instructions of the Majority Lenders) such consent not to be unreasonably withheld.
- (b) The Borrower shall be entitled to let its Vessels, in accordance with the terms of the Time Charters PROVIDED always that:
 - (i) the Borrower shall remain liable under any time charter to perform all the obligations assumed by it under the Time Charter;
 - (ii) the Facility Agent shall not be under any obligations or liability under any time charter or liable to make any payment under that time charter; and
 - (iii) the Facility Agent shall not be obliged to enforce against any charterer any term of any time charter, or to make any enquiries as to the nature or sufficiency of any payment received by the Facility Agent.

16.25 Charter Breach, Expiration or Termination of Time Charter

- (a) At all times, the Borrower shall advise the Facility Agent of any of the following events:
 - (i) any Charter Breach by the Charterer of the terms of a Time Charter of which the Borrower becomes aware;
 - (ii) the termination of a Time Charter by either the Borrower or the Charterer;
 - (iii) the expiration of a Time Charter;
 - (iv) as soon as it becomes aware of such event, the occurrence of an event of cross default of the nature referred to in Clause 19.5 (Cross-default) in respect of the Charterer, PROVIDED always that such event shall not arise in respect of the Charterer where the aggregate amount of the relevant Financial Indebtedness of the Charterer is less than US\$50,000,000 or its equivalent; or
 - (v) as soon as it becomes aware of such event, the occurrence of an insolvency event of the nature referred to in Clause 19.6 (Insolvency), 19.7 (Insolvency proceedings), 19.8 (Creditor's process) or 19.9 (Cessation of business) in respect of the Charterer,

and upon the occurrence of any such event the Facility Agent shall be (acting on the instructions of the Majority Lenders) entitled to require that the Borrower exercises all of its rights under the relevant Time Charter including, where applicable, the termination of the Time Charter in respect of the relevant Vessel.

- (b) In the event of a termination of a Time Charter in accordance with Clause 16.25(a) or otherwise, in relation to which a charter termination fee is payable, such termination fee shall be payable into the Retention Account in accordance with Clause 12.2.
- (c) In the event of an expiration or termination of a Time Charter referred to in paragraph (a) above the Borrower shall, within ninety (90) days of such expiration or termination, enter into a substitute time charter with a charterer acceptable to the Lenders and with a term of at least the same remaining duration as the Time Charter which has terminated or, if expired, extending to at least the relevant Term Loan Final Maturity Date, such time charter to be in form and substance similar to an existing Time Charter or otherwise reasonably acceptable to the Facility Agent (acting on the instructions of the Majority Lenders) and the relevant charter termination fee shall be released to the Borrower in accordance with Clause 12.3(b)(i), failing which either:
 - (i) the charter termination fee shall be applied by the Facility Agent in prepayment of the relevant Loan to ensure that the aggregate of the Market Value of the Vessels then delivered is not less than 125% of the aggregate principal amounts then outstanding under the Loans related to such Vessels and if for any reason the amount of the charter termination fee shall be insufficient to make the prepayment described in this paragraph (i), the Borrower shall, without demand, provide the Facility Agent with an amount equal to the amount of the shortfall; or
 - (ii) the Borrower shall provide or cause to be provided to the Facility Agent such additional security as is satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders) so as to ensure that the aggregate of the Market Value of the Vessels then delivered is not less than 125% of the aggregate principal amounts then outstanding under the Loans related to those Vessels.

16.26 Scope of Obligatory Insurances

The Borrower will, in respect of each Vessel:

- (a) procure the Builder's compliance with the Builder's Risk Insurances as detailed in the relevant Article of each Shipbuilding Contract.
- (b) at all times after the relevant Delivery Date, keep that Vessel insured in the Required Insurance Amount, in Dollars in the name of the Borrower or (if the Facility Agent so requires) in the joint names of the Borrower and the Facility Agent without the Facility Agent being liable but having the right to pay premiums, through brokers approved by the Facility Agent against fire and usual marine risks (including hull and machinery and Excess Risks) with approved underwriters or insurance companies approved by the Facility Agent and by policies in form and content approved by the Facility Agent;
- (c) at all times after the relevant Delivery Date, keep that Vessel insured in the Required Insurance Amount in the same manner as above against war risks (including risks of

mines and all risks, whether or not regarded as war risks, London Blocking and Trapping Addendum and Lost Vessel Clause, excepted by the free of capture and seizure clauses in the standard form of Lloyds marine policy) either:

- (i) with underwriters or insurance companies approved by the Facility Agent and by policies in form and content approved by the Facility Agent; or
- (ii) by entering the relevant Vessel in an approved war risks association,

and for the avoidance of doubt, such war risks insurance will include protection and indemnity liability up to at least the Required Insurance Amount, excluding any liability in respect of death, injury or damage to crew;

- (d) at all times after the relevant Delivery Date, keep that Vessel entered in respect of her full value and tonnage in an approved protection and indemnity association against all risks as are normally covered by such protection and indemnity association (including pollution risks and the proportion not recoverable in case of collision under the running down clause inserted in the ordinary Lloyds policies), such cover for pollution risks to be for:
 - (i) a minimum amount of US\$1,000,000,000 or such other amount of cover against pollution risks as shall at any time be comprised in the basic entry of each Vessel with either a protection and indemnity association which is an acceptable member of either the International Group of protection and indemnity associations (or any successor organisation designated by the Facility Agent for this purpose) or the International Group (or such successor organisation) itself; or
 - (ii) if the International Group or any such successor ceases to exist or ceases to provide or arrange any cover for pollution risks (or any supplemental cover for pollution risks over and above that afforded by the basic entry of each Vessel with its protection and indemnity association), such aggregate amount of cover against pollution risks as shall be available on the open market and by basic entry with a protection and indemnity association for ships of the same type, size, age and flag as each respective Vessel,

provided that, if any Vessel has ceased trading or is in lay up and in either case has unloaded all cargo, the level of pollution risks cover afforded by ordinary protection and indemnity cover available through a member of the International Group or such successor organisation or, as the case may be, on the open market in such circumstances shall be sufficient for such purposes; and

- (e) at all times after the relevant Delivery Date, whenever any Vessel is trading to Japanese territorial waters and when so required by the Facility Agent, maintain in full force and effect social responsibility insurance in respect of the Vessel with underwriters or insurance companies approved by the Facility Agent and by policies in form and content approved by the Facility Agent, provided always that a first class borrower or operator of vessels such as the Vessels would maintain and effect such social responsibility insurance.

16.27 Obligatory Insurances

Without prejudice to its obligations under Clause 16.26 (Scope of Obligatory Insurances), the Borrower will:

- (a) not without the prior consent of the Facility Agent (acting on the instructions of the Majority Lenders) alter any Obligatory Insurance nor make, do, consent or agree to any act or omission which would or might render any Obligatory Insurance invalid, void, voidable or unenforceable or render any sum paid out under any Obligatory Insurance repayable in whole or in part;

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- (b) not cause or permit any Vessel to be operated in any way inconsistent with the provisions or warranties of, or implied in, or outside the cover provided by, any Obligatory Insurance or to be engaged in any voyage or to carry any cargo not permitted by any Obligatory Insurances without first covering the relevant Vessel in the relevant Required Insurance Amount and her freights for an amount approved by the Facility Agent (acting on the instructions of the Majority Lenders) in Dollars or another approved currency with the Insurers;
 - (c) duly and punctually pay when due all premiums, calls, contributions or other sums of money from time to time payable in respect of any Obligatory Insurance;
 - (d) renew all Obligatory Insurances at least fourteen (14) days before the relevant policies or contracts expire, with underwriters or insurance companies either previously approved by the Majority Lenders or of a security rating of A- or higher, and procure that the brokers and/or war risks and protection and indemnity clubs and associations shall promptly confirm in writing to the Facility Agent as and when each renewal is effected;
 - (e) forthwith upon the effecting of any Obligatory Insurance, give written notice of the insurance to the Facility Agent stating the full particulars (including the dates and amounts) of the insurance, and on request produce the receipts for each sum paid by it pursuant to paragraph (c) above;
 - (f) not settle, release, compromise or abandon any claim in respect of any Total Loss unless the Facility Agent (acting on the instructions of the Majority Lenders) is satisfied that such release, settlement, compromise or abandonment will not prejudice the interests of the Finance Parties under or in relation to any Finance Document;
 - (g) arrange for the execution and delivery of such guarantees as may from time to time be required by any protection and indemnity or war risks club or association;
 - (h) procure that the interest of the Facility Agent is noted on all policies of insurance relating to the Vessels;
 - (i) procure that a loss payee provision in the form scheduled to the Insurances Assignment and reflecting the provisions of Clause 16.28 (Application of Insurance Proceeds) is endorsed on all policies of insurance relating to the Vessels;
 - (j) obtain from the relevant insurance brokers and P&I Club letters of undertaking in the forms scheduled to the Insurances Assignments; and
 - (k) in the event that the Borrower receives payment of any moneys under the Insurance Assignment, save as provided in the loss payable clauses scheduled to the Insurance Assignment, forthwith pay over the same to the Facility Agent and, until paid over, such moneys shall be held in trust for the Facility Agent by the Borrower.

16.28 Application of Insurance Proceeds

- (a) All sums receivable in respect of the Obligatory Insurances after the occurrence of an Event of Default shall be paid to the Facility Agent and the Facility Agent shall apply them in accordance with Clause 13.7 (Payments).
- (b) Subject to paragraph (a) above:
 - (i) each sum receivable in respect of a major casualty (being any casualty in respect of which the claim or the aggregate of the claims exceeds US\$20,000,000 (or its equivalent)), other than in respect of protection and indemnity risk insurances, shall be paid to the Facility Agent; and
 - (ii) the insurance moneys received by the Facility Agent in respect of any such major casualty shall be paid:
 - (A) to the person to whom the relevant liability shall have been incurred; or
 - (B) upon the Borrower furnishing evidence satisfactory to the Facility Agent that all loss and damage resulting from the casualty has been properly made good and repaired, to the Borrower or, at the option of the Facility Agent, to the person by whom any repairs have been or are to be effected.
 - (iii) The receipt by any such person referred to in paragraph (A) and (B) of paragraph (ii) above shall be a full and sufficient discharge of the same to the Facility Agent.
- (c) Subject to paragraph (a) above, each sum receivable in respect of the Obligatory Insurances (insofar as the same are hull and machinery or war risks insurances) which does not exceed US\$20,000,000 or its equivalent shall be paid in full to the Borrower or to its order and shall be applied by it for the purpose of making good the loss and fully repairing all damage in respect of which the receivable shall have been collected.
- (d) Subject to paragraph (a) above, each sum receivable in respect of protection and indemnity risk Obligatory Insurances shall be paid direct to the person to whom the liability, to which that sum relates, was incurred, or to the Borrower in reimbursement to it of moneys expended in satisfaction of such liability.
- (e) Notwithstanding any other provision in this Clause 16.28, all sums receivable in respect of Obligatory Insurances relating to a Total Loss shall be applied in accordance with Clause 13.7 (Payments).

16.29 Power of Facility Agent to Insure

If the Borrower fails to effect and keep in force Obligatory Insurances in accordance with this Agreement, it shall be permissible, but not obligatory, for the Facility Agent to effect and keep in force insurance or insurances in the amounts required under this Agreement and entries in a protection and indemnity association or club and, if it deems necessary or expedient, to insure the war risks upon any Vessel, and the Borrower will reimburse the Facility Agent for the costs of so doing.

16.30 ISM Code

The Borrower shall, and shall procure that the Manager shall:

- (a) at all times after the Delivery Date of a Vessel be responsible for compliance by itself and by such Vessel with the ISM Code;
- (b) at all times after the Delivery Date of a Vessel ensure that:
 - (i) the Vessel has a valid Safety Management Certificate (as defined in the ISM Code);
 - (ii) the Vessel is subject to a safety management system (as defined in the ISM Code) which complies with the ISM Code; and
 - (iii) there is a valid Document of Compliance (as defined in the ISM Code) which is held on board the Vessel, and shall deliver to the Facility Agent, on or before the Delivery Date of a Vessel, a copy of a valid Safety Management Certificate and a valid Document of Compliance in respect of the relevant Vessel, in each case duly certified by an officer of the Borrower;
- (c) promptly notify the Facility Agent of any actual or, upon becoming aware of the same, threatened withdrawal of an applicable Safety Management Certificate or Document of Compliance;
- (d) promptly notify the Facility Agent of the identity of the person ashore designated for the purposes of paragraph 4 of the ISM Code and of any change in the identity of that person; and
- (e) promptly upon becoming aware of the same notify the Facility Agent of the occurrence of any accident or major non-conformity (as defined in the ISM Code) requiring action under the ISM Code.

16.31 ISPS Code

The Borrower shall, and shall procure that the Manager shall, at all times after the Delivery Date of a Vessel:

- (a) comply and be responsible for compliance by itself and by such Vessel with the ISPS Code;
- (b) ensure that:
 - (i) the Vessel has a valid International Ship Security Certificate;
 - (ii) the Vessel's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Vessel's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place.

16.32 No amendment to Related Contracts

The Borrower shall not amend or agree to any material amendment to the Related Contracts without the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders).

16.33 Dry Docking

The Borrower shall procure that the Manager shall from time to time have sufficient liquid funds available to ensure that, on the date of the scheduled dry docking of a Vessel, the Manager shall have sufficient available liquid funds to meet all of its obligations under the Management Agreement including, but not limited to, the cost of such scheduled dry docking in relation to that Vessel.

16.34 Tonnage

The Borrower shall procure that, at all times prior to the Revolving Credit Final Maturity Date, the tonnage weighted average age of the Vessels (calculated in a manner satisfactory to the Facility Agent), shall not at any time exceed twelve years.

16.35 Equity Contribution

On or before the Delivery Date of each Vessel, the Borrower shall make the relevant Equity Contribution payment in respect of that Vessel and shall, on or before the relevant Delivery Date, provide the Facility Agent with evidence of such payment.

17. FINANCIAL COVENANTS**17.1 Definitions**

In this Clause:

Cash and Cash Equivalents means, as at any date of determination:

- (a) cash in hand or on deposit in the Retention Account;
- (b) any investment in marketable obligations issued or guaranteed by the government of the United States of America, Canada or the United Kingdom or by an instrumentality or agency of the government of the United States of America, Canada or the United Kingdom, maturing within one (1) year after the relevant date of calculation;
- (c) time deposits and certificates of deposit of any commercial bank having, or which is the principal banking subsidiary of a bank holding company having, a credit rating of either A by S&P or Fitch or A2 by Moody's which time deposits and certificates of deposit mature within one (1) year after the relevant date of calculation;
- (d) repurchase obligations with a term of not more than ninety (90) days for underlying securities of the type referred to in subclause (b) above entered into with any bank meeting the qualifications specified in subclause (c) above;
- (e) open market commercial paper:
 - (i) for which a recognised trading market exists;

- (ii) issued in the United States of America, Canada or the United Kingdom;
 - (iii) which matures within one (1) year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 by S&P or Fitch or P-1 by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term debt obligations, an equivalent rating; and
- (f) any other instrument, security or investment approved by the Majority Lenders,

in each case, to which the Borrower is beneficially entitled at that time, which is unencumbered (other than by any of the Security Documents) and which is capable of being applied against Total Borrowings.

EBITDA means the net income of the Borrower for a Measurement Period as adjusted by:

- (a) adding back taxation;
- (b) adding back Interest Expenses;
- (c) taking no account of any extraordinary item;
- (d) excluding any amount attributable to minority interests;
- (e) adding back depreciation and amortisation; and
- (f) taking no account of any revaluation of an asset or any loss or gain over book value arising on the disposal of an asset (otherwise than in the ordinary course of trading) by the Borrower during that Measurement Period.

Interest and Principal Coverage Ratio means, as at any date of determination and with respect to any period, the ratio of EBITDA for such period to Interest and Principal Expense for such period.

Interest and Principal Expense means all Interest Expense incurred and all payments of principal made by the Borrower during a Measurement Period.

Interest Expense means all cash interest and cash commitment fees incurred by the Borrower during a Measurement Period.

Marketable Securities means any bonds, stocks, notes or bills payable in a freely convertible and transferable currency and which are listed on a stock exchange acceptable to the Facility Agent (acting on the instructions of the Majority Lenders).

Net Interest Coverage Ratio means, as at any date of determination and with respect to any period, the ratio of EBITDA for such period to Net Interest Expense for such period.

Net Interest Expense means Interest Expense less all interest and other financing charges received by the Borrower during a Measurement Period.

Tangible Net Worth means at any time the amount paid up or credited as paid up on the issued share capital of the Borrower based on the latest published audited balance sheet of the Borrower (the latest balance sheet) but adjusted by:

- (a) adding any amount standing to the credit of the profit and loss account of the Borrower for the period ending on the date of the latest balance sheet;

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- (b) deducting any dividend or other distribution declared, recommended or made by the Borrower;
 - (c) deducting any amount standing to the debit of the profit and loss account of the Borrower for the period ending on the date of the latest balance sheet;
 - (d) deducting any amount attributable to goodwill (other than goodwill attributable to the Vessels) or any other intangible asset;
 - (e) deducting any amount attributable to an upward revaluation of assets after the date of this Agreement;
 - (f) adding the amount referred to in Schedule 11 for the date of the latest balance sheet which represents the difference between (i) an estimated book value for certain vessels based on their fair market value at the time of the Borrower's acquisition thereof and a depreciation in equal increments over a thirty (30) year period and (ii) the actual book value of such vessels based on their actual purchase price and scheduled depreciation;
 - (g) reflecting any variation in the amount of the issued share capital of the Borrower and the capital and revenue reserves of the Borrower after the date of the latest balance sheet;
 - (h) reflecting any variation in the interest of the Borrower since the date of the latest balance sheet;
 - (i) excluding any amount attributable to deferred taxation; and
 - (j) excluding any amount attributable to minority interests.

Total Assets means, at any date, the aggregate of:

- (a) the then current book values of all vessels owned or leased with a purchase option by the Borrower, but adding back in relation to the vessels listed in Schedule 11, the amount referred to in paragraph (f) of the definition of Tangible Net Worth;
- (b) the then current aggregate amount of cash, Marketable Securities (but no other bonds, notes or bills and less any cash or Marketable Securities accounted for in the definition of Total Borrowings below) and receivables due to the Borrower (less provision for bad and doubtful debts) as shown in the latest financial statements; and
- (c) the book values of all other (non-shipping) assets as shown in such latest financial statements.

Total Borrowings means, in respect of the Borrower, at any time the aggregate of the following:

- (a) the outstanding principal amount of any moneys borrowed;
- (b) the outstanding principal amount of any acceptance under any acceptance credit;

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- (c) the outstanding principal amount of any bond, note, debenture, loan stock or other similar instrument;
 - (d) the capitalised element of indebtedness under a finance or capital lease;
 - (e) the outstanding principal amount of all moneys owing in connection with the sale or discounting of receivables (otherwise than on a non-recourse basis);
 - (f) the outstanding principal amount of any indebtedness arising from any deferred payment agreements arranged primarily as a method of raising finance or financing the acquisition of an asset;
 - (g) any fixed or minimum premium payable on the repayment or redemption of any instrument referred to in paragraph (c) above;
 - (h) the outstanding principal amount of any indebtedness arising in connection with any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing; and
 - (i) the outstanding principal amount of any indebtedness of any person of a type referred to in the above paragraphs which is the subject of a guarantee, indemnity or similar assurance against financial loss given by the Borrower.

17.2 Interpretation

- (a) Except as provided to the contrary in this Agreement, an accounting term used in this Clause is to be construed in accordance with U.S. GAAP.
- (b) Any amount in a currency other than Dollars is to be taken into account at its Dollar equivalent calculated on the basis of:
 - (i) the Facility Agent's spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market with Dollars at or about 11.00 a.m. on the day the relevant amount falls to be calculated; or
 - (ii) if the amount is to be calculated on the last day of a financial period of the Borrower, the relevant rates of exchange used by the Borrower in, or in connection with, its financial statements for that period.
- (c) No item must be credited or deducted more than once in any calculation under this Clause.

17.3 Tangible Net Worth

The Borrower must ensure that Tangible Net Worth always exceeds four hundred and fifty million Dollars (US\$450,000,000).

17.4 Gearing

Unless waived by the Facility Agent (acting on the instructions of the Majority Lenders) the Borrower must ensure that Total Borrowings are always less than sixty five per cent (65%) of Total Assets at that time.

17.5 Minimum Liquidity

If, at any time, more than fifty per cent (50%) of the vessels owned by the Borrower (assessed by value) are subject to time charters which have a remaining term of one year or less (excluding any optional extensions not then exercised), the Borrower must ensure that the Cash and Cash Equivalents held by the Borrower at such date of determination are not less than twenty five million Dollars (US\$25,000,000).

17.6 Net Interest Coverage Ratio

The Borrower must ensure that the Net Interest Coverage Ratio is always greater than 2.50 to 1.

17.7 Interest and Principal Coverage Ratio

The Borrower must ensure that the Interest and Principal Coverage Ratio is always greater than or equal to 1.1 to 1.

17.8 Charter Default

The Borrower must ensure at all times following a breach by the Charterer in circumstances where substitute charters required under Clause 16.25 (Charter Breach, Expiration or Termination of Charter) have not been entered into by the Borrower within ninety (90) days of such Charter Breach, that the aggregate Market Value of the Vessels then delivered shall not be less than 125 per cent. of the aggregate principal amount of the outstanding Loans relating to such Vessels.

17.9 Testing of Financial Covenants

- (a) Each of the financial covenants set out in Clauses 17.3 to 17.8 (inclusive) shall be tested by reference to each rolling twelve (12) month Measurement Period, provided always that the Interest and Principal Coverage Ratio referred to in Clause 17.7 shall be tested on the basis of the financial statements of the Borrower for the last fiscal quarter of the Borrower in the event of the occurrence of the circumstances set out in Clause 17.8.
- (b) The Borrower shall provide a Compliance Certificate each quarter in respect of the financial covenants.

18. [INTENTIONALLY OMITTED]**19. DEFAULT****19.1 Events of Default**

Each of the events set out in this Clause 19 is an Event of Default.

19.2 Non-payment

The Borrower does not pay on the due date any amount payable by it under the Finance Documents in the manner required under the Finance Documents, unless the non-payment:

- (a) is caused by technical or administrative error; and
- (b) is remedied within three (3) Business Days of the due date.

19.3 Breach of other obligations

- (a) The Borrower does not comply with any term of Clause 16 (General Covenants) or Clause 17 (Financial Covenants), unless the non-compliance:
- (i) is capable of remedy; and
 - (ii) is remedied within thirty (30) days of the earlier of the Facility Agent giving notice to the Borrower and discovery (and for the purposes of this paragraph **discovery** means actual awareness).

The Borrower acknowledges that for the purposes of paragraph (i) above, non-compliance with the following shall not be capable of remedy:

- (A) Clause 16.10(a) and 16.10(b) (Security), but in respect of subparagraph (b) only insofar as it relates to the Mortgage, the Time Charter, and Earnings Assignment and the Insurances Assignment;
- (B) Clause 16.12(a) (Registration of the Vessels);
- (C) the Obligatory Insurances being in full force and effect; and
- (D) Clause 17 (Financial Covenants),

provided always that, in the case of (A) and (B) above, if the non-compliance is caused by technical or administrative error only, is corrected within three (3) Business Days of the earlier of the Facility Agent giving notice to the Borrower and discovery (**discovery** having the same meaning as in Clause 19.3(a)(ii)), and, in the case of (C) above, if the non-compliance is caused by technical or administrative error only, is corrected within one (1) Business Day and in each case the Facility Agent (acting on the good faith and reasonable instructions of the Majority Lenders) is satisfied that the Finance Parties have neither suffered nor will, in the future, suffer any material detriment (whether financial, to their security position or otherwise howsoever) as a result of the non-compliance.

- (b) The Borrower fails to comply with the terms of Clause 6.2(b) or one of the events listed in Clause 6.5(a) occurs and the Borrower does not comply with the terms of Clause 6.5(b) within the time periods specified in Clause 6.5.
- (c) Any Party (other than a Finance Party or the Account Bank) does not comply with any other term of the Finance Documents not already referred to in this Clause which the Facility Agent (acting on the good faith and reasonable instructions of the Majority Lenders) considers to be material, unless the non-compliance:
- (i) is capable of remedy; and
 - (ii) is remedied within fourteen (14) days of the earlier of the Facility Agent giving notice and discovery by the relevant Party (**discovery** having the same meaning as in Clause 19.3(a)(ii)) of the non-compliance.

19.4 Misrepresentation

A representation made or repeated by the Borrower (or by any other Party other than a Finance Party or the Account Bank) in any Finance Document or in any document delivered

by or on behalf of the Borrower under any Finance Document is incorrect in any respect which the Facility Agent (acting on the good faith and reasonable instructions of the Majority Lenders) considers to be material when made or deemed to be repeated, unless the circumstances giving rise to the misrepresentation:

- (a) are capable of remedy; and
- (b) are remedied within thirty (30) days of the earlier of the Facility Agent giving notice and the relevant Party becoming aware of the misrepresentation.

19.5 Cross-default

Any of the following occurs in respect of the Borrower:

- (a) any of its Financial Indebtedness is not paid when due (after the expiry of any originally applicable grace period);
- (b) any of its Financial Indebtedness:
 - (i) becomes prematurely due and payable; or
 - (ii) is placed on demand; or
 - (iii) is capable of being declared by a creditor to be prematurely due and payable or being placed on demand, in each case, as a result of an event of default (howsoever described) and after the expiry of any applicable grace period;
- (c) any commitment for its Financial Indebtedness is cancelled or suspended as a result of an event of default (howsoever described), unless the aggregate amount of Financial Indebtedness falling within paragraphs (a) to (c) above is less than US\$25,000,000 or its equivalent .

19.6 Insolvency

Any of the following occurs in respect of the Borrower:

- (a) it is, or is deemed for the purposes of any Applicable Law to be, unable to pay its debts as they fall due or insolvent;
- (b) it admits its inability to pay its debts as they fall due;
- (c) it suspends making payments on any of its debts or announces an intention to do so;
- (d) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling of any of its indebtedness; or
- (e) a moratorium is declared in respect of any of its indebtedness.

If a moratorium occurs in respect of the Borrower, the ending of the moratorium will not remedy any Event of Default caused by the moratorium.

19.7 Insolvency proceedings

- (a) Except as provided in paragraph (b) below, any of the following occurs in respect of the Borrower:
- (i) any step is taken with a view to a moratorium, a composition, assignment or similar arrangement with any of its creditors;
 - (ii) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution to petition for or to file documents with a court for its winding-up, administration or dissolution or any such resolution is passed;
 - (iii) any person presents a petition, or files documents with a court for its winding-up, administration or dissolution;
 - (iv) an order for its winding-up, administration or dissolution is made;
 - (v) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets;
 - (vi) its directors, shareholders or other officers request the appointment of, or give notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer; or
 - (vii) any other analogous step or procedure is taken in any jurisdiction.
- (b) Paragraph (a) above does not apply to a frivolous or vexatious petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within fourteen (14) days.

19.8 Creditors' process

Any attachment, sequestration, distress, execution or analogous event affects any asset(s) of the Borrower, having an aggregate value of twenty five million Dollars (US\$25,000,000) or its equivalent and is not discharged within thirty (30) days.

19.9 Cessation of business

The Borrower ceases, or threatens to cease, to carry on business except as a result of any disposal not prohibited under this Agreement.

19.10 Failure to pay final judgment

The Borrower fails to comply with or pay any sum due from it under any final judgment or any final order made or given by any court of competent jurisdiction.

19.11 Effectiveness of Finance Documents

- (a) It is or becomes unlawful for the Borrower or any other Party (other than a Finance Party or the Account Bank) to perform any of its material obligations under the Finance Documents.

- (b) Any material provision of a Finance Document is not effective or is alleged by the Borrower to be ineffective for any reason.
- (c) Any material provision of a Finance Document is not effective or is alleged by any Party (other than a Finance Party, the Borrower or the Account Bank) to be ineffective for any reason.
- (d) The Borrower repudiates any material provision of a Finance Document or evidences an intention to repudiate any material provision of a Finance Document.
- (e) Any Party (other than a Finance Party or the Account Bank) repudiates any material provision of a Finance Document or evidences an intention to repudiate any material provision of a Finance Document.

19.12 Invalidity of Security Documents

Any of the Security Documents ceases to be valid in any material respect or any of those Security Documents creating a Security Interest in favour of the Facility Agent ceases to provide a perfected first priority security interest in favour of the Facility Agent.

19.13 Invalidity of KEXIM Guarantee

The KEXIM Guarantee ceases to be valid in any material respect or KEXIM gives notice to the Facility Agent to determine its obligations thereunder as a result of any act or omission of the Borrower.

19.14 Acceleration

If an Event of Default is outstanding, the Facility Agent, if the Majority Lenders so instruct it, shall by notice to the Borrower:

- (a) cancel the undrawn, uncanceled amount of the Maximum Facility Amount; and/or
- (b) declare that all or part of any amounts outstanding under the Finance Documents are:
 - (i) immediately due and payable; and/or
 - (ii) payable on demand by the Facility Agent.

Any notice given under this Subclause will take effect in accordance with its terms.

20. SECURITY

20.1 Facility Agent as trustee

Unless expressly provided to the contrary herein or in any Finance Document and except as otherwise required by Applicable Law, the Facility Agent holds any security created by a Security Document on trust for the Finance Parties.

20.2 Responsibility

The Facility Agent is not liable or responsible to any other Finance Party for:

- (a) any failure in perfecting or protecting the security created by any Security Document; or

(b) any other action taken or not taken by it in connection with any Security Document, unless directly caused by its gross negligence or wilful misconduct.

20.3 Title

The Facility Agent may accept, without enquiry, the title (if any) the Borrower may have to any asset over which security is intended to be created by any Security Document.

20.4 Possession of documents

The Facility Agent shall, in accordance with its usual practice, hold in its own possession any Security Document, title deed or other document in connection with any asset over which security is intended to be created by a Security Document.

20.5 Investments

Except as otherwise provided in any Security Document, all moneys received by the Facility Agent under a Security Document will, until utilised, be invested in the name of, or under the control of, the Facility Agent in any investments selected by the Facility Agent (acting on the instructions of the Majority Lenders). Additionally, those moneys may be placed on deposit in the name of, or under the control of, the Facility Agent at any bank or institution (including itself) and upon such terms as it may think fit. Any interest or profit earned by the Facility Agent in connection with such investments shall be that of the Borrower and added to the Security Assets.

20.6 Approval

Each Finance Party confirms its approval of each Security Document.

20.7 Release of security

(a) If a disposal of any Security Asset is made to a third party in the following circumstances:

- (i) the Majority Lenders agree to the disposal;
- (ii) the disposal is allowed by the terms of the Finance Documents and will not result or could not reasonably be expected to result in any breach of any term of any Finance Document;
- (iii) the disposal is being made at the request of the Facility Agent in circumstances where any security created by the Security Documents has become enforceable; or
- (iv) the disposal is being effected by enforcement of a Security Document,

or a prepayment is made pursuant to Clauses 6.3 (Removal of a Vessel), 6.5 (Mandatory prepayment – Sale, Total Loss or non delivery of a Vessel) or 6.7 (Voluntary prepayment) and, in any such case, the Facility Agent is satisfied that the relevant Loan will be prepaid in full in accordance with Clause 6.3 (Removal of a Vessel) or 6.5(a)(i) (Mandatory prepayment – Sale, Total Loss or non delivery of a Vessel) as applicable at the time of the disposal or prepayment, the asset being disposed of or to which the prepayment relates will be released from any security over

it created by a Security Document. However, the proceeds of any disposal or prepayment (or an amount corresponding to them) must be applied in accordance with the requirements of the Finance Documents (if any).

- (b) Following the relevant Term Loan Final Maturity Date, if the Loans and any other sums due and payable under any Finance Document have been irrevocably and unconditionally repaid in full to the satisfaction of the Finance Parties, then the relevant Mortgage and any other Security Interest shall be released.
- (c) If the Facility Agent is satisfied that a release is allowed under this Subclause, the Facility Agent must execute (at the request and expense of the Borrower) any document which is reasonably required to achieve that release. Each other Finance Party irrevocably authorises the Facility Agent to execute any such document.

20.8 Co-security Agent

- (a) The Facility Agent may appoint a separate security agent or a co-security agent in any jurisdiction outside the United States:
 - (i) if the Facility Agent considers that without the appointment the interests of the Lenders under the Finance Documents might be materially and adversely affected;
 - (ii) for the purpose of complying with any law, regulation or other condition in any jurisdiction; or
 - (iii) for the purpose of obtaining or enforcing a judgment or enforcing any Finance Document in any jurisdiction.
- (b) Any appointment under this Subclause will only be effective if the security agent or co-security agent confirms to the Facility Agent and the Borrower in form and substance satisfactory to the Facility Agent that it is bound by the terms of this Agreement as if it were the Facility Agent.
- (c) The Facility Agent may remove any security agent or co-security agent appointed by it and may appoint a new security agent or co-security agent in its place.
- (d) The Borrower must pay to the Facility Agent any reasonable remuneration paid by the Facility Agent to any security agent or co-security agent appointed by it, together with any related costs and expenses properly incurred by the security agent or co-security agent.

20.9 Parallel Debt

The Borrower hereby irrevocably and unconditionally undertakes to pay to the Facility Agent amounts equal to any amounts owing by it to the relevant Finance Parties under the Finance Documents as and when the same fall due for payment thereunder, so that the Facility Agent shall be the obligee of such covenant to pay and shall be entitled to claim performance thereof in its own name and not as agent acting on behalf of the relevant Finance Parties. The Borrower and the Facility Agent acknowledge that for this purpose such obligations of the Borrower are several and are separate and independent from, and without prejudice to, the identical obligations which the Borrower has to the Finance Parties under the relevant Finance Documents, provided that this shall not, at the same time, result in the Borrower incurring an aggregate obligation to any such Finance Parties under the Finance Documents. To this end

and without prejudice to the foregoing, it is agreed that (i) the amounts due and payable by the Borrower under this Clause 20.9 (the **Parallel Debt**) shall be decreased to the extent that the Borrower paid any amounts to the Finance Parties or any of them in respect of the Secured Liabilities and vice versa and (ii) the Parallel Debt shall not exceed the aggregate of the corresponding obligations which the Borrower has to the Finance Parties under the Finance Documents.

Nothing in this Clause shall in any way negate, affect or increase the obligations of the Borrower to any Finance Parties under the Finance Documents in respect of the Secured Liabilities. For the purpose of this Clause the Facility Agent acts in its own name and on behalf of itself and not as agent or representative of any other party hereto and any security granted to the Facility Agent to secure the Parallel Debt is granted to the Facility Agent in its capacity as creditor of the Parallel Debt and solely for the purpose referred to above.

20.10 Dutch Security

The Facility Agent shall obtain any Security Interest provided under or pursuant to a Security Document governed by Dutch law (the **Dutch Security**) in its own name.

The Facility Agent shall have full and unrestricted entitlement to and authority in respect of the Dutch Security, provided that it shall be under an obligation to exercise such rights (and perform such obligations) in accordance with the contractual undertakings set out in any Finance Document.

21. THE ADMINISTRATIVE PARTIES

21.1 Appointment and duties of the Facility Agent

- (a) Each Finance Party (other than the Facility Agent) irrevocably appoints the Facility Agent to act as its agent under the Finance Documents.
- (b) Each Finance Party irrevocably authorises the Facility Agent on its behalf to:
 - (i) perform the duties and to exercise the rights, powers and discretions that are specifically given to it under the Finance Documents, together with any other incidental rights, powers and discretions; and
 - (ii) execute each Finance Document expressed to be executed by the Facility Agent on that Party's behalf.
- (c) The Facility Agent has only those duties which are expressly specified in the Finance Documents. Those duties are solely of a mechanical and administrative nature.

21.2 Role of the Arrangers

Except as specifically provided in the Finance Documents, the Arrangers in their capacity as Arrangers have no obligations of any kind to any other Party in connection with any Finance Document.

21.3 No fiduciary duties

Except as specifically provided in a Finance Document, nothing in the Finance Documents makes an Administrative Party a trustee or fiduciary for any other Party or any other person. No Administrative Party needs to hold in trust any moneys paid to it for a Party or be liable to account for interest on those moneys.

21.4 Individual position of an Administrative Party

- (a) If it is also a Lender, each Administrative Party has the same rights and powers under the Finance Documents as any other Lender and may exercise those rights and powers as though it were not an Administrative Party.
- (b) Each Administrative Party may:
 - (i) carry on any business with the Borrower or its related entities (including acting as an agent or a trustee for any other financing); and
 - (ii) retain any profits or remuneration it receives under the Finance Documents or in relation to any other business it carries on with the Borrower or its related entities.

21.5 Reliance

The Facility Agent may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
- (c) engage, pay for and rely on professional advisors selected by it; and
- (d) act under the Finance Documents through its personnel and agents.

21.6 Majority Lenders' instructions

- (a) The Facility Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by the Majority Lenders will be binding on all the Lenders. In the absence of instructions, unless the Finance Documents expressly provide that the Facility Agent acts on the instructions of the Majority Lenders in exercising the relevant right, power or discretion, the Facility Agent may act as it considers to be in the best interests of all the Lenders.
- (b) Each Lender acknowledges and confirms that it shall act in a reasonable manner when reaching any decision as to the exercise or non-exercise of any right, power or discretion by the Facility Agent.
- (c) The Facility Agent may assume that unless it has received notice to the contrary, any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised.
- (d) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings in connection with any Finance Document.

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- (e) The Facility Agent may require the receipt of security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it may incur in complying with the instructions of the Majority Lenders.

21.7 Responsibility

- (a) No Administrative Party is responsible to any other Finance Party for the adequacy, accuracy or completeness of:
 - (i) any Finance Document or any other document; or
 - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document.
- (b) Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms that it:
 - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of the Borrower and its related entities and the nature and extent of any recourse against any Party or its assets); and
 - (ii) has not relied exclusively on any information provided to it by any Administrative Party in connection with any Finance Document.

21.8 Exclusion of liability

- (a) The Facility Agent is not liable or responsible to any other Finance Party for any action taken or not taken by it in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent, in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in connection with any Finance Document. Any officer, employee or agent of the Facility Agent may rely on this Subclause and enforce its terms under the Contracts (Rights of Third Parties) Act 1999.

21.9 Default

- (a) The Facility Agent is not obliged to monitor or enquire whether a Default has occurred. The Facility Agent is not deemed to have knowledge of the occurrence of a Default.
- (b) If the Facility Agent:
 - (i) receives notice from a Party referring to this Agreement, describing a Default and stating that the event is a Default; or
 - (ii) is aware of the non-payment of any principal or interest or any fee payable to a Lender under this Agreement, it must promptly notify the Lenders.

21.10 Information

- (a) The Facility Agent must promptly forward to the person concerned the original or a copy of any document which is delivered to the Facility Agent by a Party for that person.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) Except as provided above, the Facility Agent has no duty:
 - (i) either initially or on a continuing basis to provide any Lender with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of the Borrower or its related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
 - (ii) unless specifically requested to do so by a Lender in accordance with a Finance Document, to request any certificate or other document from the Borrower.
- (d) In acting as the Facility Agent, the agency division of the Facility Agent is treated as a separate entity from its other divisions and departments. Any information acquired by the Facility Agent which, in its opinion, is acquired by it otherwise than in its capacity as the Facility Agent may be treated as confidential by the Facility Agent and will not be treated as information possessed by the Facility Agent in its capacity as such.
- (e) The Borrower irrevocably authorises the Facility Agent to disclose to the other Finance Parties any information which, is received by it in its capacity as the Facility Agent.

21.11 Indemnities

- (a) Without limiting the liability of the Borrower under the Finance Documents, each Lender must indemnify the Facility Agent for that Lender's *Pro Rata* Share of any loss or liability incurred by the Facility Agent in acting as the Facility Agent, except to the extent that the loss or liability is caused by the Facility Agent's gross negligence or wilful misconduct.
- (b) The Facility Agent may deduct from any amount received by it for a Lender any amount due to the Facility Agent from that Lender under a Finance Document but unpaid.

21.12 Compliance

Each Administrative Party may refrain from doing anything (including disclosing any information) which might, based on the reasonable opinion of its legal counsel, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

21.13 Resignation of the Facility Agent

- (a) The Facility Agent may resign by giving written notice to the Lenders and the Borrower, in which case the Majority Lenders shall appoint a successor facility agent of which the Borrower approves, such approval not to be unreasonably withheld or delayed.
- (b) If no successor Facility Agent has been appointed under paragraph (a) above within thirty (30) days after notice of resignation was given, the Facility Agent may appoint a successor Facility Agent.
- (c) The resignation of the Facility Agent and the appointment of any successor facility agent will both become effective only when the successor facility agent notifies all the Parties that it accepts its appointment and confirms that it is satisfied that the rights under the Security Documents have been assigned or transferred to it. On giving the notification and confirmation, the successor facility agent will succeed to the position of the Facility Agent and the term **Facility Agent** will mean the successor facility agent.
- (d) The retiring Facility Agent must, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as the Facility Agent under the Finance Documents.
- (e) Upon its resignation becoming effective, this Clause will continue to benefit the retiring Facility Agent in respect of any action taken or not taken by it in connection with the Finance Documents while it was the Facility Agent and, subject to paragraph (d) above, it will have no further obligations in its capacity as Facility Agent under any Finance Document.
- (f) The Majority Lenders may, by notice to the Facility Agent require it to resign under paragraph (a) above.

21.14 Relationship with Lenders

- (a) The Facility Agent may treat each Lender as a Lender entitled to payments under this Agreement and as acting through its Facility Office(s) until it has received not less than five (5) Business Days' prior notice from that Lender to the contrary.
- (b) The Facility Agent may at any time, and must if requested to do so by the Majority Lenders, convene a meeting of the Lenders.
- (c) The Facility Agent must keep a register of all the Parties and supply any other Party with a copy of the register on request. The register will include each Lender's Facility Office(s) and contact details for the purposes of this Agreement.

21.15 Notice period

Where this Agreement specifies a minimum period of notice to be given to the Facility Agent, the Facility Agent may, at its discretion, accept a shorter notice period.

21.16 Calculation and notification of Mandatory Cost

- (a) Each Lender shall, if it wishes to charge a Mandatory Cost in respect of a Loan, calculate such cost in accordance with Schedule 5 (calculation of Mandatory Cost) and inform the Facility Agent of the amount thereof on or before 3:00 pm (London time) on the Rate Fixing Day for such Loan.
- (b) If a Lender fails to specify its cost under paragraph (a) above or notification thereof is received after the time mentioned in that paragraph, the Facility Agent will assume that such Lender has not incurred any such cost and shall be under no obligation to make claim therefor on the Borrower.
- (c) No Mandatory Cost may be notified to the Facility Agent which is less than twenty base units of the currency of the Loan in respect of which such cost has been calculated.

22. EVIDENCE AND CALCULATIONS

22.1 Accounts

Accounts maintained by the Facility Agent in connection with this Agreement are conclusive (save for manifest error) evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

22.2 Certificates and determinations

Any certification or determination by the Facility Agent of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

22.3 Calculations

Any interest or fee accruing under this Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or otherwise, depending on what the Facility Agent determines is market practice.

23. FEES

23.1 Commitment fee

The Borrower must pay to the Facility Agent for and on behalf of the Lenders, a commitment fee calculated at the rate of 0.30% per annum on the undrawn, uncanceled amount of the Loans together, throughout the Term Loan Availability Period or Revolving Credit Availability Period, such commitment fee to accrue from day to day on the basis of a 360 day year and the actual number of days elapsed. The accrued commitment fee is payable on the last day of each Term which ends during the Term Loan Availability Period or Revolving Credit Availability Period, on the last day of the Term Loan Availability Period or Revolving Credit Availability Period and, if cancelled in full, on the cancellation amount at the time the cancellation becomes effective.

23.2 Facility Agent's fee

The Borrower must pay to the Facility Agent an agency fee in the manner agreed in the Fee Letter between the Facility Agent and the Borrower.

23.3 Advisory fee

The Borrower must pay to the Facility Agent an advisory fee in the manner agreed in the Fee Letter between the Facility Agent and the Borrower.

23.4 Arrangers' fee

The Borrower must pay the Facility Agent for distribution between the Arrangers an arrangers' fee in the manner agreed in the Fee Letter between the Facility Agent and the Borrower.

23.5 KEXIM Guarantee fee

The Borrower must pay the Facility Agent a fee calculated to reimburse the Facility Agent for any fee the Facility Agent is required to pay to KEXIM pursuant to the KEXIM Guarantee, in the manner agreed in the Fee Letter between the Facility Agent and the Borrower.

23.6 Refund of fees

The fees referred to in this Clause 23 and the Fee Letter shall not be refunded under any circumstances whatsoever once they have been paid.

24. INDEMNITIES AND BREAK COSTS**24.1 Currency indemnity**

- (a) The Borrower shall, as an independent obligation and within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs as a consequence of:
- (i) the Finance Party receiving an amount in respect of the Borrower's liability under the Finance Documents; or
 - (ii) that liability being converted into a claim, proof, judgment or order,
- in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.
- (b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

24.2 Other indemnities

- (a) The Borrower shall, as an independent obligation and within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs as a consequence of:
- (i) the occurrence of any Event of Default;
 - (ii) any failure by the Borrower to pay any amount due under a Finance Document on its due date;

(iii) (other than by reason of negligence or default by that Finance Party) a Loan (or part of a Loan) not being made after a Request has been delivered for that Loan; or

(iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment.

The liability of the Borrower in each case includes any cost, loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or any Loan.

- (b) The Borrower must indemnify against any cost, loss or liability incurred by any Finance Party as a result of:
- (i) investigating any event which that Finance Party reasonably believes to be a Default; or
 - (ii) acting or relying on any notice of the Borrower which that Finance Party reasonably believes to be genuine, correct and appropriately authorised.
- (c) The Borrower must indemnify and agree to hold harmless the Finance Parties and in each case, each of its and their (other than in the case of KEXIM) Affiliates and each of their respective officers, directors, employees, agents, advisors and representatives (each, an **Indemnified Party**) from and against any and all claims, damages, losses, liabilities, costs, legal expenses and expenses (altogether **Losses**), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any claim, investigation, litigation or proceeding (or the preparation of any defence with respect thereto) commenced or threatened in relation to the Finance Documents or the Related Contracts (or the transactions contemplated hereby or thereby) or any use made or proposed to be made with the proceeds of the Facility. This indemnity shall apply whether or not such claims, investigation, litigation or proceeding is brought by the Borrower, the shareholders of the Borrower or the creditors of the Borrower, an Indemnified Party or any other person, or an Indemnified Party is otherwise a party thereto, except to the extent such Losses are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or wilful misconduct.
- (d) No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Borrower or any shareholders or creditors of the Borrower for or in connection with the transactions referred to in paragraph (c) above, except for direct (as opposed to indirect or consequential) damages or losses to the extent such liability is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or wilful misconduct.
- (e) The Borrower must indemnify and hold each Finance Party harmless on a full indemnity basis, from and against each and every Loss:
- (i) arising directly or indirectly out of or in any way connected with the ownership, possession, performance, transportation, management, sale, import to or export from any jurisdiction, control, use or operation, registration, navigation, certification, classification, management, manning, provisioning, the provision of bunkers and lubricating oils, testing, design,

condition, delivery, acceptance, leasing, subleasing, chartering, insurance, maintenance, repair, service, modification, refurbishment, dry docking, survey, conversion, overhaul, replacement, removal, repossession, return, redelivery, storage, sale, disposal, the complete or partial removal, decommissioning, making safe, destruction, abandonment or loss by the Borrower or any other person of any of the Vessels or caused by any of the Vessels becoming a wreck or an obstruction to navigation, whether or not such liability may be attributable to any defect in any of the Vessels or to the design, construction or use thereof or from any maintenance, service, repair, dry docking, overhaul, inspection or for any other reason whatsoever (whether similar to any of the foregoing or not), and regardless of when the same shall arise and whether or not any of the Vessels (or any part thereof) is in possession or control of the Borrower or the Manager or any other person and whether or not the same is in United Kingdom waters or abroad;

- (ii) arising directly or indirectly out of or in any way connected with any Release of Hazardous Material, any Environmental Claim, or any breach of an Environmental Law or the terms and conditions of an Environmental Approval;
- (iii) as a consequence of any claim that any design, article or material in either of the Vessels or any part thereof or relating thereto or the operation or use thereof constitutes an infringement of patent, copyright, design or other proprietary right; or
- (iv) in preventing or attempting to prevent the arrest, seizure, taking in execution, requisition, impounding, forfeiture or detention of any of either Vessels or in securing or attempting to secure the release of either of the Vessels.

24.3 Break Costs

- (a) The Borrower must pay to each Lender or, as the case may be, each Swap Bank, its Break Costs in accordance with this Agreement.
- (b) In respect of a Lender other than a Tranche A Lender, Break Costs are the amount (if any) determined by the relevant Lender by which:
 - (i) the interest which that Lender would have received for the period from the date of receipt of payment of a Loan or an overdue amount to the last day of the current Term for that Loan or overdue amount if the principal or overdue amount received had been paid on the last day of that Term;
exceeds
 - (ii) the amount which that Lender would be able to obtain by placing an amount equal to the amount received by it on deposit with a leading bank in the appropriate interbank market for a period starting on the Business Day following receipt and ending on the last day of the applicable Term.
- (c) In respect of a Swap Bank, Break Costs are the amount (if any) determined by that Swap Bank which would indemnify that Swap Bank against any loss or liability that it incurs as a consequence of terminating all or any part of the swap or other hedging arrangements under the Swap Agreement.

- (d) Each Lender or, as the case may be, each Swap Bank, must supply to the Borrower details of the amount of any Break Costs claimed by it under this Clause.

25. EXPENSES

25.1 Initial costs

The Borrower must pay to each Finance Party the amount of all reasonable costs and expenses (including legal fees) incurred by it in connection with (but not limited to) the negotiation, preparation, printing and execution of the Finance Documents.

25.2 Subsequent costs

The Borrower must pay to each Finance Party the amount of all reasonable costs and expenses (including legal fees) incurred by it in connection with:

- (a) the negotiation, preparation, printing and execution of any Finance Document (other than a Transfer Certificate) executed after the date of this Agreement; and
- (b) any amendment, waiver or consent requested by or on behalf of the Borrower or specifically allowed by this Agreement.

The Borrower shall not be required to bear the amount of any costs and expenses (including legal fees) incurred by a Lender or a New Lender (as that term is defined in Clause 28.2 (Assignments and transfers by Lenders)) in connection with any voluntary transfer made by a Lender under this Agreement or any of the Security Agreements. In the event that a Lender is required to undertake any such transfers as a result of the provisions of Clause 11.4 (Mitigation) any costs of that Lender or a New Lender arising out of such transfer shall be payable by the Borrower.

25.3 Enforcement costs

The Borrower must pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement or attempted enforcement of, or the preservation or attempted preservation of any rights under, any Finance Document.

26. WAIVER OF CONSEQUENTIAL DAMAGES

In no event shall any Finance Party be liable on any theory of liability for any special, indirect, consequential or punitive damages and the Borrower hereby waives, releases and agrees (for itself and on behalf of its Subsidiaries) not to sue upon any such claim for any such damages, unless caused by the fraud, wilful default or recklessness of the relevant Finance Party in performance of any of its obligations under this Agreement or any of the Finance Documents.

27. AMENDMENTS AND WAIVERS

27.1 Procedure

- (a) Except as provided in this Clause 27, no term of the Finance Documents may be amended or waived without the agreement of the Borrower and the Majority Lenders. The Facility Agent may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause.

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- (b) The Facility Agent must promptly notify the other Parties of any amendment or waiver effected by it under paragraph (a) above. Any such amendment or waiver is binding on all the Parties.

27.2 Exceptions

- (a) An amendment or waiver which relates to:
- (i) the definition of **Majority Lenders** in Clause 1.1 (Definitions);
 - (ii) the definition of either of **Vessel 1** or **Vessel 2** in Clause 1.1 (Definitions);
 - (iii) an extension of the date of payment of any amount to a Lender under the Finance Documents;
 - (iv) a reduction in the amount of any payment of principal, interest, fee or other amount payable to a Lender under the Finance Documents;
 - (v) an increase in, or an extension of, a Commitment or the Total Commitments;
 - (vi) a release of the Borrower;
 - (vii) a term of a Finance Document which expressly requires the consent of each Lender;
 - (viii) the right of a Lender to assign or transfer its rights or obligations under the Finance Documents;
 - (ix) the release of security; or
 - (x) this Clause,
- may only be made with the consent of all the Lenders and the Borrower such consent not to be unreasonably withheld or delayed.
- (b) An amendment or waiver which relates to a reduction in the Exposure Margin, the Pre-Delivery Tranche A Interest Rate or the Post-Delivery Tranche A Interest Rate may only be made with the consent of all the Tranche A Lenders and the Borrower.
- (c) An amendment or waiver which relates to a reduction in the Pre-Delivery Tranche B Margin or Post-Delivery Tranche B Margin may only be made with the consent of all the Tranche B Lenders and the Borrower.
- (d) An amendment or waiver which relates to a reduction in the Pre-Delivery Revolver Margin or the Post-Delivery Revolver Margin may only be made with the consent of all the Revolver Lenders and the Borrower.
- (e) An amendment or waiver which relates to the rights or obligations of an Administrative Party may only be made with the consent of that Administrative Party, the Majority Lenders and the Borrower.

27.3 Change of currency

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the

Finance Documents will be amended to the extent the Facility Agent (acting reasonably and on the instructions of the Majority Lenders and after consultation with the Borrower) determines is necessary to reflect the change.

27.4 Waivers and remedies cumulative

The rights of each Finance Party under the Finance Documents:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law; and
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

28. CHANGES TO THE PARTIES

28.1 Assignments and transfers by Borrower

The Borrower may not assign or transfer any of its rights and obligations under the Finance Documents without the prior consent of all the Lenders.

28.2 Assignments and transfers by Lenders

- (a) A Lender (the **Existing Lender**) may, subject to the following provisions of this Subclause, at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement to another bank, financial institution or to a trust, fund or other entity which is regularly engaged or established for the purpose of making, purchasing or otherwise investing in loans, securities or other financial assets (the **New Lender**), provided always that:
 - (i) each assignment or transfer shall be uniform, and not a varying percentage of all rights and obligations under this Agreement;
 - (ii) each assignment or transfer shall not result in increased liability to the Borrower;
 - (iii) the Facility Agent shall provide to the Borrower details of the proposed new lenders at least seven (7) Business Days prior to the proposed transfer date and the Borrower shall approve or object to the identity of any one or more of the proposed new lenders on such list (such approval not to be unreasonably withheld or delayed). The relevant Lender shall be entitled to effect a transfer or assignment to any proposed new lender on such list to which the Borrower has not objected on reasonable grounds within such seven (7) Business Day period;
 - (iv) at no time shall the number of Tranche A Lenders exceed six (6), Tranche B Lenders exceed six (6) or Revolver Lenders exceed two (2) unless the prior written consent of the Borrower is obtained (such consent not to be unreasonably withheld); and
 - (v) a transfer fee of three thousand Dollars (US\$3,000) is paid by the new Lender to the Facility Agent.

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- (b) An Existing Lender may at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement:
 - (i) (other than KEXIM) to an Affiliate of the Existing Lender; or
 - (ii) following the occurrence and during the continuation of an Event of Default, without the consent of the Borrower.
 - (c) Unless the Borrower otherwise agrees (acting reasonably), a transfer of part of a Commitment or the rights and obligations under this Agreement by the Existing Lender must be in a minimum amount of twenty five million Dollars (US\$25,000,000) unless the Commitment of the Existing Lender is less than such amount in which case the whole of the Commitment of the Existing Lender may be transferred.
 - (d) A transfer of obligations will be effective only if either:
 - (i) the obligations are novated in accordance with the following provisions of this Clause 28; or
 - (ii) the New Lender confirms to the Facility Agent and the Borrower in form and substance reasonably satisfactory to the Facility Agent and the Borrower that it is bound by the terms of this Agreement.
 - (e) On the transfer becoming effective in this manner, the relevant Lender will be released from its obligations under this Agreement to the extent that they are transferred to the New Lender.
 - (f) Any reference in this Agreement to a Lender includes a New Lender but excludes a Lender if no amount is or may be owed to or by it under this Agreement.

28.3 Procedure for transfer by way of novations

- (a) In this Subclause:
Transfer Date means, for a Transfer Certificate, the later of:
 - (i) the proposed Transfer Date specified in that Transfer Certificate; and
 - (ii) the date on which the Facility Agent executes that Transfer Certificate.
- (b) A novation is effected if:
 - (i) the Existing Lender and the New Lender deliver to the Facility Agent a duly completed Transfer Certificate; and
 - (ii) the Facility Agent executes it.
- (c) On the Transfer Date:
 - (i) the New Lender will assume the rights and obligations of the Existing Lender expressed to be the subject of the novation in the Transfer Certificate in substitution for the Lender; and

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- (ii) the Existing Lender will be released from those obligations and cease to have those rights.
 - (d) Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Facility Agent to execute any duly completed Transfer Certificate on its behalf.

28.4 Limitation of responsibility of Existing Lender

- (a) Unless expressly agreed to the contrary, an Existing Lender is not responsible to a New Lender for:
 - (i) the legality, validity, effectiveness, completeness, accuracy, adequacy or enforceability of any Finance Document or any other document;
 - (ii) the financial condition of the Borrower;
 - (iii) the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statement or information (whether written or oral) made in or supplied in connection with any Finance Document,and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender that it:
 - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of the Borrower and its related entities and the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement; and
 - (ii) has not relied exclusively on any information supplied to it by the Existing Lender in connection with any Finance Document.
- (c) Nothing in any Finance Document requires an Existing Lender to:
 - (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause; or
 - (ii) support any losses incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under any Finance Document or otherwise.

28.5 Costs resulting from change of Lender or Facility Office

- If:
- (a) a Lender assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
 - (b) as a result of circumstances existing at the date of assignment, transfer or change occurs, the Borrower would be obliged to pay a Tax Payment or an Increased Cost,

then, unless the assignment, transfer or change is made by a Lender to mitigate any circumstances giving rise to a Tax Payment, Increased Cost or a right to be prepaid and/or cancelled by reason of illegality, the Borrower need only pay that Tax Payment or Increased Cost to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

28.6 Changes to the Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Facility Agent must (in consultation with the Borrower) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

29. DISCLOSURE OF INFORMATION

Each Finance Party may disclose such information as that Finance Party shall consider appropriate in respect of information supplied to it, by or on behalf of the Borrower, the Seaspan Group, the Charterer or the Finance Documents to:

- (a) in the case of KEXIM, any of its Subsidiaries and in the case of any other Finance Party, any of its Affiliates; or
- (b) any other person who has not been objected to by the Borrower pursuant to Clause 28.2(a)(iii) (Assignments and transfers by Lenders), to (or through) whom an Existing Lender assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement or with (or through) whom a Lender enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement or the Borrower; or
- (c) any person to whom, and to the extent that, information is required to be disclosed by any Applicable Law; or
- (d) any other Finance Party; or
- (e) to its and the Borrower' professional advisors,

PROVIDED ALWAYS that, in relation to paragraph (b) above, the person to whom the information is to be given has entered into a Confidentiality Undertaking. Except as provided in this Clause, a Lender may not disclose any information about the Borrower, the Seaspan Group, the Charterer or the Finance Documents to any person.

30. SET-OFF

A Finance Party may set off any matured obligation owed to it by the Borrower under the Finance Documents against any obligation (whether or not matured) owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, that Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

31. PRO RATA SHARING

31.1 Redistribution

If any amount owing by the Borrower under this Agreement to a Lender (the **recovering Lender**) is discharged by payment, set-off or any other manner other than through the Facility Agent under this Agreement (a **recovery**), then:

- (a) the recovering Lender must, within three (3) Business Days, supply details of the recovery to the Facility Agent;
- (b) the Facility Agent must calculate whether the recovery is in excess of the amount which the recovering Lender would have received if the recovery had been received by the Facility Agent under this Agreement; and
- (c) the recovering Lender must pay to the Facility Agent an amount equal to such excess (the **redistribution**).

31.2 Effect of redistribution

- (a) The Facility Agent must treat a redistribution as if it were a payment by the Borrower under this Agreement and distribute it among the Lenders, other than the recovering Lender, accordingly.
- (b) When the Facility Agent makes a distribution under paragraph (a) above, the recovering Lender will be subrogated to the rights of the Finance Parties which have shared in that redistribution.
- (c) If and to the extent that the recovering Lender is not able to rely on any rights of subrogation under paragraph (b) above, the Borrower will owe the recovering Lender a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
 - (i) a recovering Lender must subsequently return a recovery, or an amount measured by reference to a recovery, to the Borrower; and
 - (ii) the recovering Lender has paid a redistribution in relation to that recovery,

each Finance Party must reimburse the recovering Lender all or the appropriate portion of the redistribution paid to that Finance Party, together with interest for the period while it held the re-distribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

31.3 Exceptions

Notwithstanding any other term of this Clause, a recovering Lender need not pay a redistribution to the extent that:

- (a) it would not, after the payment, have a valid claim against the Borrower in the amount of the redistribution; or

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- (b) it would be sharing with another Finance Party any amount which the recovering Lender has received or recovered as a result of legal or arbitration proceedings, where:
 - (i) the recovering Lender notified the Facility Agent of those proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those proceedings but did not do so or did not take separate legal or arbitration proceedings as soon as reasonably practicable after receiving notice of them.

32. SEVERABILITY

If a term of a Finance Document is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of the Finance Documents; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of the Finance Documents.

33. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts and by facsimile provided that original signed copies are provided within a reasonable period of time thereafter. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

34. NOTICES

34.1 In writing

- (a) Any communication in connection with a Finance Document must be in writing and, unless otherwise stated, may be given in person, by post, fax, e-mail or by any other electronic communication approved by the Facility Agent.
- (b) For the purpose of the Finance Documents, an electronic communication will be treated as being in writing.
- (c) Unless it is agreed to the contrary, any consent or agreement required under a Finance Document must be given in writing.
- (d) Communications sent by the Facility Agent in the normal course of business will not be signed.

34.2 Contact details

- (a) Except as provided below, the contact details of each Party for all communications in connection with the Finance Documents are those notified by that Party for this purpose to the Facility Agent on or before the date it becomes a Party.
- (b) The contact details of the Borrower for this purpose are:

Address: Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F40000
Fax number: (852) 254 01689
Attention: Sai Chu, Chief Financial Officer

with a copy to Seaspan Ship Management Ltd. of:

Address: 2600-200 Granville Street, Vancouver, B.C., Canada V6C 1S4
Fax number: 604-331-0925
Attention: Gerry Wang, Chief Executive Officer

(c) The contact details of the Facility Agent for this purpose are:

Address: 520 Madison Avenue, New York, NY 10022
Fax number: 212 340 5450
Attention: Agency Group

(d) The contact details of the Swap Agent for this purpose are:

Address: 520 Madison Avenue, New York, NY 10022
Fax number: 212 418 8700
Attention: Ed Kim

(e) A Party may change its contact details by giving five (5) Business Days' notice to the Facility Agent or (in the case of the Facility Agent) to the other Parties.

(f) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

34.3 Effectiveness

(a) Except as provided below, any communication in connection with a Finance Document will be deemed to be given as follows:

- (i) if delivered in person, at the time of delivery;
- (ii) if posted, ten (10) days after being deposited in the post, postage prepaid, in a correctly addressed envelope;
- (iii) if by fax, when received in legible form; and
- (iv) if by e-mail or any other electronic communication, when received in legible form.

(b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

(c) A communication to the Facility Agent will only be effective on actual receipt by it.

34.4 Borrower

All communications under the Finance Documents to or from the Borrower must be sent through the Facility Agent or with a copy to the Facility Agent.

34.5 Entire Agreement

This Agreement and the other Finance Documents entered into pursuant to this Agreement contain the whole agreement between the parties relating to the transactions contemplated by this Agreement and supersede all previous agreements between the parties relating to such transactions.

35. LANGUAGE

- (a) Any notice given in connection with a Finance Document must be in English.
- (b) Any other document provided in connection with a Finance Document must be:
 - (i) in English; or
 - (ii) (unless the Facility Agent otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

36. GOVERNING LAW

This Agreement is governed by English law.

37. ENFORCEMENT**37.1 Jurisdiction**

- (a) The English courts have jurisdiction to settle any dispute in connection with any Finance Document.
- (b) The English courts are the most appropriate and convenient courts to settle any such dispute.
- (c) This Clause is for the benefit of the Lenders only. To the extent allowed by law, the Lenders may take:
 - (i) proceedings in any other court; and
 - (ii) concurrent proceedings in any number of jurisdictions.

37.2 Service of process

- (a) The Borrower irrevocably appoints Clifford Chance Secretaries Limited of 10 Upper Bank Street, London, E14 5JJ as its agent under the Finance Documents for service of process in any proceedings before the English courts.
- (b) If any person appointed as process agent is unable for any reason to act as agent for service of process, the Borrower must immediately appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.
- (c) The Borrower agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.
- (d) This Clause does not affect any other method of service allowed by law.

37.3 Waiver of immunity

The Borrower irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
- (c) waives all rights of immunity in respect of it or its assets.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

ORIGINAL LENDERS

Pre-Delivery Period

<u>Name of Original Lender</u>	<u>Tranche A Commitments (US\$)</u>	<u>Tranche B Commitments (US\$)</u>	<u>Revolving Credit Commitments (US\$)</u>
Fortis Capital Corp 520 Madison Avenue New York NY 10022		19,076,736	9,935,800 (Junior Revolver) 15,897,280 (Senior Revolver)
The Export-Import Bank of Korea 16-1 Yoido-dong Youngdeungpo-Gu Seoul 150-996 Korea	89,024,768		
Swedbank AB (publ) Brunkebergstorg 8 SE-105 34 Stockholm Sweden		19,076,736	9,935,800 (Junior Revolver) 15,897,280 (Senior Revolver)

Post-Delivery Period

<u>Name of Original Lender</u>	<u>Tranche A Commitments (US\$)</u>	<u>Tranche B Commitments (US\$)</u>	<u>Revolving Credit Commitments (US\$)</u>
Fortis Capital Corp 520 Madison Avenue New York NY 10022		34,944,000	29,120,000
The Export-Import Bank of Korea 16-1 Yoido-dong Youngdeungpo-Gu Seoul 150-996 Korea	163,072,000		
Swedbank AB (publ) Brunkebergstorg 8 SE-105 34 Stockholm Sweden		34,944,000	29,120,000

SCHEDULE 2

PART 1

INITIAL CONDITION PRECEDENT DOCUMENTS

1. Borrower

- (a) A certified copy* of the constitutional documents of the Borrower or, if the Facility Agent already has a copy, a certificate of the Borrower certifying that the copy in the Facility Agent's possession is still correct, complete and in full force and effect as at a date no earlier than the date of the Request together with an up to date Certificate of Goodstanding dated no more than ten (10) Business Days prior to the first Utilisation Date.
- (b) A certified copy* of a resolution of the board of directors of the Borrower (unless such resolution in relation to the issues below is still in full force and effect):
 - (i) approving the terms of, and the transactions contemplated by, each Finance Document and each Related Contract to which the Borrower is a party and resolving that it executes each such Finance Document and each Related Contract, then to be executed;
 - (ii) authorising a specified person or persons to execute each Finance Document and each Related Contract on its behalf to which it is a party, then to be executed; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with each Finance Document and each Related Contract to which it is a party, then to be executed.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph 1(b) above.
- (d) A certified copy* of all other resolutions, consents, licences, exemptions and filings, corporate, official or otherwise which the Lender may reasonably require in connection with this Agreement or any other Finance Document.

2. Finance Documents and Related Contracts

- (a) A duly executed original of this Agreement.
- (b) A duly executed original of each relevant Pre-delivery Assignment.
- (c) A duly executed original of each Time Charter and Earnings Assignment.
- (d) A duly executed original of the Retention Account Charge.
- (e) A duly executed original of the Fee Letter.
- (f) A duly executed original of the relevant Management Agreement Assignment.
- (g) A duly executed original of each of the Manager's Undertakings.
- (h) A certified copy* of the Management Agreement, duly executed.

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- (i) A certified copy* of each Time Charter duly executed.
 - (j) A certified copy* of each Shipbuilding Contract, duly executed.
 - (k) A certified copy* of each Refund Guarantee.
 - (l) Duly executed originals of all notices of assignment required to be served under each Security Document referred to above and faxed copies of the acknowledgements (except in the case of the Time Charterer, Builder and Refund Guarantor) thereof (where it is not possible to provide originals of the same, with such originals to follow as soon as practicable after the first Utilisation Date, but, in any event, within ninety (90) days of such date), duly executed by each relevant counterparty.
 - (m) A duly executed original of the KEXIM Guarantee.
 - (n) A duly executed original of the Swap Agreement.

3. Other documents

- (a) A copy of any other authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, any Finance Document or any Related Contract or for the validity and enforceability of any Finance Document or any Related Contract.
- (b) A letter from Clifford Chance Secretaries Limited agreeing to its appointment as process agent for the Borrower under the Finance Documents.

4. Legal opinions

- (a) A legal opinion of Stephenson Harwood, English legal advisors to the Lenders, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.
- (b) A legal opinion of Poles, Tublin, Stratakis, Gonzalez & Weichert, LLP, Marshall Island legal advisors to the Facility Agent, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.
- (c) A legal opinion of NautaDutilh N.V., Dutch legal advisors to the Lenders, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.

5. Other Requirements

- (a) All fees due and payable under the Fee Letter have been paid or will be paid in accordance with the terms of the Fee Letter.
- (b) Confirmation from Stephenson Harwood that the prescribed particulars of the Security Documents received by the Facility Agent pursuant to paragraph 2 above will be delivered to the registrar of companies or equivalent in Hong Kong and England and Wales within the statutory time frame

* Each certified copy document must be certified by a director, officer or duly authorised attorney of the Borrower as being true and complete as at a date no earlier than the date of the Request for a Loan.

SCHEDULE 2

PART 2

DELIVERY DATE CONDITIONS PRECEDENT DOCUMENTS

At the time of delivery of each Vessel, the Facility Agent shall require the following documentation from the Borrower:-

1. Borrower

- (a) A certificate of the Borrower certifying that the constitutional documents have not been amended since they were first delivered to the Facility Agent.
- (b) A certified copy of a resolution of the board of directors of the Borrower (unless such a resolution in relation to the issues below is still in force):
 - (i) authorising a specified person or persons to execute the relevant Mortgage and the relevant Insurance Assignment and authorising a specified person or persons to execute such necessary documentation as is required to permit the Borrower to take physical possession of the relevant Vessel; and
 - (ii) authorising a specified person or persons, on its behalf, to sign or despatch all other documents and notices to be signed or despatched by it under or in connection with the relevant Mortgage and authorising a specified person or persons, on its behalf, to sign or despatch all other documents and notices to be signed or despatched as necessary to take physical possession of the relevant Vessel.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraphs (b) (i) and (ii) above.

2. Documents

- (a) A duly executed original of the relevant Mortgage;
- (b) A duly executed original of the relevant Deed of Covenants;
- (c) A duly executed original of the relevant Insurances Assignment;
- (d) A copy of any other authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Security Documents or for the validity and enforceability of any of those documents.
- (e) A duly executed original of the Swap Agreement.

3. The Vessel to be delivered

- (a) A certified copy* of:
 - (i) a classification certificate in respect of the Vessel showing the Vessel to be in class without recommendation, condition or qualification or, in the event that this is not available, a faxed copy with a certified copy to follow as soon as practicable after the relevant Delivery Date;

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- (ii) a valid Interim Safety Management Certificate for the Vessel;
 - (iii) a valid Document of Compliance; and
 - (iv) a valid International Ship Security Certificate for the Vessel.
- (b) Evidence acceptable to the Facility Agent that the Vessel has been delivered to the Borrower under the relevant Shipbuilding Contract on the Delivery Date and title (as described in paragraph 1(a)(ii) of Schedule 3) to the Vessel will pass to the Borrower.

4. Insurance

- (a) A certified copy of all current insurance policies in respect of the Vessel.
- (b) A duly executed and, where necessary, notarised notice of assignment (and acknowledgement of the same) of the Obligatory Insurances in respect of the Vessel duly executed by the Borrower substantially in the form provided for in the Insurances Assignment.
- (c) Fax confirmation from each broker, insurer and club concerned with the Obligatory Insurances of the Vessel that:
 - (i) the relevant cover is in effect;
 - (ii) they will accept notice of assignment of the Obligatory Insurances in favour of the Facility Agent and execute an acknowledgement of the notice in the form required by the Facility Agent;
 - (iii) they will restrict their lien for unpaid premiums under any fleet policy to unpaid premiums in respect of that Vessel only;
 - (iv) they will issue a letter of undertaking in the current LIBA form (in the case of Lloyds brokers), in the form provided for in the Insurances Assignment (in the case of non-Lloyds brokers and insurers other than clubs) or in their current standard form (in the case of clubs);
 - (v) they will accept endorsement of a loss payable clause on the policies in the form provided for in the Insurances Assignment (in the case of brokers and insurers other than clubs) or will note the interest of the Facility Agent in the entry for the Vessel by way of a loss payable clause in their current standard form (in the case of clubs); and
 - (vi) they are not aware of any mortgage, charge, assignment or other encumbrance affecting the Obligatory Insurances with which they are concerned (other than any previously disclosed by the Borrower to the Facility Agent in writing).
- (d) A final insurance report prepared by the Facility Agent, acceptable to the Lenders.

5. Legal Opinions

- (a) A legal opinion of Stephenson Harwood, English legal advisers to the Lenders, addressed the Facility Agent as agent for and on behalf of itself and the Lenders.
- (b) A legal opinion of Stephenson Harwood & Lo, Hong Kong legal advisers to the Lenders, addressed to the Facility Agent as agent for and on behalf of itself and the Lenders.

6. Other Requirements

- (a) Confirmation from Stephenson Harwood that the prescribed particulars of the Security Documents received by the Facility Agent pursuant to paragraph 2 above will be delivered to the registrar of companies or equivalent in Hong Kong and England and Wales within the statutory time frame
- * Each certified copy document must be certified by a director, officer or duly authorised attorney of the Borrower as being true and complete as at a date no earlier than the Delivery Date of a Vessel.

SCHEDULE 3

CONDITIONS SUBSEQUENT TO DELIVERY DATE

The Facility Agent shall require the following documentation and evidence from the Borrower, in respect of a Vessel at the time provided for in Clause 3.1 (d).

1. Evidence

- (a) Evidence that:-
 - (i) the Mortgage in respect of the Vessel has been duly recorded in the Hong Kong Shipping Register and constitutes a first priority security interest over the Vessel and that all taxes and fees payable to the Hong Kong Shipping Register in respect of that Vessel have been paid in full;
 - (ii) the title to the Vessel is held by the Borrower free of all Security Interests other than Permitted Liens; and
 - (iii) the Vessel is provisionally registered in the name of the Borrower, as appropriate, as a Hong Kong flag ship at the port of Hong Kong.
- (b) Confirmation acceptable to the Facility Agent that the Borrower has accepted the Vessel pursuant to the terms of the relevant Shipbuilding Contract and executed a protocol of delivery and acceptance.
- (c) Confirmation acceptable to the Facility Agent from the Borrower that the relevant Charterer has accepted the Vessel pursuant to the terms of the relevant Time Charter.
- (d) A copy of the commercial invoice in respect of the Vessel.
- (e) A copy of the builder's certificate in respect of the Vessel.
- (f) Evidence that the prescribed particulars of the Security Documents received by the Facility Agent pursuant to Part 2 of Schedule 2 have been delivered to the registrar of companies or equivalent in Hong Kong and England and Wales within the statutory time frame.

SCHEDULE 4
FORM OF PAYMENT REQUEST

To: FORTIS BANK S.A./N.V., NEW YORK BRANCH

From: Seaspans Corporation

Date: []

US\$291,200,000 Credit Agreement dated 2008 (the Credit Agreement)

1. We wish to borrow a Loan from you as follows:
 - (a) Utilisation Date: []
 - (b) Amount/currency: []
 - (c) Vessel: []
2. Term: [] months
3. Payment Instructions:
To include provisions that:
4. We confirm that each condition specified in Clause 3.2 (Further conditions precedent) of the Credit Agreement is satisfied on the date of this Request.
5. We confirm that evidence of [costs / payments] to which the Loan relates is attached to this Request.

By:

SEASPAN CORPORATION

Authorised Signatory

SCHEDULE 5

CALCULATION OF THE MANDATORY COST

1 General

The Mandatory Cost is the weighted average of the rates calculated below by the Facility Agent on the first day of a Term. The Facility Agent must distribute each amount of Mandatory Cost among the Lenders on the basis of the rate for each Lender.

2 For a Lender lending from a Facility Office in the U.K.

- (d) The relevant rate for a Lender lending from a Facility Office in the U.K. is the arithmetic mean of the rates notified by each of the Reference Banks to the Facility Agent and calculated in accordance with the following formulae:

$$\frac{E x}{300} \text{ per cent. per annum}$$

where on the day of application of the formula:

E is the charge payable by the Reference Bank to the Financial Services Authority under the fees rules (but, for this purpose, calculated by the Facility Agent on a notional basis as being the average of the fee tariffs within fee-block Category A1 (Deposit acceptors) of the fees rules, applying any applicable discount and ignoring any minimum fee required under the fees rules) and expressed in pounds per £1 million of the tariff base of that Reference Bank.

- (e) For the purposes of this paragraph:

- (i) eligible liabilities and special deposit have the meanings given to them at the time of application of the formula by the Bank of England;
- (ii) fees rules means the then current rules on periodic fees in the Supervision Manual of the FSA Handbook; and
- (iii) tariff base has the meaning given to it in the fees rules.

- (f) Each rate calculated in accordance with a formula is, if necessary, rounded upward to four decimal places.

- (g) (i) Each Reference Bank must supply to the Facility Agent the information required by it to make a calculation of the rate for that Reference Bank. The Facility Agent may assume that this information is correct in all respects.

(i) If a Reference Bank fails to do so, the Facility Agent may assume that the Reference Bank's obligations in respect of cash ratio deposits, special deposits and the fees rules are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.

- (ii) The Facility Agent has no liability to any Party if its calculation over or under compensates any Lender.

3 For a Lender lending from a Facility Office in a Participating Member State

- (a) The relevant rate for a Lender lending from a Facility Office in a Participating Member State is the percentage rate per annum notified by that Lender to the Facility Agent as its cost of complying with the minimum reserve requirements of the European Central Bank.
- (b) If a Lender fails to specify a rate under paragraph (a) above, the Facility Agent will assume that the Lender has not incurred any such cost.

4 Changes

The Facility Agent may, after consultation with the Borrower and the Lenders, notify all the Parties of any amendment to this Schedule which is required to reflect:

- (i) any change in law or regulation; or
- (ii) any requirement imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any successor authority).

Any notification will be, in the absence of manifest error, conclusive and binding on all the Parties.

THE SCHEDULE

Rights and obligations to be novated

[Choose one of the following options (a) or (b):]

- (a) all of the rights and obligations of the Existing Lender in respect of the Facility – principal amount US\$[].
- (b) the principal amount of US\$[] in respect of each of the Loans and all the rights and obligations attached to the same-total principal amount US\$[].

[New Bank]

[Facility Office Address for notices]

[Existing Bank]

[New Bank]

By:

By:

Date:

Date:

The Transfer Date is confirmed by the Facility Agent as [].

FORTIS BANK S.A./N.V., NEW YORK BRANCH

By:

SCHEDULE 7

REPAYMENT SCHEDULE

Repayment Schedule per Tranche

<u>Payment Number</u>	<u>SR. TRANCHE A</u>	<u>SR. TRANCHE B</u>	<u>Revolver</u>
1	1,698,666.67	728,000.00	—
2	1,698,666.67	728,000.00	—
3	1,698,666.67	728,000.00	—
4	1,698,666.67	728,000.00	—
5	1,698,666.67	728,000.00	—
6	1,698,666.67	728,000.00	—
7	1,698,666.67	728,000.00	—
8	1,698,666.67	728,000.00	—
9	1,698,666.67	728,000.00	—
10	1,698,666.67	728,000.00	—
11	1,698,666.67	728,000.00	—
12	1,698,666.67	728,000.00	—
13	1,698,666.67	728,000.00	—
14	1,698,666.67	728,000.00	—
15	1,698,666.67	728,000.00	—
16	1,698,666.67	728,000.00	—
17	1,698,666.67	728,000.00	—
18	1,698,666.67	728,000.00	—
19	1,698,666.67	728,000.00	—
20	1,698,666.67	728,000.00	—
21	1,698,666.67	728,000.00	—
22	1,698,666.67	728,000.00	—
23	1,698,666.67	728,000.00	—
24	1,698,666.67	728,000.00	—
25	1,698,666.67	728,000.00	—
26	1,698,666.67	728,000.00	—
27	1,698,666.67	728,000.00	—
28	1,698,666.67	728,000.00	—
29	1,698,666.67	728,000.00	—
30	1,698,666.67	728,000.00	—
31	1,698,666.67	728,000.00	—
32	1,698,666.67	728,000.00	—
33	1,698,666.67	728,000.00	—
34	1,698,666.67	728,000.00	—
35	1,698,666.67	728,000.00	—
36	1,698,666.67	728,000.00	—
37	1,698,666.67	728,000.00	—
38	1,698,666.67	728,000.00	—
39	1,698,666.67	728,000.00	—
40	1,698,666.67	728,000.00	—
41	1,698,666.67	728,000.00	—
42	1,698,666.67	728,000.00	—
43	1,698,666.67	728,000.00	—
44	1,698,666.67	728,000.00	—
45	1,698,666.67	728,000.00	—
46	1,698,666.67	728,000.00	—
47	1,698,666.67	728,000.00	—
48	1,698,666.67	728,000.00	29,120,000.00

SCHEDULE 8

COMPLIANCE CERTIFICATE

To: FORTIS BANK S.A./N.V., NEW YORK BRANCH as Facility Agent

From: Seaspac Corporation

US\$291,200,000 Credit Agreement dated _____, 2008 (the Credit Agreement)

2. Terms defined in the Credit Agreement have the same meaning in this Certificate.
 3. I/We hereby certify that as of [] the status of the financial covenants set out in Clause 17 (Financial Covenants) of the Credit Agreement are as follows:
 - (b) **Tangible Net Worth** : the Tangible Net Worth of the Borrower is not less than four hundred and fifty million Dollars (US\$450,000,000).
 - (c) **Gearing**: the Total Borrowings do not exceed 65 per cent. of Total Assets.
 - (d) **Minimum Liquidity**: if the circumstances set out in Clause 17.5 have occurred, the Cash and Cash Equivalents of the Borrower are not less than twenty five million Dollars (US\$25,000,000).
 - (e) **Net Interest Coverage Ratio** : the Interest Coverage Ratio is greater than 2.50 to 1.
 - (f) **Interest and Principal Coverage Ratio** : the Interest and Principal Coverage Ratio is not less than 1.1 to 1.
 - (g) the aggregate Market Value of the Vessels is not less than 125 per cent. of the aggregate principal amount of the outstanding Loans*
- * delete if circumstances in Clause 17.8 of the Credit Agreement have not occurred

[]

Yours faithfully,

[_____]

Chief Executive Officer

[or]

Chief Financial Officer

SCHEDULE 9

ANNUAL COMPLIANCE CERTIFICATE

To: FORTIS BANK S.A./N.V., NEW YORK BRANCH as Facility Agent

From: Seaspac Corporation

US\$291,200,000 Credit Agreement dated _____, 2008 (the Credit Agreement)

Terms defined in the Credit Agreement have the same meaning in this Certificate.

1. I/We hereby certify that [no Default has occurred and is continuing or is outstanding] [a Default under Clause [____] of [*specify document*] is outstanding and the following steps are being taken to remedy it [_____].
2. [Except as set out below, the representations set out in Clause 14 (Representations) of the Credit Agreement are deemed to be repeated as at the date hereof.]
3. I/We hereby attach a list of the estimated dates of the intended dry docking of the Vessels actually delivered on or before the date of this Certificate.
4. I/We hereby certify that as of [] the status of the financial covenants set out in Clause 17 (Financial Covenants) of the Credit Agreement are as follows:
 - (a) **Tangible Net Worth** : the Tangible Net Worth of the Borrower is not less than four hundred and fifty million Dollars (US\$450,000,000).
 - (b) **Gearing**: the Total Borrowings do not exceed 65 per cent. of Total Assets.
 - (c) **Minimum Liquidity**: if the circumstances set out in Clause 17.5 have occurred, the Cash and Cash Equivalents of the Borrower are not less than twenty five million Dollars (US\$25,000,000).
 - (d) **Net Interest Coverage Ratio** : the Interest Coverage Ratio is greater than 2.50 to 1.
 - (e) **Interest and Principal Coverage Ratio** : the Interest and Principal Coverage Ratio is not less than 1.1 to 1.
 - (f) the aggregate Market Value of the Vessels is not less than 125 per cent. of the aggregate principal amount of the outstanding Loans*

* delete if circumstances in Clause 17.8 of the Credit Agreement have not occurred

[]

Yours faithfully,

[_____]

Chief Executive Officer

[or]

Chief Financial Officer

SCHEDULE 10

STANDING PAYMENT INSTRUCTIONS

US\$ Payment Details:

USD: JP Morgan Chase Bank, New York

ABA 021000021

For further credit: FORTIS BANK S.A./N.V., NEW YORK BRANCH

A/C 001-1-624418

Ref. Seaspac Corporation, \$291 million

SCHEDULE 11**ESTIMATED ADDBACK RELATING TO CERTAIN DELIVERED VESSELS*
DEPRECIATION**

Date	Amount of Add Back (US\$)
9/30/05	207,588,000
12/31/05	205,843,000
3/31/06	204,099,000
6/30/06	202,354,000
9/30/06	200,610,000
12/31/06	198,866,000
3/31/07	197,121,000
6/30/07	195,377,000
9/30/07	193,632,000
12/31/07	191,888,000
3/31/08	190,143,000
6/30/08	188,399,000
9/30/08	186,655,000
12/31/08	184,910,000
3/31/09	183,166,000
6/30/09	181,420,001
9/30/09	179,677,000
12/31/09	177,932,000
3/31/10	176,188,000
6/30/10	174,443,000
9/30/10	172,699,000
12/31/10	170,955,000

3/31/11	169,210,000
6/30/11	167,466,000
9/30/11	165,721,000
12/31/11	163,977,000
3/31/12	162,232,000
6/30/12	160,488,000
9/30/12	158,744,000
12/31/12	156,999,000
3/31/2013	155,255,000
6/30/2013	153,510,000
9/30/2013	151,766,000
12/31/2013	150,021,000
3/31/14	148,258,000
6/30/14	146,513,000
9/30/14	144,768,000
12/31/14	143,023,000
3/31/15	141,278,000
6/30/15	139,533,000
9/30/15	137,788,000
12/31/15	136,043,000
3/31/16	134,298,000
6/30/16	132,553,000
9/30/16	130,808,000
12/31/16	129,063,000
3/31/17	127,318,000
6/30/17	125,573,000
9/30/17	123,828,000
12/31/17	122,083,000

3/31/18	120,338,000
6/30/18	118,593,000
9/30/18	116,848,000
12/31/18	115,103,000
3/31/19	113,358,000
6/30/19	111,613,000
9/30/19	109,868,000
12/31/19	108,123,000
3/31/20	106,378,000
6/30/20	104,633,000
9/30/20	102,888,000
12/31/20	101,143,000
3/31/21	99,398,000
6/30/21	97,653,000
9/30/21	95,908,000
12/31/21	94,163,000
3/31/22	92,418,000
6/30/22	90,673,000
9/30/22	88,928,000
12/31/22	87,183,000

* The “certain delivered vessels” of the Borrower referred to in this Schedule are as follows:

CSCL Hamburg
CSCL Chiwan
CSCL Ningbo
CSCL Dalian
CSCL Felixstowe
CSCL Oceania
CSCL Africa

CSCL Vancouver

CSCL Sydney

CSCL New York

APPENDIX 1

FORM OF INSURANCES ASSIGNMENT

APPENDIX 2
FORM OF MORTGAGE

APPENDIX 3

FORM OF DEED OF COVENANTS

APPENDIX 4

FORM OF TIME CHARTER AND EARNINGS ASSIGNMENT

APPENDIX 5

FORM OF PRE-DELIVERY ASSIGNMENT

APPENDIX 6

FORM OF MANAGEMENT AGREEMENT ASSIGNMENT

SIGNATORIES

Borrower

SEASPAN CORPORATION

By: /s/ Sai W. Chu

The Arrangers

FORTIS BANK S.A./N.V., NEW YORK BRANCH

By: /s/ Lucy French
Attorney-in-Fact
Lucy French

THE EXPORT-IMPORT BANK OF KOREA

By: /s/ Mr. Young-Whan Sun

Original Lenders

FORTIS BANK S.A./N.V., NEW YORK BRANCH

By: /s/ Lucy French
Attorney-in-Fact
Lucy French

THE EXPORT-IMPORT BANK OF KOREA

By: /s/ Mr. Young-Whan Sun

SWEDBANK AB (PUBL)

By: /s/ Lucy French
Attorney-in-Fact
Lucy French

The Facility Agent

FORTIS BANK S.A./N.V., NEW YORK BRANCH

By: /s/ Lucy French
Attorney-in-Fact
Lucy French

The Swap Agent

FORTIS BANK S.A./N.V., NEW YORK BRANCH

By: /s/ Lucy French
Attorney-in-Fact
Lucy French

Dated December 27, 2007

PEONY LEASING LIMITED (1)
as Lessor

and

SEASPAN FINANCE I CO. LTD. (2)
as Lessee

LEASE AGREEMENT
in respect of one 4520 TEU container carrier
to be built at Samsung Heavy Industries Co.,
Ltd
with Hull No. 1851

 **NORTON ROSE**

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THIS AGREEMENT is made on December 27, 2007,

BETWEEN

- (1) **PEONY LEASING LIMITED**, a company incorporated in England and Wales with company number 4442275 and whose registered office is at PO Box 39900, Level 7, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB (the “**Lessor**”); and
- (2) **SEASPAN FINANCE I CO. LTD.**, a corporation incorporated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the “**Lessee**”).

BACKGROUND

This Agreement sets out the terms and conditions on which the Lessor will acquire and lease to the Lessee, and the Lessee will take on lease, the Ship.

IT IS AGREED as follows:

1 Interpretation

1.1 Definitions

Subject to clause 1.6, in this Agreement:

“**Adjustment Date**” has the meaning given to that term in the Financial Schedule;

“**Adjustment Period**” has the meaning given to that term in the Financial Schedule;

“**Agreed Form**” in relation to any document, means that document in form, substance and terms approved in writing by the Lessor and the Lessee and any other Transaction Company which is a signatory thereto or otherwise in accordance with any such other approval procedure detailed in any relevant provision of this Agreement and any Lease Document;

“**Approved Flag State**” means each of the states described in clause 12.3.1 together with any other state or country approved by the Lessor pursuant to clause 12.5.2;

“**Approved Manager**” means Seaspans Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM11, Bermuda, or such other company as the Lessor may from time to time approve (such approval not to be unreasonably withheld or delayed, and such approval to be given in the case of any first class ship manager/operator nominated by the Lessee);

“**Arrangement Fee**” has the meaning given to such term in the Financial Schedule;

“**Assumptions**” has the meaning given to such term in the Financial Schedule;

“**Auditors**” means KPMG or such other firm of appropriately qualified accountants as may be the Lessor’s auditors from time to time;

“**Bank**” means Bank of Scotland plc a company incorporated in Scotland with company number SC 327000 and having its registered office at The Mound, Edinburgh, EH1 1YZ;

“ **Broken Funding Benefits** ” has the meaning given to such term in the Financial Schedule;

“ **Broken Funding Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Builder** ” means Samsung Heavy Industries Co., Ltd., a company incorporated in Korea with its principal place of business at 34th Floor, Samsung Life Insurance Seocho Tower 1321-15, Seocho-Dong, Seocho-Gu, Korea;

“ **Building Contract** ” means the contract dated 29 November 2007 for construction of the Ship signed by the Guarantor (as “Buyer”) and the Builder;

“ **Business Day** ” means a day (other than a Saturday or Sunday) on which banks are open for business in London, New York, Hong Kong, Vancouver and (during the Construction Period only) Seoul;

“ **Buyer’s Supplies Reimbursement Amount** ” means the amount payable by the Lessor to the Supervisor pursuant to clause 4.5(a) of the Supervision Agreement;

“ **CAA** ” means the Capital Allowances Act 2001;

“ **Capital Commitment Fee Letter** ” means the letter so called issued or to be issued in respect of the capital commitment fee relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Certificate of Delivery and Acceptance** ” means the certificate in the form of schedule 7 to be executed by the Lessee upon the delivery of the Ship in accordance with clause 3.11;

“ **Certificate of Financial Responsibility** ” has the meaning attributed to it in clause 9.3(d);

“ **Change of Law** ” means, in each case after the date of this Agreement:

- (a) the implementation, introduction, abolition, withdrawal or variation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by the Bank of England, the European Union or any central bank or tax, fiscal, revenue, monetary, governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (b) any change in any interpretation, or the introduction or making of any new or further interpretation, or any new or different interpretation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by any court, tribunal, governmental, local, international, national or other competent authority or agency or the Bank of England, the European Union or any central bank or tax, fiscal, revenue or monetary authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (c) compliance with any new or different request or direction from the Bank of England, the European Union or any central bank, tax, fiscal, regulatory monetary, revenue,

governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary);

“ **Classification Society** ” means Det Norske Veritas, the American Bureau of Shipping, Germanischer Lloyd or the Lloyds Register of Shipping or, with the prior written approval of the Lessor, any other classification society which is a member of IACS;

“ **Commitment Expiry Date** ” means 30 September 2011 or such later date as the Lessor may agree;

“ **Commercially Burdensome** ” has the meaning given to such term in clause 2.2.2;

“ **Compulsory Acquisition** ” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Ship by any Government Entity or other competent authority, whether de jure or de facto but shall exclude requisition for use or hire not involving a requisition for title;

“ **Construction Period** ” means the period commencing on the Effective Date and ending on the earlier of (i) the Delivery Date or (ii) the date on which any further novation referred to in clause 2.3 occurs;

“ **Contract Price** ” means eighty two million eight hundred and eleven thousand Dollars (US\$82,811,000) as the same may be adjusted from time to time in accordance with the provisions of the Novated Building Contract;

“ **Contribution Payment** ” means a payment by the Lessee to the Lessor in accordance with clause 3.10 by way of capital contribution to the Lessor’s Total Expenditure of an amount in Dollars equal to the aggregate amount by which the aggregate of Lessor’s Total Expenditure already paid by the Lessor and the amount next due in respect of the Lessor’s Total Expenditure would otherwise exceed the Maximum Commitment on the date on which such next payment in respect of Lessor’s Total Expenditure is to be incurred;

“ **Contribution Payment Request** ” means a notice given by the Lessor to the Lessee under clause 3.10.2 of this Agreement;

“ **Corporation Tax** ” has the meaning given to such term in the Financial Schedule;

“ **Default Rate** ” means the rate of interest determined by the Lessor, and certified by it to the Lessee, to be the aggregate of:

(a) two per cent (2%) per annum; and

(b) LIBOR;

“ **Delivery** ” means the time at which the Lessor delivers the Ship to the Lessee pursuant to clause 3, and “ **Delivered** ” shall be construed accordingly;

“ **Delivery Date** ” means the date on which Delivery occurs (anticipated to be 30 September 2010);

“ **Dollar Equivalent** ” has the meaning given to such term in the Financial Schedule;

“ **Dollars** ” and “ **\$** ” means the lawful currency from time to time of the United States of America and in respect of all payments to be made under this Agreement, means immediately available, freely transferable funds;

“ **Economically Burdensome** ” has the meaning given to such term in the Financial Schedule;

“ **Effective Date** ” means the date on which the conditions specified in clause 3.1.1 and, if payment of an Instalment is being made simultaneously with or immediately after the novation of the Building Contract, clause 3.2 are satisfied and the novation of the Building Contract takes effect in accordance with clause 3 of the Novation Agreement;

“ **Environmental Approval** ” means any permit, licence, certificate, filing, consent, authorisation, or any other approval required at any time by any Environmental Law;

“ **Environmental Claim** ” means any claim by any person which arises out of or in connection with an Environmental Incident or an alleged Environmental Incident or any breach of, or non-compliance with, or which otherwise relates to any Environmental Law or Environmental Approval and, for the purposes of this definition, “ **claim** ” includes any threatened claim which may reasonably be considered as likely to develop into an actual claim;

“ **Environmental Incident** ” means:

- (a) any release, discharge or emission of Environmentally Sensitive Material from the Ship other than any of the foregoing which the Lessee, acting reasonably, considers not to be material in the context of this Agreement and which is not reasonably likely to give rise to an Environmental Claim; or
- (b) any incident in which Environmentally Sensitive Material is released, discharged or emitted from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or is reasonably likely to be arrested, attached, detained or enjoined and/or the Ship and/or the Lessee or any Manager and/or any sub-lessee, time charterer, operator or other manager is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, discharged or emitted otherwise than from the Ship and in connection with which the Ship is actually and/or is reasonably likely to be arrested and/or where the Lessee or any Manager and/or any operator, time charterer, or other manager of the Ship is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action;

“ **Environmental Law** ” means any or all laws applicable or relating to pollution or contamination or protection of the environment, to the generation, manufacture, processing, distribution, use or misuse, treatment, storage, disposal, carriage or holding of Environmentally Sensitive Material or to actual or threatened emissions, releases, spillages or discharges of Environmentally Sensitive Material;

“ **Environmentally Sensitive Material** ” means liquefied natural gas, oil, oil products and any other element or substance whether natural or artificial and whether consisting of gas, liquid, solid or vapour (including any chemical, gas or other hazardous or noxious substance) which is or is capable of becoming polluting, toxic, hazardous, harmful or damaging to mankind or the environment or any living organism;

“ **Excluded Event** ” means any of:

- (a) a Change of Law or a change in GAAP; or
- (b) any action or inaction effected or required under or pursuant to any provision of this Agreement or the other Transaction Documents; or
- (c) anything requested or consented to by the Lessee or any Guarantor Group Member; or
- (d) any failure by the Lessee or any Guarantor Group Member to supply information reasonably requested by the Lessor or required to be given under the Transaction Documents; or
- (e) any act or omission of any party to the Transaction Documents or their affiliates (other than the Lessor or any Lessor Group Member);

“ **Financial Indebtedness** ” means, in relation to a person (the “debtor”), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a lease or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

but excludes any liability under a fully non-recourse project finance facility;

“ **Financial Schedule** ” means the financial schedule set out in Schedule 1;

“ **Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Further Novation Event** ” means any of the events or circumstances described in clause 17.3;

“ **Further Novation Notice** ” means a notice which the Lessor (as new purchaser) may issue to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement or, as the case may be, a notice which the Builder may issue to the Lessor and the Replacement Purchaser pursuant to clause 6.2 of the Novation Agreement;

“ **General Assignment** ” means the assignment dated on or about the date hereof pursuant to which the Guarantor and the Lessee (as assignors) assign to the Lessor (as assignee) the benefit of (i) the Time Charter and any other earnings of the Ship, (ii) the Insurances, and (iii) any Requisition Compensation;

“ **Government Entity** ” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant;

“ **Guarantee** ” means the guarantee issued or to be issued by the Guarantor in favour of the Lessor in respect of the obligations of, the Lessee, the Manager, the Supervisor and the Replacement Purchaser under the Transaction Documents;

“ **Guarantor** ” means Seaspan Corporation, a company incorporated in the Republic of the Marshall Islands with its principal office at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F4 000, People’s Republic of China;

“ **Guarantor Group** ” means each of the Guarantor and any company which is a Subsidiary of the Guarantor from time to time;

“ **Guarantor Group Member** ” means as at the date hereof and from time to time any member of the Guarantor Group;

“ **HMRC** ” means H.M. Revenue & Customs;

“ **Holding Company** ” in relation (i) to a company incorporated in England and Wales, has the meaning given in Section 736 Companies Act 1985 and (ii) in relation to a company or other person incorporated or formed outside England and Wales means a company or other person of which such company is the Subsidiary;

“ **IACS** ” means the International Association of Classification Societies;

“ **ICTA** ” means the Income and Corporation Taxes Act 1988;

“ **Indemnified Person** ” means the Lessor, the Bank, any other Lessor Group Member and their respective officers, directors, secondees, agents and employees;

“ **Indexation Relief Letter** ” means the letter so called issued or to be issued in respect of indexation relief relating to this Agreement addressed by the Lessor to the Lessee;

“ **Instalment** ” means each instalment of the Purchase Price, being:

- (a) the instalment of the Contract Price payable on the date upon which the Novation Agreement becomes effective, referred to as the “First Instalment” in article II.4(a) of the Novated Building Contract, in an amount of \$17,702,200 (the “ **First Instalment** ”);

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- (b) the instalment of the Contract Price payable on any date between 19 December 2007 and 31 December 2007, referred to as the “Second Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$56,827,700, together with such additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the date of the Second Instalment (the “**Second Instalment**”); and
- (c) the instalment of the Contract Price referred to as the “Delivery Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$8,281,100, together with such other additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the Delivery Date (the “**Final Instalment**”),

or such other dates (up to the Commitment Expiry Date) or amounts (subject to the Maximum Commitment) to be agreed by the Lessor and the Lessee or, as the case may be, the Lessor and the Supervisor;

“**Instalment Date**” means the date for the payment of each Instalment and the expressions “**First Instalment Date**”, “**Second Instalment Date**”, and “**Final Instalment Date**” shall be construed accordingly (the Instalment Date relating to the date for the payment of the Final Instalment being the Delivery Date);

“**Instalment Request**” means a notice to be sent by the Lessee to the Lessor requesting the payment of an instalment in the form of Schedule 6;

“**Insurances**” means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are from time to time in place or taken out or entered into or which are required to be put in place or taken out or entered into in respect of the Ship or otherwise in relation to it pursuant to clause 13; and
- (b) all benefits, rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and claims of whatsoever nature,

provided however that this shall not include any policies and contracts of insurance which are or may be effected by the Lessor as referred to in clause 13.21 or by the Lessor pursuant to clause 18.9 following the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event;

“**Intended Delivery Notice**” means a notice addressed by the Lessee and the Supervisor to the Lessor, substantially in the form of Schedule 8;

“**Irrecoverable VAT**” has the meaning given to such term in the Financial Schedule;

“**ISM Code**” means the International Safety Management Code (including the guidelines on its implementation) adopted by the International Maritime Organisation Assembly as Resolutions A. 741(18) and A. 788(19) and incorporated into SOLAS as the same may be

amended or supplemented from time to time and all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or may in the future be issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code;

“ **ISPS Code** ” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation Assembly as the same may have been or may be amended or supplemented from time to time;

“ **Lease Amounts** ” means the amounts payable by the Lessor pursuant to clause 3.7 of this Agreement;

“ **Lease Documents** ” means this Agreement, the Certificate of Delivery and Acceptance, the Novated Building Contract, the Refund Guarantee, the QEL, the Guarantee, the Indexation Relief Letter, the Novation Agreement, the Supervision Agreement, the Tax Consultation Letter, the Non Discrimination Letter, the General Assignment, the Pooling Benefits Letter, the Capital Commitment Fee Letter, the Pre-Tax Loss Letter, the Technical Note Letter and any other document, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of any of the foregoing and to which the Lessor is a party and any other documents, notice, letter or instrument designated as a Lease Document by the Lessor and the Lessee;

“ **Lease Period** ” means the period during which the Lessee is entitled under the terms of this Agreement to possession and use of the Ship commencing on the Delivery Date and ending on the earlier of:

- (a) the Lease Period End Date; and
- (b) the date of termination of the leasing of the Ship under this Agreement;

“ **Lease Period End Date** ” means the date falling four years and three hundred and sixty days after the Delivery Date;

“ **Lease Rental Date** ” has the meaning given to such term in the Financial Schedule;

“ **Lease Termination Date** ” means the date on which the leasing of the Ship by the Lessor to the Lessee terminates under this Agreement, being:

- (a) the Lease Period End Date; or
- (b) where the leasing of the Ship ends following the occurrence of a Total Loss, the Total Loss Payment Date; or
- (c) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) by virtue of the fact that the leasing of the Ship pursuant to this Agreement has become Economically Burdensome, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(a), being a date not less than five (5) Business Days after service of that notice; or
- (d) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) for any reason other than that specified in paragraph (c) above, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(b) being a date no less than thirty (30) days after service of that notice; or

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- (e) where the leasing of the Ship ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (f) where the leasing of the Ship ends pursuant to clause 18.2, by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (g) where the leasing of the Ship ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee by the Lessor pursuant to clause 24.1;

“ **Lessor** ” includes the successors and permitted assigns and transferees of the Lessor;

“ **Lessor Breach** ” means any breach by the Lessor or any Lessor Group Member and their respective agents, assigns, directors, officers, secondees and servants (each a “ **Lessor Party** ”) of its obligations, warranties or representations to the Lessee under the Transaction Documents to which the relevant Lessor Party is a party, but excluding any breach resulting from any act or omission of:

- (a) the Lessee, any Transaction Company or any person which derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of a Lessor Party;
- (b) a Lessor Party, that arises as a result of the failure of the Lease or any Transaction Company to duly and punctually perform all its obligations under any Transaction Document; or
- (c) a Lessor Party, that arises as a result of a breach of any of the express representations or express warranties of the Lessee or any Transaction Company;

“ **Lessor Group Member** ” means any member of the Lessor’s Group other than the Lessor;

“ **Lessor Misconduct** ” means any act or omission of the Lessor or any Indemnified Person, (excluding any act or omission of the Lessee or any Transaction Company, or any Person who derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of the Lessor or any Indemnified Person) which constitutes:

- (a) wilful misconduct;
- (b) reckless misconduct with:
 - (i) the intent to cause damage; or
 - (ii) actual knowledge that damage would probably result;

“ **Lessor Parent Support Letters** ” means the letters issued or, as the context may require, to be issued by the Bank:

- (a) in favour of the Lessee in the form set out in Schedule 3A; and
- (b) in favour of the Builder in the form set out in Schedule 3B,

and, in the singular, means either of them; and

“ **Lessor’s Group** ” means the Lessor and its ultimate Holding Company and any company which is a Subsidiary of such Holding Company from time to time;

“ **Lessor’s Legal Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Lessor’s Management Time** ” means the amount of time which any director or employee of the Lessor or any Lessor Group Member (other than those employees whose functions are of an administrative or clerical nature) spends or anticipates in good faith will be spent in connection with the taking of any actions, the consideration of any requests and/or the entering into of any discussions by the Lessor in accordance with this Agreement and the other Transaction Documents as shall be notified to the Lessee by the Lessor (provided however that this shall not include time spent on routine transactional management or on administrative or clerical matters);

“ **Lessor’s Management Time Cost Rate** ” means £300 per hour plus RPI, or as otherwise notified by the Lessor to the Lessee from time to time, acting reasonably;

“ **Lessor’s Security Interest** ” means any Security Interest on the Ship, its earnings, the Insurances or any Requisition Compensation which arises as a result of:

- (a) any claim against or affecting the Lessor that is not related to, or does not arise directly or indirectly as a result of, the transactions contemplated by this Agreement or any of the other Transaction Documents; or
- (b) any act or omission of the Lessor which is unrelated to or does not arise directly or indirectly as a result of the transactions contemplated by this Agreement and the other Transaction Documents; or
- (c) any Taxes imposed upon the Lessor other than those in respect of which the Lessor or any other Indemnified Person is required to be indemnified against by the Lessee or by any other person under this Agreement or under any of the other Transaction Documents;

“ **Lessor’s Total Expenditure** ” means:

- (a) for the purposes of paragraph (a) of the definition of Maximum Commitment, all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and, in respect of amounts payable in any other currency, means the Dollar Equivalent of such amounts; and
- (b) for the purposes of paragraph (b) of the definition of Maximum Commitment, the aggregate of all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and each of the Sister Ships (as such expressions are defined in, as the case may be, this Agreement or the relevant Sister Ship Lease Agreement);

“ **Lessor’s Underwriting Fee** ” has the meaning given to that term in the Financial Schedule;

“ **LIBOR** ” has the meaning given in the Financial Schedule;

“ **Losses** ” means any and all losses, costs, charges, expenses, fees, interest, commissions, payments, demands, claims, actions, proceedings, liabilities, penalties, fines, judgments, damages, orders, liens, salvage and general average or other sanctions other than Taxes, and except also those excluded by clause 7.5, and the expression “Loss” shall be construed accordingly;

“ **Major Casualty** ” means a casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$5,000,000 or the equivalent in another currency;

“ **Manager** ” means the Approved Manager or any Replacement Manager;

“ **Mandatory Prepayment Event** ” means any of the events or circumstances described in clause 17.2;

“ **Maximum Commitment** ” means each of:

- (a) \$85,811,000 in respect of the Lessor’s Total Expenditure on the Ship; and
- (b) \$400,000,000 in aggregate in respect of the Lessor’s Total Expenditure on the Ship and each of the Sister Ships,

in each case exclusive of any United Kingdom Value Added Tax payable under the law in force in the United Kingdom at the date of this Agreement, Provided however that:

- (i) during the period between the date of this Agreement and 31 December 2007, the Maximum Commitment under paragraph (b) above shall be limited to an aggregate of \$226,000,000; and
- (ii) if any Sister Ship Lease Agreement terminates (the “ **Terminated Lease** ”) pursuant to clauses 2.2 or 2.5 thereof prior to the date on which Delivery shall have occurred under this Agreement and all of the other Sister Ship Agreements (as “ **Delivery** ” is defined therein), for the purposes of paragraph (b) of the definition of Lessor’s Total Expenditure there shall be disregarded all amounts paid by the Lessor under the Terminated Lease by way of Purchase Price and Lease Amounts (as defined therein);

“ **Net Sale Proceeds** ” means in relation to a sale of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the amount of the consideration actually and unconditionally received by the Lessor from a purchaser of the Ship upon such sale and any non-refundable deposit paid to or for the account of the Lessor by a person acquiring or proposing to acquire the Ship under a contract or offer to purchase the Ship or other agreement to acquire the Ship which has been withdrawn, terminated or cancelled or has lapsed;

after deducting:

- (i) any VAT for which the Lessor is required to account in respect of such sale; and
- (ii) the Lessor’s costs and out-of-pocket expenses, excluding Recoverable VAT on such expenses, properly incurred in connection with such sale (including but not limited to brokers’ commissions, legal fees, registration fees and stamp duties) or properly incurred in recovering possession of or in moving, insuring, maintaining, laying up or dry-docking the Ship and in carrying out any repairs, works or modifications required to restore the Ship to the condition required by this Agreement or required pursuant to any sale and purchase agreement in respect of the Ship;

“ **Net Total Loss Proceeds** ” means, in relation to a Total Loss of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the Total Loss Proceeds actually and unconditionally received by the Lessor after deducting the Lessor’s costs and out-of-pocket expenses (excluding Recoverable VAT on such expenses) reasonably incurred by the Lessor in connection with the collection of such proceeds;

“ **Non Discrimination Letter** ” means the letter agreement so called issued or to be issued in relation to this Agreement addressed by the Lessor to the Lessee;

“ **Notice Response Date** ” shall have the meaning attributed thereto in clause 16.2;

“ **Novated Building Contract** ” means the Building Contract as novated and amended by the Novation Agreement;

“ **Novation Agreement** ” means the novation agreement entered or to be entered into in respect of the Building Contract and made between (i) the Builder, (ii) the Lessor, (iii) the Guarantor (as “Original Purchaser”) and (iv) the Lessee (as “Replacement Purchaser”);

“ **Permitted Security Interests** ” means:

- (a) Security Interests created by the Transaction Documents;
- (b) Lessor’s Security Interests;
- (c) liens for unpaid crew’s wages;
- (d) liens for salvage;
- (e) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (f) liens for master’s disbursements incurred in the ordinary course of trading;
- (g) other liens arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship and which secure amounts not exceeding five million Dollars (\$5,000,000) where the Lessee is contesting the claim giving rise to such lien in good faith by appropriate steps and for the payment of which adequate reserves have been made in case the Lessee finally has to pay such claim so long as any such proceedings shall not, and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;
- (h) any Security Interest created in favour of a claimant or defendant in any action of the court or tribunal before whom such action is brought as security for costs and expenses where the Lessee is prosecuting or defending such action in good faith by appropriate steps or which are subject to a pending appeal and for which there shall have been granted a stay of execution pending such appeal and for the payment of which adequate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of, the Ship or any interest in the Ship; and

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- (i) Security Interests arising by operation of law in respect of Taxes which are not overdue for payment or Taxes which are overdue for payment but which are being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;

“ **Pooling Benefits Letter** ” means the letter so called issued or to be issued in respect of any pooling benefits relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Pre-Delivery Termination Date** ” means the date on which the Lessor’s obligation to acquire the Ship pursuant to the Novated Building Contract and lease the Ship to the Lessee terminates, being:

- (a) where the obligation of the Lessor to acquire the Ship and lease the Ship to the Lessee ends by virtue of the fact that the transaction has become Economically Burdensome or the Lessee has determined that the transaction has become Commercially Burdensome, the date specified in the notice served on the Lessor by the Lessee pursuant to clause 2.2.1;
- (b) if the Ship becomes a Total Loss, the earlier of the date on which the Supervisor (acting on behalf of the Lessor and in accordance with the Supervision Agreement) agrees with the Builder that the damage shall not be repaired and that the Novated Building Contract shall be deemed to be rescinded and all amounts paid by the Lessor thereunder (together with interest thereon) be refunded by the Builder or, where no agreement is reached by the Builder and the Supervisor, the date falling six (6) months after the occurrence of the Total Loss;
- (c) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice;
- (d) where a Further Novation Event occurs, the date stipulated in the notice served on the Replacement Purchaser by the Lessor pursuant to clause 18.3.1; and
- (e) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee pursuant to clause 24.1;

“ **Pre-Tax Loss Letter** ” means the letter so called issued or to be issued in respect of any pre-tax loss relating to this Agreement addressed by the Lessor to the Lessee;

“ **Purchase Price** ” means the price for the Ship payable by the Lessor under the Novation Agreement and the Novated Building Contract, which price shall be reduced by any amounts payable by the Builder to the Lessor under article III.2 (*Adjustment of Contract Price - Speed*), article III.3 (*Adjustment of Contract Price - Fuel Consumption*), article III.4 (*Adjustment of Contract Price - Deadweight*), article III.5 (*Adjustment of Contract Price - Container Capacity*) of the Novated Building Contract, but shall not be reduced by any amounts payable by the Builder to the Lessor under article III.1 (*Adjustment of Contract Price - Delivery*) of the Novated Building Contract;

“ **QEL** ” means the quiet enjoyment letter in respect of the Ship between the Lessor and the Time Charterer;

“ **Recoverable VAT** ” means any amounts paid or payable by or on behalf of the Lessor in respect of Value Added Tax which is not Irrecoverable VAT;

“ **Refund Guarantee** ” means the refund guarantee issued or, as the context may require, to be issued by the Refund Guarantor in favour of the Lessor pursuant to the Novation Agreement;

“ **Refund Guarantor** ” means National Agricultural Cooperative Federation, a company organised and existing in Korea, with its principal place of business at West Gate P.O.BOX 50, Seoul, Korea;

“ **Relevant Event** ” means any Termination Event, Mandatory Prepayment Event or Further Novation Event, or any event which only with the passage of time, the giving of any notice or the fulfilment of any other condition (or a combination thereof) would constitute a Termination Event, Mandatory Prepayment Event or Further Novation Event;

“ **Rental** ” has the meaning given to such term in the Financial Schedule;

“ **Replacement Manager** ” means any company which the Lessor may approve from time to time as the manager of the Ship pursuant to clause 10.11;

“ **Requisition Compensation** ” means all sums of money or other compensation from time to time payable in respect of the Compulsory Acquisition of the Ship;

“ **Review Notification Date** ” means the date falling four (4) months after the commencement of the Standby Lender Review Period;

“ **Revised Cash Flow** ” has the meaning given to that term in the Financial Schedule;

“ **Saving on Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Security Interest** ” means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the rights of the claimant under an action in rem in which the ship concerned has been arrested or a writ has been issued or similar step taken; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which person (B) would have been had person (B) held a security interest over an asset of person (A), but this paragraph (c) does not apply to a right of set-off or combination of accounts arising by operation of law or conferred by the standard terms of business of a bank or financial institution and which has not been exercised;

“**Ship**” means the vessel currently under construction with the Builder pursuant to the Novated Building Contract and having Builder’s Hull Number 1851 to be sold by the Builder to the Lessor pursuant to the Novated Building Contract and to be registered in the name of the Lessor as and from the Delivery Date and includes any share or interest therein, as the same is more particularly described in Schedule 2 and includes its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, and everything belonging or appurtenant to it whether on board or ashore (including, for the avoidance of doubt, any depot spares and other spare parts and other such items purchased by the Lessor under the Novated Building Contract) together with any and all substitutions, replacements and renewals of any of them and any and all substitutions therefor and replacements and renewals thereof and any additions thereto from time to time made in accordance with the provisions of this Agreement and any of the foregoing which, having been removed from it, remain the property of the Lessor pursuant to this Agreement and any additions thereto which have not been removed and have become the Lessor’s property in accordance with clause 11.4;

“**Ship’s Software**” means all computer software which is required for the operation of the Ship, including, but not limited to, navigation software;

“**Sister Ship**” and “**Sister Ships**” mean any or all (as the case requires) of the vessels currently under construction with the Builder identified as Hull numbers 1852, 1853, 1854, and 1855;

“**Sister Ship Lease Agreements**” means the lease agreements entered into on, or at any time after, the date of this Agreement in respect of each of the Sister Ships between the Lessor and the Lessee;

“**Sister Ship Time Charters**” means the time charters defined in each of the Sister Ship Lease Agreements as the “Time Charter”;

“**Sister Ship Transaction Documents**” means the documents defined as “**Transaction Documents**” in each of the Sister Ship Lease Agreements;

“**SOLAS**” means International Convention for the Safety of Life at Sea, 1974, with Protocol 1978 and Amendments of 1981, 1983, 1988, 1991, 1992, 1994, 1996, 1998, 2000, 2002, 2003 and 2004 as the same may be further amended or supplemented, consolidated or replaced from time to time;

“**Standby Lender**” means the Bank or such other company in the Lessor’s Group as shall be nominated by the Lessor for such purpose;

“**Standby Lender Review**” means the review which the Standby Lender is entitled to undertake pursuant to clause 16.1;

“**Standby Lender Review Period**” means the period commencing on the date falling six (6) months prior to the Lease Period End Date applicable to whichever of the Ship and the Sister Ships is the first vessel to be Delivered (as defined in this Agreement or, as the case may be, the relevant Sister Ship Agreement), and expiring on the Review Notification Date;

“**Standby Loan Transaction**” means a transaction with the characteristics described in Schedule 10;

“ **Subsidiary** ” means:

- (a) in respect of a person incorporated or formed outside England and Wales, any company or entity directly or indirectly controlled by such person, and for this purpose “control” means either the ownership of more than fifty (50) per cent. of the voting share capital (or equivalent rights of ownership) of such company or entity or the power to direct its policies and management whether by contract or otherwise; and
- (b) in respect of a person incorporated in England and Wales, a subsidiary within the meaning of Section 736 Companies Act 1985;

“ **Supervision Agreement** ” means the supervision agreement entered or to be entered into in respect of the construction of the Ship and made between (i) the Supervisor and (ii) the Lessor;

“ **Supervision Costs** ” means the amount payable by the Lessor to the Supervisor under clause 4.5(b) of the Supervision Agreement;

“ **Supervisor** ” means the Approved Manager, in its capacity as the “Supervisor” pursuant to the Supervision Agreement;

“ **Tax** ” includes all present and future taxes, levies (whether by deduction, withholding or otherwise), imposts, duties, or charges of a similar nature (or any amount payable on account of or as security for any of the foregoing), including, but not limited to, income tax, corporation tax, VAT, stamp duty, customs and other impost or export duty or excise duty, imposed by any statutory, governmental, national, international, state or local taxing or fiscal authority, body or agency or department whatsoever or any central bank, monetary agency or European Union institution, whether in the United Kingdom or elsewhere together with interest thereon and any additions, fines, surcharges, penalties in respect thereof or relating thereto and “ **Taxes** ” and “ **Taxation** ” shall be construed accordingly;

“ **Tax Consultation Letter** ” means the letter issued or to be issued in relation to this Agreement regulating the conduct of matters between the Lessor and HMRC or any other tax authority in respect of the transactions represented by the Transaction Documents addressed by the Lessor to the Lessee;

“ **Tax Written Down Value** ” has the meaning given to such term in the Financial Schedule;

“ **Technical Note Letter** ” means the letter agreement of that name issued or to be issued in relation to this Agreement addressed from the Lessor to the Lessee;

“ **Termination Amount** ” means the aggregate of the Termination Sum and the Termination Fee (if any);

“ **Termination Date** ” means, as the context may require, the Pre-Delivery Termination Date or the Lease Termination Date;

“ **Termination Event** ” means any of the events or circumstances described in clause 17.1;

“ **Termination Fee** ” has the meaning given in the Financial Schedule;

“ Termination Payment Date ” means:

- (a) in the case of a voluntary termination pursuant to clause 2.2, the Pre-Delivery Termination Date;
- (b) in the case of a voluntary termination pursuant to clause 2.5, the Lease Termination Date;
- (c) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.1, the Pre-Delivery Termination Date;
- (d) in the case of any termination of the leasing of the Ship pursuant to clause 18.1, the Lease Termination Date;
- (e) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.2, the Pre-Delivery Termination Date;
- (f) in the case of any termination of the leasing of the Ship pursuant to clause 18.2, the Lease Termination Date; and
- (g) in the case of the occurrence of a Further Novation Event, the Pre-Delivery Termination Date; and
- (h) in the case of a Total Loss, the Total Loss Payment Date;

“ Termination Sum ” has the meaning given to such term in the Financial Schedule;

“ Time Charter ” means the time charter agreement in respect of the Ship dated on or about the date hereof and entered into between the Guarantor and the Time Charterer;

“ Time Charterer ” means Kawasaki Kisen Kaisha, Ltd., a company incorporated in Japan;

“ Total Loss ” means:

- (a) an actual, constructive, compromised or arranged total loss of the Ship; or
- (b) any Compulsory Acquisition of the Ship; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to the Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Ship be released and restored to the Lessee or the Lessor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof; or
- (d) the expiry of one (1) year (or such longer period as the Lessor and the Lessee may agree) after the Ship shall have been requisitioned for hire or use by a Government Entity or other competent authority, whether de jure or de facto;

“ Total Loss Date ” means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;

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- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earlier of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Lessor with all of the relevant insurers of the Ship at the relevant time in which the said insurers agree to treat the Ship as a total loss; and
 - (c) in the case of a Compulsory Acquisition the date on which the requisition for title or other Compulsory Acquisition occurs; and
 - (d) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, the date upon which the relevant hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation constitutes a Total Loss (as stipulated by paragraphs (c) and (d) of the definition of “Total Loss”);

“ **Total Loss Payment Date** ” means, following the occurrence of a Total Loss, the earliest of the following dates to occur:

- (a) the date falling 120 days after the Total Loss Date or such later date as the Lessor may agree; or
- (b) the date on which the Lessor receives the Total Loss Proceeds or any Requisition Compensation;

“ **Total Loss Proceeds** ” means the proceeds of any policy or contract of insurance arising in respect of a Total Loss actually and unconditionally received by the Lessor following a Total Loss of the Ship;

“ **Total Vessel Cost** ” has the meaning given to such term in the Financial Schedule;

“ **Transaction Companies** ” means the Lessee, the Guarantor, the Supervisor (but only for so long as it owes any obligations to the Lessor under the Supervision Agreement), and the Replacement Purchaser (but only for so long as it owes any obligations to the Lessor under the Novation Agreement) and, in the singular, means any one of them;

“ **Transaction Documents** ” means the Lease Documents, the Time Charter, the Lessor Parent Support Letters and any other document, agreement, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of, as a pre-condition of, or otherwise in connection with any of the foregoing and any other document, agreement, acknowledgement, notice, letter or instrument designated as a Transaction Document by the Lessor and the Lessee;

“ **United Kingdom** ” or “ **UK** ” means United Kingdom of Great Britain and Northern Ireland;

“ **US Transportation Tax** ” means the 4% Tax imposed by the US on a foreign corporation’s US source gross transportation income for any tax year or any similar or equivalent Tax replacing or introduced in addition to the same;

“ **Value Added Tax** ” or “ **VAT** ” means:

- (a) value added tax of the United Kingdom as provided for in the VATA including legislation (delegated or otherwise) supplementary thereto, and any similar or substituted tax, or any tax imposed, levied or assessed in the United Kingdom on added value or turnover; and
- (b) any similar tax imposed, levied or assessed in any jurisdiction outside the United Kingdom; and

“ **VATA** ” means the Value Added Tax Act 1994;

1.2 Construction of certain terms

In this Agreement:

“ **consent** ” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

“ **excess risks** ” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies or the ordinary collision clause in respect of the Ship in consequence of her insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“ **law** ” includes any form of delegated legislation, any order or decree, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

“ **person** ” includes any company or unincorporated legal entity, any state, political sub-division of a state and local or municipal authority and any international organisation and reference to any person shall include its successors, permitted assignees and permitted transferees in accordance with their respective interests;

“ **policy** ” in relation to any insurance includes a slip, cover note, certificate of entry or other documents evidencing the contract of insurance or its terms;

“ **protection and indemnity risks** ” means the usual risks covered by a full owner’s entry in a protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies;

“ **regulation** ” includes, without limitation, any regulation, rule, official directive, request or guideline (either having the force of law or compliance with which is customary in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and

“ **war risks** ” includes the risk of mines, all risks covered by the English Institute War and Strikes Clauses or any equivalent provision and all insurable risks excluded under the war and terrorism risks exclusion clauses or equivalent under the rules of the protection and indemnity club or association with whom the protection and indemnity risks cover is placed from time to time.

1.3 Meaning of “month”

A period of one or more “ **months** ” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (the “ **numerically corresponding day** ”), but:

- 1.3.1 on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
 - 1.3.2 on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;
- and “ **month** ” and “ **monthly** ” shall be construed accordingly.

1.4 General interpretation

In this Agreement:

- 1.4.1 references in clause 1.1 to a document being in the form of a particular Schedule include references to that form with any modifications to that form which the Lessor and the Lessee agree in writing;
- 1.4.2 references to, or to a provision of, a Transaction Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise with the consent of the Lessor;
- 1.4.3 references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- 1.4.4 words denoting the singular number shall include the plural and vice versa;
- 1.4.5 references to clauses and Schedules are, unless otherwise stated, references to clauses of and schedules to this Agreement;
- 1.4.6 clauses 1.1 to 1.4 apply unless the contrary intention appears; and
- 1.4.7 in relation to an entity which is not a corporation, reference to “incorporated” and cognate expressions shall be deemed to be references to its formation and establishment under applicable law.

1.5 Headings

The clause headings shall not affect the interpretation of this Agreement.

1.6 Conflicts

If any conflict arises or exists between the provisions of this Agreement and any of the other Lease Documents, the provisions of this Agreement shall prevail.

2 Lease

2.1 Lease Period

Subject to and upon the terms and conditions of this Agreement, the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, and will be entitled to the full possession and use of, the Ship for a period commencing on the Delivery Date and ending on the Lease Period End Date.

2.2 Voluntary termination prior to Delivery

2.2.1 If at any time prior to Delivery:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome; or
- (b) the Lessee has determined that the transaction contemplated by the Transaction Documents has become Commercially Burdensome (as evidenced by a certificate issued by a director or officer of the Lessee),

the Lessee shall be entitled to terminate the agreement by the Lessor to acquire the Ship pursuant to the Novated Building Contract and to lease the Ship to the Lessee pursuant to this Agreement and the agreement by the Lessee to lease the Ship from the Lessor, by giving written notice to the Lessor in accordance with the provisions set out in clauses 2.2.3 and 2.2.4 below.

2.2.2 The transaction contemplated by the Transaction Documents shall be regarded as being “ **Commercially Burdensome** ” when the Lessee determines that it is no longer compatible with the commercial strategy of the Lessee and as a consequence the Lessee has good commercial reasons for wishing to terminate the transaction, provided however that the Lessee shall not be deemed to have a good commercial reason for terminating the transaction if primarily motivated by, or the termination is for the purposes of, the Lessee entering into any alternative financing arrangement with respect to the Ship with any other financier.

2.2.3 Any notice given by the Lessee pursuant to this clause 2.2 shall be irrevocable and shall state whether it is given pursuant to clause 2.2.1(a) or clause 2.2.1(b) and, in the case of a notice given pursuant to clause 2.2.1(b) above, shall attach a certificate from a director or officer of the Lessee certifying that the transaction contemplated by the Transaction Documents is Commercially Burdensome, which shall be conclusive as to the opinion of the Lessee.

2.2.4 The Lessee shall give at least:

- (a) five (5) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(a); and

- (b) thirty (30) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(b);

2.2.5 If a Mandatory Prepayment Event shall occur prior to Delivery or a Further Novation Event shall occur in each case which is continuing, the Lessor may exercise its rights under clause 18.2 or, as the case may be, clause 18.3 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.2, whereupon the provisions of clause 2.2.6 and 2.3 shall apply.

2.2.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount equal to the Termination Amount as at that date as determined in accordance with clause 18.4, together with all other moneys then due and payable but unpaid by the Lessee to the Lessor under the Lease Documents.

2.3 Further novation on voluntary termination before Delivery

If (a) the Lessee gives notice pursuant to clause 2.2 or (b) the Lessee is deemed to have given notice pursuant to clause 2.2 in accordance with the provisions of clause 18.3 to terminate the agreement to lease the Ship under this Agreement during the Construction Period or (c) the Lessor gives notice pursuant to clause 18.1 to terminate the agreement to lease the Ship during the Construction Period (and (in the case of clause 2.3(a)) the Lessor has received payment of all amounts owing to the Lessor by the Lessee under clause 18.4 in cleared funds in accordance with the payment instructions therefor and without conditions attached) the Lessor shall promptly give a Further Novation Notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

2.4 Continuation of Construction Period

Notwithstanding anything to the contrary contained in this Agreement, if the Lessee gives notice or is deemed to have given notice to terminate the agreement to lease the Ship under this Agreement during the Construction Period pursuant to clause 2.2, the Construction Period will continue until and end on the date on which the further novation referred to in clause 2.3 occurs.

2.5 Voluntary termination after Delivery

2.5.1 At any time after Delivery the Lessee is entitled to terminate the leasing of the Ship by the Lessor to the Lessee under this Agreement by giving written notice to the Lessor.

2.5.2 If:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome, the Lessee shall give at least five (5) Business Days notice of the proposed Lease Termination Date; and
- (b) in all other circumstances, the Lessee shall give at least thirty (30) days notice of the proposed Lease Termination Date.

2.5.3 Any notice given by the Lessee pursuant to clause 2.5.1 and 2.5.2 shall, subject to clause 2.5.7:

- (a) be irrevocable;

(b) state whether it is given pursuant to clause 2.5.2(a) or 2.5.2(b); and

(c) be given in respect of an imminently proposed sale.

2.5.4 If a Mandatory Prepayment Event shall occur which is continuing, the Lessor may exercise its rights under clause 18.2 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.5, whereupon the provisions of clause 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.5 If the Lessor issues a notice to the Lessee pursuant to clause 24 to terminate the Lease Period, such termination shall be treated as constituting a voluntary termination in accordance with this clause 2.5 whereupon the provisions of clauses 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount as determined in accordance with the provisions of clause 18.4.

2.5.7 Notwithstanding the service by the Lessee of a notice terminating the leasing of the Ship in accordance with clauses 2.5.1 and 2.5.2, if, after the service of such notice, the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee in each case as at the proposed Lease Termination Date, the leasing of the Ship shall continue as if such notice had not been issued.

2.5.8 If the Lessee is treated as having given a notice terminating the leasing of the Ship pursuant to clause 2.5.4 or 2.5.5 and the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee as at the applicable Lease Termination Date, the leasing of the Ship shall nevertheless terminate on the Lease Termination Date.

2.6 Continuation of Lease Period

Notwithstanding anything to the contrary in this Agreement, from the Lease Termination Date until the earlier of (i) the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 and (ii) the date on which the Ship is redelivered to the Lessor pursuant to clause 15 the Lessee shall continue in possession of the Ship as the Lessor's agent under a bailment terminable by the Lessor at will with no right of quiet enjoyment as between the Lessor and the Lessee (but otherwise without prejudice to its rights under clause 2.8 and to receive rebates of Rental under this Agreement); and as a term of its appointment as the Lessor's agent it shall continue to perform all its obligations under this Agreement as if the Lease Period were still continuing.

2.7 Terms and Conditions of sale

Any sale of the Ship pursuant to clause 2.8 (but not, for the avoidance of doubt, pursuant to clause 2.9) will be on the following terms and conditions and shall otherwise be completed in accordance with the provisions set out below:

2.7.1 the sale will be at a cash price payable by the purchaser to the Lessor in full on completion of that sale in Dollars or such other currency as the Lessor may agree (such agreement not to be unreasonably withheld or delayed);

2.7.2 the sale will be on the best terms (including price) which, in the opinion of a reputable firm of independent ship valuers and surveyors experienced in the container carrier sector, are reasonably obtainable on the open market on an “as is, where is” basis taking into account where continuing, the Time Charter and any charter of the Ship at that time which shall have been notified to the Lessor and approved by the Lessor pursuant to clause 10.17 and which is intended to continue (and is capable of continuing) after the date of sale and the termination of the bailment to the Lessee under this Agreement;

2.7.3 the sale may be to any person other than:

- (a) the Time Charterer, the Lessee or any other person to whom the Ship has at any time been leased or sub-leased; or
- (b) any person who is purchasing in trust for any of the parties referred to in (a); or
- (c) any other person to whom, by virtue of a Change of Law occurring after the date of this Agreement, a sale is certified by the Lessor (the “**Lessor’s Certificate**”) as being reasonably likely to result in the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship provided however that if the Lessee does not agree with the Lessor’s Certificate it shall be entitled to require the Lessor to obtain promptly a written opinion from leading tax counsel (“**Counsel**”) (in accordance with the provisions of clause 2.7.3(g)) stating whether or not the Lessor’s Certificate is correct;
- (d) if Counsel is of the opinion that the Lessor’s Certificate is incorrect, then the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, without the provision of any further security to the Lessor;
- (e) if Counsel is of the opinion that the Lessor’s Certificate is correct, the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) and (b) above, conditional upon the Lessee having first provided to the Lessor additional security of such appropriate amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any cost or expense on the End Date (as defined in the Financial Schedule);
- (f) if the Lessee notifies the Lessor in writing that it does not require the Lessor to obtain an opinion from Counsel, it shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, provided that it shall have first provided to the Lessor additional security of such amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim

capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any such cost or expense on the End Date (as defined in the Financial Schedule);

- (g) the Lessee shall be entitled to require the Lessor to obtain the opinion of Counsel chosen for the foregoing purpose by agreement between the Lessor and the Lessee (or in the absence of agreement by the Chairman of the Bar Council whom the Lessor and the Lessee shall instruct for that purpose). A consultation with Counsel shall be arranged expeditiously after the Lessor receives notification from the Lessee that it requires Counsel's opinion on the Lessor's Certificate. Counsel shall be instructed on the basis of instructions prepared by the Lessor's legal advisers in consultation with the Lessee and its legal advisers (with the intent that the Lessee and its legal advisers shall have a reasonable opportunity to consider and contribute to such instructions). The Lessee and its legal advisers shall be entitled to attend any consultation with Counsel save that the Lessee and its professional advisers shall withdraw from such consultation at the request of the Lessor for so long as, in the reasonable opinion of the Lessor, matters which are confidential or of a sensitive nature having regard to the business of the Lessor, or which relate to the confidential affairs of a third party, are to be discussed during such consultation. The cost of Counsel's opinion shall be for the account of the Lessee save where Counsel is of the opinion that the Lessor's Certificate is incorrect, in which case it shall be for the account of the Lessor;

- 2.7.4 the terms of the sale will include a warranty on the part of the Lessor that the Lessor will pass such title to the Ship as the Lessor has acquired pursuant to the Novated Building Contract free of Lessor's Security Interests, but otherwise shall be without any representation, recourse or warranty whatsoever to or on the part of the Lessor;
- 2.7.5 the Lessee, for its own account, may give any warranties reasonably required by the purchaser of the Ship in accordance with market practice for the sale of vessels of a similar type, design and age as the Ship;
- 2.7.6 the terms of the sale will include, subject to the consent of the Builder pursuant to the Novated Building Contract, an assignment by the Lessee of any unexpired portion of any assignable warranties and indemnities referred to in clause 6.5;
- 2.7.7 the sale will be on an "as is, where is and with all faults" basis and governed by the laws of England;
- 2.7.8 if the proposed sale provides for delivery of the Ship by the Lessor, such obligation is conditional on the Ship first being redelivered to the Lessor;
- 2.7.9 the sale will be for delivery on, or if for any reason a sale is not possible on that date as soon as reasonably practicable after, the termination date specified in the notice served by the Lessee pursuant to clause 2.5;
- 2.7.10 the sale will exclude, so far as permitted by the laws of England and any other laws governing or applicable to the sale of the Ship, all liability of the Lessor, in contract or tort, in relation to the Ship to the same extent as such liabilities are excluded by clause 6 except for the warranty given by the Lessor referred to in clause 2.7.4; and

2.7.11 if the Ship is at the date of entry into any contract for the sale of the Ship subject to any requisition for hire or (where continuing) the Time Charter or any other chartering of the Ship which shall have been notified to, and approved by the Lessor pursuant to clause 10.17 and which is continuing as at such date notwithstanding the termination of the bailment to the Lessee the sale will be subject to such requisition or any such other chartering of the Ship.

2.8 Sales agency

2.8.1 In respect of any sale of the Ship to be conducted:

- (a) following a termination of the leasing of the Ship pursuant to clause 2.5.2(a) or 2.5.2(b) (Voluntary Termination after Delivery) or any deemed voluntary termination of the leasing of the Ship pursuant to clause 24.3; or
- (b) on the Lease Period End Date; or
- (c) following any termination of the Lease Period pursuant to clause 18.1 (Termination Rights); or
- (d) following any termination of the Lease Period pursuant to clause 18.2 (Mandatory Prepayment);

the Lessor irrevocably appoints the Lessee to act as the agent of the Lessor for the purpose of negotiating the sale of the Ship on the terms set out in clause 2.7 subject to and upon the limitations set out in clauses 2.8.4 to 2.8.8 and the Lessor agrees that, until termination of such agency pursuant to clause 2.8.3 or 2.8.4, the Lessee shall continue to be empowered to negotiate a sale of the Ship, which shall then be concluded in the manner described in clauses 2.8.6 and 2.8.7.

2.8.2 The appointment of the Lessee as the sales agent of the Lessor shall commence on:

- (a) the date on which the Lessee notifies the Lessor that it wishes to terminate the leasing of the Ship in accordance with clause 2.2 or 2.5.2; and
- (b) on the date on which the Lessee is deemed to have exercised its rights of voluntary termination in accordance with clauses 2.5.4 or 2.5.5 following the issue by the Lessor of a notice pursuant to any of clauses 18.2 or 24; and
- (c) in the case of a termination of the leasing by the Lessor pursuant to clause 18.1, on the date on which the Lessor serves notice on the Lessee pursuant to clause 18.1; and
- (d) in any other circumstance, on the fourth anniversary of the Delivery Date,

and shall terminate on the earlier of (i) the date on which the Net Sale Proceeds are actually and unconditionally received and applied in accordance with clause 2.10 or (ii) the date on which the Lessor terminates the appointment of the Lessee pursuant to clause 2.8.3 below or (iii) in any event, and without any action being required by the Lessor, the fifth anniversary of the Delivery Date.

2.8.3 The Lessor shall be entitled to terminate the sales agency under clause 2.8.1 or, as the case may be, clause 2.8.2 by means of written notification to the Lessee:

- (a) at any time after notice is given under clause 18.1 or clause 18.2 and in each such case where the Lessee shall have failed to pay to the Lessor the Termination Amount and any other sums then due to the Lessor which are payable by the Lessee pursuant to clause 18.4 and such failure continues unremedied for a period of five (5) Business Days, unless the notice pursuant to 18.1 is given in respect of the occurrence of any of the events referred to in clauses 17.1.9 or 17.1.11 in relation to any of the Lessee or the Guarantor in which case the Lessor shall be entitled to terminate the sales agency with immediate effect; and

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- (b) subject to paragraph (c) below, the date falling six (6) months after the applicable Lease Termination Date, if no sale of the Ship has been completed by that time; and
 - (c) the date falling one day before the fifth anniversary of the Delivery Date, if no sale of the Ship has been completed by that time;

whereupon in the case where the Lessee's sales agency rights have been terminated in accordance with the provisions of this clause 2.8.3, the Lessor shall be entitled to repossess the Ship in accordance with clause 18.5 and the provisions of clause 2.9 shall apply.

- 2.8.4 The appointment of the Lessee as the Lessor's sales agent shall be on the basis that the Lessee is the Lessor's sole and exclusive agent from the date on which it is appointed until 45 days prior to the fifth anniversary of the Delivery Date at which point the Lessee shall continue as agent on a non-exclusive basis and the provisions of clause 2.8.10 shall apply.
- 2.8.5 The appointment of the Lessee as sales agent will constitute a full discharge by the Lessor of its obligations under clause 18.6 to use reasonable endeavours to sell the Ship for the period while such appointment is continuing.
- 2.8.6 The Lessee's authority is limited to the extent that the Lessee is not authorised to sell the Ship or to approve or execute on behalf of the Lessor any document relating to the sale of the Ship for which the Lessor's specific written authority will be required, which authority will not be unreasonably withheld or delayed where:
 - (a) the sale complies with the provisions of clause 2.7; and
 - (b) the sale price of the Ship exceeds the Tax Written Down Value.
- 2.8.7 Subject to clause 2.8.6 the Lessor agrees that, at the cost and expense of the Lessee, on reasonable notice it will complete the sale of the Ship and it shall execute any agreement, protocol of delivery and acceptance and/or bill of sale for, and any other documentation reasonably requested by the Lessee in respect of, the sale of the Ship which complies with the provisions of clause 2.7.
- 2.8.8 The Lessee will supply the Lessor with details of any offer received and keep the Lessor fully informed of the status of any negotiations for the sale of the Ship.
- 2.8.9 The Lessee is entitled to delegate its rights and duties under this clause 2.8 to any Guarantor Group Member without the approval of the Lessor or to such other person as the Lessor may approve, such approval not to be unreasonably withheld or delayed in relation to a first-class independent shipbroker and, in each case, on the basis that no further delegation shall be permitted without the Lessor's prior written approval.

2.8.10 In the event that by the date falling 45 days prior to the fifth anniversary of the Delivery Date (the “**Non-Exclusive Date**”), no arrangements have been concluded for the sale of the Ship on or before the Lease Period End Date and, in the opinion of the Lessor, no such arrangements are likely to be concluded, and subject to the sales agency not having terminated earlier under clause 2.8.3 prior to the Non-Exclusive Date, the Lessee will, if so required by the Lessor or the Lessee may, on notice to the Lessor, arrange a public auction of the Ship as soon as reasonably practicable after the Non-Exclusive Date and in any event by no later than the fifth anniversary of the Delivery Date (the “**Auction Sale Date**”). For the avoidance of doubt, notwithstanding that the Lessee is arranging an auction in accordance with this clause 2.8.10 the Lessee may nevertheless continue as the Lessor’s sales representative to endeavour to arrange for a private treaty sale of the Ship provided the same is completed by the Auction Sale Date and complies with the terms of clauses 2.7 and 2.8. The Lessor and the Lessee or any nominees or designee of either of them may bid at such auction and any sale resulting therefrom shall constitute a sale of the Ship if it otherwise complies with the other provisions of this Agreement.

2.9 Sale of the Ship following any termination of the Lessee’s sales agency rights

If the Lessee’s right to act as sales agent is terminated pursuant to clause 2.8.2 or 2.8.3, the Lessor (as between the Lessor and the Lessee) shall have the sole right to determine the means, timing and the terms of the sale of the Ship (including by public auction) and clause 2.7 shall not apply to any such sale.

2.10 Application of Net Sale Proceeds

Upon the Ship being delivered to and accepted by a purchaser of the Ship, the leasing of the Ship under this Agreement shall terminate and the Net Sale Proceeds shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to 0.01% of the Net Sale Proceeds;

SECOND: in or towards payment to the Lessor of amounts equal to all or any part of the Termination Amount which, as at the date of the receipt by the Lessor of the Net Sale Proceeds, has not been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

2.11 Shortfalls

If the Net Sale Proceeds fall short of the aggregate of the amounts payable by the Lessee and described in FIRST, SECOND and THIRD of clause 2.10 the Lessee, on the date of receipt by the Lessor of the Net Sale Proceeds, shall pay to the Lessor an amount equal to the amount of that shortfall by way of additional Rental.

2.12 Payments to Lessee

Any payment to the Lessee under clause 2.10 in accordance with the paragraph entitled “FOURTH” shall be made reasonably promptly but in any event within five (5) Business Days after the date of actual and unconditional receipt by the Lessor of the Net Sale Proceeds.

2.13 Termination of obligation to pay Rental

With effect on and from the date of the Ship being delivered to and accepted by a purchaser following a sale of the Ship or the redelivery of the Ship pursuant to clause 15.1, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's accrued and contingent obligations pursuant to this Agreement including, without limitation, paragraph 5 of the Financial Schedule.

2.14 Standby Loan

In the event that the Lessee has given a notice of termination pursuant to clauses 2.2.1(a) or 2.5.2(a), and has also given a corresponding notice under clauses 2.2.1(a) or 2.5.2(a) of each of the Sister Ship Agreements specifying the same Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date), the Lessee shall be entitled to require that the Lessor procures that the Standby Lender enters into a Standby Loan Transaction in respect of the Ship and all of the Sister Ships (but not some only) and, subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction on such Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date) or as soon as reasonably practicable thereafter.

3 Conditions Precedent generally and to payment of Instalments and Delivery**3.1 Pre-delivery conditions to be fulfilled by Lessee**

3.1.1 All of the obligations of the Lessor under this Agreement and the obligations of the Lessor under the Novation Agreement and the Supervision Agreement including to pay the First Instalment are subject to the receipt by the Lessor of the documents described in Part A of Schedule 4 and the documents described in paragraph 5 of Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the First Instalment Date and in any event on or before 31 December 2007 or such other date to be agreed between the Lessee and Lessor.

3.1.2 The Lessor's obligation under this Agreement to pay the Second Instalment is subject in addition to receipt by the Lessor of the documents described in Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the Second Instalment Date.

3.2 Further Conditions to be fulfilled by Lessee in respect of each Instalment

The obligations of the Lessor to pay any Instalment and, in the case of the Final Instalment, to lease the Ship to the Lessee under this Agreement are further subject to the further conditions that:

3.2.1 the Lessor shall have received an Instalment Request not later than 11:00 a.m. (London time) on the third Business Day (in the case of the First and Second Instalments) prior to the relevant proposed date for payment of that Instalment by the Lessor pursuant to the Novation Agreement or, as applicable, the Novated Building Contract and the sixth Business Day (in the case of the Final Instalment) prior to the Delivery Date (or in any such case, such shorter period as the Lessor and the Lessee shall agree); and

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- 3.2.2 as at the Effective Date and each Instalment Date (including the Delivery Date):
- (a) no Relevant Event has occurred which is continuing; and
 - (b) each of the representations and warranties contained in clause 19 of this Agreement and in clause 4 of the Guarantee is then true and correct by reference to the facts and circumstances then existing.

3.3 Delivery conditions and covenants to be fulfilled by Lessee

- 3.3.1 The obligation of the Lessor to pay the Final Instalment pursuant to article II of the Novated Building Contract and the Supervision Costs on the Delivery Date is subject to the receipt by the Lessor of the documents described in Part C of Schedule 4 in form and substance satisfactory to the Lessor not less than four (4) Business Days before the Delivery Date (or such shorter period as the Lessor and the Lessee shall agree).
- 3.3.2 The Lessee undertakes to provide to the Lessor such of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor as are available no less than two (2) Business Days before the Delivery Date. The Lessee undertakes to provide to the Lessor the remainder of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor on or before the Delivery Date, save for such of them as may only be available upon Delivery (which for the avoidance of doubt the Lessee acknowledges should be limited to the protocol of delivery and acceptance to be delivered pursuant to the Novated Building Contract and the documents listed at item 8 of Part D of Schedule 4).
- 3.3.3 The Lessee shall keep the Lessor fully advised of the anticipated date of delivery of the Ship.

3.4 Pre-delivery conditions to be fulfilled by Lessor

The obligations of the Lessee under this Agreement are subject to the receipt by the Lessee of the documents described in Schedule 5 in form and substance satisfactory to the Lessee not less than two (2) Business Days prior to the date specified in clause 3.1 unless waived by the Lessee in writing to the extent not so satisfied.

3.5 Further Conditions to be fulfilled by Lessor

During the Construction Period the Lessor shall comply with the terms of the Novation Agreement, the Supervision Agreement and the Novated Building Contract and, subject to no Relevant Event having occurred and the Lessee not having exercised its rights under clause 2.2, the Lessor shall not:

- 3.5.1 terminate, cancel, rescind or treat as repudiated the Novation Agreement and/or the Supervision Agreement, and/or the Novated Building Contract; or
- 3.5.2 effect, grant or agree any amendment, variation, waiver or release in respect of the obligations of the Builder under the Novated Building Contract or assign or transfer its rights or obligations under the Novated Building Contract other than in accordance with the terms of the Novation Agreement or the Supervision Agreement.

3.6 Waivers

The requirements of clauses 3.1, 3.2 and 3.3 which are for the benefit of the Lessor alone, may be waived by the Lessor in whole or in part and with or without conditions and, if the Lessor agrees to give such a waiver on terms that any condition may be fulfilled after the due date for its fulfilment, the Lessee (unless the Lessor shall have expressly agreed otherwise in writing) shall procure that such condition is fulfilled within thirty (30) days after that due date (or such greater period as the Lessor may specify in writing), and the Lessor shall be entitled to treat any failure by the Lessee to procure the fulfilment of any such condition as a Termination Event.

3.7 Payment of Purchase Price etc.

Subject to satisfaction of the relevant conditions referred to in clauses 3.1, 3.2 and 3.3 and to the satisfaction of the conditions set out in clause 3.11, in each case at the time then due or agreed to be due, the Lessor agrees:

3.7.1 to pay the First Instalment of the Contract Price pursuant to the Novation Agreement and each other Instalment of the Contract Price pursuant to the Novated Building Contract (in each case in the amount and at the time described therein);

3.7.2 to pay when due to the Supervisor the Supervision Costs and the Buyer's Supplies Reimbursement Amount payable pursuant to clause 4.5 of the Supervision Agreement;

3.7.3 to pay on the First Instalment Date:

(a) the Arrangement Fee; and

(b) the Lessor's Legal Costs and the costs of the Lessor's insurance advisers,

each in an amount as agreed and in accordance with the payment details specified in the invoices received by the Lessor from the arranger and from the Lessor's legal and insurance advisers on or before the First Instalment Date; and

3.7.4 to pay the Lessor's Underwriting Fee on the First Instalment Date.

3.8 No set-off

The Lessor is not entitled to set-off or withhold from the Contract Price any amounts due or expressed to be due from the Lessee or any other Guarantor Group Member.

3.9 Alterations to payment amounts

Each of (a) the Instalments of the Contract Price payable pursuant to the Novation Agreement (in the case of the First Instalment) and the Novated Building Contract (in the case of the other Instalments) shall be in the amounts set out in, or calculated in accordance with, the Novation Agreement and/or (as the case may be) the Novated Building Contract and (b) the Supervision Costs and Buyer's Supplies Reimbursement Amount payable in accordance with the Supervision Agreement shall be in the amount set out in, or calculated in accordance with, the Supervision Agreement, in each such case as amended and supplemented from time to time in accordance with any relevant provisions of the Transaction Documents.

3.10 Contributions

- 3.10.1 The Lessor shall notify the Lessee if at any time the aggregate of the Lessor's Total Expenditure has reached or, taking account of the next payment or payments in respect of the Lessors' Total Expenditure, will reach the Maximum Commitment and in circumstances where the aggregate of the Lessor's Total Expenditure and the Lessor's projected expenditure exceeds or is likely to exceed the Maximum Commitment (a " **Commitment Shortfall** ") the Lessor shall notify the Lessee promptly and in any event not later than two (2) Business Days before required, that a Contribution Payment will be required.
- 3.10.2 Any notice from the Lessor requiring a Contribution Payment shall specify the amount of the Contribution Payment due from the Lessee and the scheduled date for payment thereof, being no later than one (1) Business Day prior to the date on which the Lessor is to make payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, before the date on which the Lessor is required to procure the issuing of a payment undertaking from the Bank in accordance with article II.5(c) of the Novated Building Contract, and will be accompanied by documentation evidencing the amount of the Contribution Payment, to the best of the Lessor's then estimation. Each such notice shall constitute a " **Contribution Payment Request** ".
- 3.10.3 If and so often as the Lessee receives a Contribution Payment Request under clause 3.10.2, the Lessee shall pay to the Lessor an amount equal to the Contribution Payment requested by the Lessor in the applicable Contribution Payment Request to the Lessor's account as specified in the Contribution Payment Request, to be received not less than one (1) Business Day prior to the date on which the Lessor is to make the payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, not less than one (1) Business Day before the date on which the Lessor is required to procure the issue of a payment undertaking from the Bank in respect of the Final Instalment in accordance with article II.5(c) of the Novated Building Contract.

3.11 Certificate of Delivery and Acceptance

On Delivery the Lessee will deliver to the Lessor the Certificate of Delivery and Acceptance duly executed by the Lessee, which shall be conclusive proof that the Lessee has unconditionally accepted the Ship for leasing under this Agreement without any reservations whatsoever.

3.12 Condition of Ship; Lessee's risk and responsibility

The Lessee acknowledges that:

- 3.12.1 the condition of the Ship (or any part of it) on delivery to the Lessee under this Agreement will, as between the Lessor and the Lessee be the sole risk and responsibility of the Lessee and that the Lessor has agreed to purchase the Ship pursuant to the Novated Building Contract for the sole purpose of leasing the Ship to the Lessee pursuant to this Agreement;
- 3.12.2 the Lessee will not be entitled for any reason whatsoever to refuse to accept delivery of the Ship under this Agreement once the Lessor acquires title to, and receives possession, of the Ship pursuant to the Novated Building Contract; and

3.12.3 the Lessor will not be liable for any loss of profit resulting directly or indirectly from any defect or alleged defect in the Ship or failure or alleged failure of the Ship to comply with the Novated Building Contract.

3.13 Delays in delivery

The Lessor will not be responsible for any loss or expense, or any loss of profit, arising from any delay in the delivery of, or failure to deliver, the Ship to the Lessee under this Agreement except where such delay or failure is caused by the negligence or wilful default of the Lessor or any Lessor Breach.

4 Rental

4.1 Construction Period Rentals

The Lessee shall not be required to pay any instalments of Rental during the Construction Period.

4.2 Lease Period Rental

On each Lease Rental Date falling in the Lease Period the Lessee shall pay to the Lessor in respect of the Lease Period an instalment of Rental calculated in accordance with paragraph 2.1 of the Financial Schedule. Each such instalment of Rental shall be subject to adjustment in accordance with the Financial Schedule.

4.3 Adjustments of Rental

The Lessee, on the dates determined in accordance with the Financial Schedule, shall pay to the Lessor by way of additional Rental all amounts from time to time arising from recalculation of Rental made pursuant to and due to the Lessor in accordance with the Financial Schedule. The Lessor shall pay to the Lessee all amounts from time to time arising from recalculation of Rental made pursuant to the Financial Schedule and due to the Lessee, and expressed to be payable by way of rebate of Rental, in accordance with the Financial Schedule. The Lessor shall make any such payments to such account as the Lessee may notify in writing to the Lessor from time to time.

4.4 Lessor's Capital Commitment Fee

The Lessee shall pay to the Lessor a capital commitment fee, on the basis and in the manner agreed between the Lessor and the Lessee in writing.

4.5 Survival of Financial Schedule

The provisions of the Financial Schedule shall survive any termination or expiry of the Lease Period and any breach or repudiation, or alleged breach or repudiation, by the Lessee or the Lessor of this Agreement.

4.6 Unconditional payment obligations

The Lessee's obligation to pay Rental in accordance with this clause 4 (unless and until Rental ceases to be payable in accordance with the provisions of clause 2.13 or clause 14.5 or clause 18.1) and any other payments payable by the Lessee to the Lessor under the Lease Documents is absolute and shall apply irrespective of any contingency whatsoever including but not limited to:

4.6.1 any set-off, counterclaim, recoupment, defence or other right which either party to this Agreement may have against the other;

- 4.6.2 any unavailability of the Ship for any reason, including but not limited to, any lack or invalidity of title or any other defect in the title, seaworthiness, condition, design, operation, merchantability or fitness for use or purpose of the Ship or the ineligibility of the Ship for any particular use or trade or for registration or documentation under the laws of any relevant jurisdiction or the Total Loss of or any damage to the Ship;
- 4.6.3 any failure or delay on the part of either party to this Agreement, whether with or without fault on its part, in performing or complying with any of the terms, conditions or other provisions of this Agreement and the other Transaction Documents;
- 4.6.4 any insolvency, bankruptcy, reorganisation, arrangement, readjustment of debt, dissolution, administration, liquidation or similar proceedings by or against the Lessor or the Lessee;
- 4.6.5 any lack of due authorisation of, invalidity, unenforceability or other defect in any of the Transaction Documents; or
- 4.6.6 any other cause which but for this provision would or might have the effect of terminating or in any way affecting any obligation of the Lessee hereunder;

it being the declared intention of the parties that the provisions of this clause 4.6 and the obligations of the Lessee to pay Rentals and make other payments in accordance with this Agreement and the other Transaction Documents shall survive any frustration of this Agreement or any other Lease Document and that, save as expressly and specifically provided in this Agreement, no moneys payable or paid hereunder by the Lessee to the Lessor shall in any event or circumstances be repayable to the Lessee.

4.7 No waiver

Clause 4.6 does not constitute a waiver by the Lessee of any right of the Lessee to claim damages or specific performance or any other injunctive relief against the Lessor arising out of a Lessor Breach.

5 Payments

5.1 Manner of payment

All payments of Rental and other amounts payable by the Lessee under this Agreement and any other Transaction Document shall be made:

- 5.1.1 without prior demand (unless expressly stated to be payable on demand);
- 5.1.2 in full without any right of set-off or counterclaim and free and clear of all deductions or withholdings whatsoever, unless any deductions or withholdings are required by law in which event clause 8.2 shall apply;
- 5.1.3 in Dollars (or, in the case of payments in respect of Losses, in the currency in which the relevant Losses are incurred);

5.1.4 in cleared funds to the account of the Bank of Scotland with Bank of New York, New York SWIFT BIC: IRVTUS3N for credit to account no. 11087USD01 with reference: "Peony Leasing Limited, sort code: 802013, IBAN No. GB59BOFS80201311087101, SWIFT BIC: BOFSGB2SXXX" or to such other account or accounts at such other place or places as the Lessor may from time to time notify to the Lessee in writing at least ten (10) days before the due date for payment.

5.2 Payments on Business Days

When any payment under a Lease Document would otherwise be due on a day which is not a Business Day the due date for payment shall be extended to the next following Business Day unless such Business Day falls in the next calendar month in which case payment shall be made on the immediately preceding Business Day.

5.3 Interest on delayed payments

If the Lessee fails to pay any sum due by the Lessee under this Agreement or any other Lease Document on its due date for payment (including any failure to pay on demand any amount due under this clause 5.3) the Lessee will pay to the Lessor on demand interest on such Rental or other amount from the date of such failure to the date of actual payment (both before and after any relevant judgment or liquidation of the Lessee) at the Default Rate.

5.4 Calculation of Interest

All interest and any other payments under any Lease Document which are of an annual nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

6 Extent of Lessor's Liability

6.1 Quiet Enjoyment

The Lessor undertakes with the Lessee that during the Lease Period it will not interfere with the quiet use, operation, possession and enjoyment of the Ship by the Lessee, otherwise than:

6.1.1 through the acts or omissions of the Lessee or its agents or representatives; or

6.1.2 pursuant to (i) the Lessor's rights under the Transaction Documents (and then subject to any restrictions on the exercise of those rights under the Transaction Documents) or (ii) obligations which may arise under applicable law or regulation or any ruling of any Government Entity or other competent authority or agency which is either binding on the Lessor or any Lessor Group Member or in respect of which compliance by owners of vessels of the same type as the Ship or by banks and other financial institutions or institutions of a similar nature to the Lessor is generally customary.

6.2 Further action

6.2.1 The Lessor further undertakes, if reasonably requested to do so by the Lessee, to take such action as is available to it and which must be performed exclusively by the registered owner and not the operator of the Ship to protect the use, possession and quiet enjoyment of the Ship during the Lease Period by the Lessee from interference by third parties.

6.2.2 All costs properly incurred by the Lessor in respect of any action taken by the Lessor under this clause 6.2 (including any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection therewith which shall be charged at the Lessor's Management Time Cost Rate) will be borne by the Lessee unless such action is required as a result of a failure by the Lessor to comply with its obligations under clause 6.1 and clause 6.2.1 (and which failure does not arise by reason of any breach by the Lessee or any other Transaction Company of its obligations or other failure to comply with or observe the terms of any Transaction Document).

6.3 Lessor's Security Interests

6.3.1 The Lessor:

- (a) warrants that as at the Delivery Date the Ship and the Lessor's interest in the Insurances and any Requisition Compensation will be free of all Lessor's Security Interests; and
- (b) undertakes with the Lessee that it will not create or permit to arise during the Lease Period any such Lessor's Security Interest over the Ship or any part of it or the Lessor's interest in the Insurances and any Requisition Compensation.

6.3.2 If any Lessor's Security Interest arises over the Ship, the Lessor will use its reasonable endeavours to procure the release of any such Lessor's Security Interest of which it is aware, Provided that the Lessor shall not be liable to pay or discharge or remove any such Lessor's Security Interest if such Lessor's Security Interest is being disputed by the Lessor in good faith and adequate reserves for the payment of the applicable amounts have been provided by the Lessor, provided further however that if the Lessee's quiet enjoyment of the Ship is in any way disturbed by reason of the existence or enforcement of any Lessor's Security Interest, the Lessor will promptly take steps to procure the release of any such Lessor's Security Interest and/or the cessation of the disturbance of the Lessee's quiet enjoyment.

6.3.3 If the Lessor fails to procure the release of a Lessor's Security Interest of which it is aware and the existence of which is interfering with the Lessee's quiet enjoyment of the Ship and/or the Ship is arrested, attached, levied upon pursuant to any legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, in each such case arising out of the existence of any Lessor's Security Interest the Lessee shall:

- (a) be entitled to act as the agent for the Lessor to procure the release of that Lessor's Security Interest and/or the release of the Ship from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be reimbursed by the Lessor for all reasonable losses and expenses properly so incurred by the Lessee as a result of the Lessor's breach of clause 6.3.1 or its failure to procure the release of the Lessor's Security Interest or, as the case may be, the Ship, against the production by the Lessee of reasonable supporting evidence for such loss and expenses.

6.4 Limitation on Lessor's liability for quiet enjoyment

The Lessee acknowledges that the undertakings contained in clauses 6.1, 6.2 and 6.3 are the only undertakings by the Lessor to the Lessee in respect of quiet enjoyment and in substitution for, and to the exclusion of, any other covenant for quiet enjoyment which may otherwise have been given or implied by law, all of which are hereby expressly excluded and waived by the Lessee.

6.5 Benefit of Novated Building Contract guarantee and third party warranties

6.5.1 The Lessor assigns and agrees to assign absolutely (without recourse or warranty) to the Lessee the full benefit of all assignable guarantees, warranties and indemnities (whether express or implied) given to the Lessor by the Builder under the Novated Building Contract. Pursuant to the assignment in this clause 6.5 the Lessee shall (after the Delivery Date) be entitled to take such action upon any such warranty or indemnity as assignee of the Lessor against the Builder or any guarantor, manufacturer, repairer or supplier as the Lessee shall see fit, but subject to the Lessee first ensuring that the Lessor is indemnified (and, in the case of any counterclaim by the Builder against the Lessor, secured) to its satisfaction against all Losses thereby incurred or to be incurred.

6.5.2 The Lessor agrees:

- (a) to serve notice on the Builder of the assignment contained in clause 6.5.1 in the form set out in Schedule 9 promptly thereafter; and
- (b) to the extent that any guarantee, warranty or indemnity referred to in clause 6.5.1 is not assignable, if so requested by the Lessee and at the Lessee's cost and expense, the Lessor will use reasonable endeavours to extend to the Lessee the benefit of that guarantee, warranty or indemnity.

6.5.3 Upon the expiry or termination of the Lease Period, the Lessee shall cease to be entitled to any rights under this clause 6.5 and shall (subject to clause 2.7.6) reassign to the Lessor at the expense of the Lessee the benefit of the remainder of any guarantee, warranty or indemnity assigned by the Lessor to the Lessee pursuant to this clause 6.5.

6.6 Limitations on Lessor's Liability

Save in respect of the Lessee's rights under clauses 6.1, 6.2, 6.3 and 6.4, the Lessee acknowledges and agrees that all rights, claims or remedies of the Lessee against the Lessor in relation to the Ship, whether express or implied or arising by operation of law or statute or otherwise (whether in contract or in tort or otherwise), are hereby excluded. In particular, the Lessee acknowledges and agrees that:

6.6.1 the Lessor makes no condition, term, representation or warranty (express or implied) of any kind as to title (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)) seaworthiness, safety, condition, capacity, quality, value, design, construction, durability, operation, performance, description, merchantability, or fitness for use of the Ship or any part thereof or as to the eligibility of the Ship or any part thereof for any particular trade or operation or as to the absence of latent or other defects (whether or not discoverable), or as to the absence of any infringement of any patent, trademark, copyright or intellectual property or other rights in or to the Ship or any part thereof or any other condition, term, representation or warranty whatsoever, express or implied, with respect to the Ship;

- 6.6.2 the Lessee waives all its rights and claims (whether express or implied, statutory or otherwise) in respect of any condition, term, representation, or warranty described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a));
- 6.6.3 to the extent possible under applicable law the Lessee:
- (a) waives all its rights and claims which it may have in tort or otherwise in respect of any of the matters described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
 - (b) agrees that the Lessor will have no greater liability in tort or otherwise than it would have in contract after taking into account the exclusions referred to in this clause 6.6;
- 6.6.4 the Lessee acknowledges that no condition, term, representation or warranty described in clause 6.6.1 has been made by or on behalf of the Lessor in relation to the Ship (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
- 6.6.5 nothing in this clause 6 shall exclude any liability of the Lessor for death or personal injury resulting from negligence falling within Section 1(1) of the Unfair Contract Terms Act 1977.

6.7 Ownership of other vessels

The Lessor and Lessee acknowledge that, during the Lease Period, the Lessor may own vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group. At the Lessee's request, the Lessor will transfer in accordance with clause 21 the Ship and the Sister Ships to another company which does not own any vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group.

6.8 Lessor financial information

The Lessor undertakes that, if requested by the Lessee, it shall deliver to the Lessee within 14 days after the end of June and December in each year during the Lease Period an unaudited balance sheet of the Lessor stating the gross amount of the Lessor's assets, long term liabilities and shareholders funds as at the end of the relevant half year and a profit and loss account showing the items for the relevant half year specified in the pro forma profit and loss account set out in Schedule 11, such amounts to be determined by the Lessor in accordance with the usual procedures and systems of the Lessor's Group and provided in the format set out in Schedule 11. The Lessor shall also provide the Lessee with a copy of its annual audited accounts within 14 days of such accounts being approved by its Board of Directors, and (from time to time) such other information as shall be reasonably requested by the Lessee (and at the Lessee's cost). The Lessee shall keep such information confidential save as otherwise required by law or as necessary for purposes of preparing consolidated accounts of the Lessee and its affiliates.

7 Costs and Indemnity

7.1 Lessor's transaction related expenses

The Lessee shall pay to the Lessor on its written demand, whether or not the Lease Period commences:

- 7.1.1 all expenses of the Lessor (including legal and out-of-pocket expenses) reasonably incurred by the Lessor in connection with the preparation, negotiation and completion of this Agreement and the other Transaction Documents (subject only to any cap on legal expenses which may be separately agreed by the parties) and in relation to the delivery of the Ship, including any costs, charges or expenses (including fees and commissions) of the Lessor in connection with the funding of the Final Instalment, calculated in accordance with clause 7.4.3 below to the extent that such expenses have not been taken into account in accordance with the Financial Schedule in computing the amount of any Rental;

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- 7.1.2 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor in connection with any variation of this Agreement and the other Transaction Documents or any waiver or consent required under any of them (but not a variation, waiver or consent requested by the Lessor, unless the Lessor is legally obliged to request and procure such variation, waiver or consent);
- 7.1.3 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor following the occurrence of a Relevant Event in connection with the preservation or enforcement or attempted enforcement of any right conferred upon the Lessor by this Agreement and the other Transaction Documents or in respect of any breach of any representation or warranty or covenant; and
- 7.1.4 any expenses incurred by the Lessor in respect of any Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection with (a) the consideration of any variation, waiver or consent of or under this Agreement and the other Transaction Documents pursuant to clause 7.1.2 and (b) the preservation or enforcement or attempted preservation or enforcement of the Lessor's rights, the arrest or recovery of the Ship or otherwise in respect of any breach pursuant to clause 7.1.3 which for the avoidance of doubt shall be charged at the Lessor's Management Time Cost Rate;
- 7.1.5 all expenses payable under or pursuant to this clause 7.1 shall include any Irrecoverable VAT on such expenses; and
- 7.1.6 all payments under this clause 7.1 shall be made in the currency in which the expenses were incurred by the Lessor.

7.2 Non-payment by Lessee

The Lessee shall indemnify the Lessor on its written demand against any loss, damage, expense or liability which the Lessor or any other Indemnified Person may properly sustain or incur as a direct consequence of any default by the Lessee in payment of an amount which the Lessee has agreed to pay under this Agreement except to the extent that the Financial Schedule provides for the amount to be taken into account in the payment of Rental or to the extent that the Lessor or such other Indemnified Person has already been compensated for any such loss, damage, expense or liability under any other provision of this Agreement.

7.3 Currency indemnity

If any sum payable by the Lessee to the Lessor or any other Indemnified Person under this Agreement or any other Lease Document or under any order or judgment relating to a Lease Document has to be converted from the currency in which the Lease Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- 7.3.1 making or lodging any claim or proof against the Lessee, whether in its liquidation, any arrangement involving it or otherwise; or

7.3.2 obtaining an order or judgment from any court or other tribunal; or

7.3.3 enforcing any such order or judgment,

the Lessee shall indemnify the Lessor and/or the applicable Indemnified Person against the loss arising when the amount of the payment actually received by the Lessor and/or the applicable Indemnified Person is converted at the available rate of exchange from the Payment Currency into the Contractual Currency.

In this clause 7.3 the “available rate of exchange” means the rate which the Bank offers to other prime banks at the opening of business (London time) on the Business Day after it receives the sum concerned to sell the Payment Currency to purchase the Contractual Currency for immediate delivery.

Any amount due from the Lessee under this clause 7.3 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Lease Documents and the term “rate of exchange” includes any premiums and costs of exchange payable in connection with the purchase of the Contractual Currency with the Payment Currency.

7.4 General Indemnity

The Lessee shall indemnify and hold harmless on a full indemnity basis the Lessor and each other Indemnified Person against:

7.4.1 any costs, charges or expenses (other than Taxes, to which clause 8 shall apply) which the Lessee has agreed to pay under this Agreement or the other Lease Documents and which are claimed or assessed against or (prior to the occurrence of a Termination Event which is continuing, after consultation with the Lessee) paid by the Lessor or any other Indemnified Person;

7.4.2 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person arising directly or indirectly in any manner out of, or in any way connected with, the condition, testing, design, manufacture, construction, delivery, non-delivery, purchase, importation, export, registration, classification, certification, navigation, ownership, chartering, sub-chartering, employment, management, manning, victualling, provision of bunkers and lubricating oil, possession, repossession, performance, control, use, operation, maintenance, repair, transportation, dry-docking, replacement, refurbishment, modification, service, overhaul, insurance in accordance with the terms of this Agreement, sale or other disposal, return, redelivery, storage, laying-up, loss of or damage to the Ship or otherwise in connection with the Ship, this Agreement and the other Transaction Documents and regardless of:

- (a) whether or not such Losses are attributable to any defect in the Ship or to the design, construction or use thereof or to any reason whatsoever; and
- (b) when the Loss arises;

and, without prejudice to its generality, this clause 7.4.2 covers any such Losses arising out of an Environmental Claim or an Environmental Incident;

- 7.4.3 all Losses (including, without limitation, Broken Funding Costs and all or any Losses in respect of funds borrowed or mobilised by or on behalf of the Lessor, the liquidation of any deposits taken or made by the Lessor, the substitute investment of such funds with a return lower than the cost of such funds, the loss of use of such funds and the prepayment by the Lessor of such funds to the source from which they were borrowed or mobilised) imposed on, suffered or incurred by the Lessor and/or any other Indemnified Person by reason of:
- (a) an Instalment not being paid on the date referred to in the relevant Instalment Request applicable to such Instalment;
 - (b) Delivery occurring other than on the date specified therefor in the Intended Delivery Notice;
- including in relation to the Final Instalment, the cost to the Lessor in borrowing the Final Instalment for the period commencing with the date on which the Final Instalment is borrowed up to and including the Delivery Date (but only if such sum is not included in the calculation of Rentals under the Financial Schedule) or, if Delivery does not occur, up to and including the date on which the Lessor has received back the Final Instalment, such cost to be calculated at LIBOR determined daily for each day during the period described above plus the Margin Rate (as defined in the Financial Schedule) less if any, any Broken Funding Benefits and the Dollar interest paid on the Final Instalment to the Lessor by the bank holding the Final Instalment;
- 7.4.4 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person which result directly or indirectly from claims which may at any time be made on the ground that any design, article or material of or in the Ship or the operation or use thereof constitutes an infringement of patent or copyright or registered design or other intellectual property right or any other right whatsoever;
- 7.4.5 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in preventing or attempting to prevent the arrest, confiscation, seizure, taking in execution, requisition, impounding, forfeiture or detention of the Ship, or in securing or attempting to secure the release of the Ship;
- 7.4.6 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in connection with the sale or disposal or attempted sale or disposal of the Ship pursuant to the terms and conditions of this Agreement including, without limitation, broker's commissions, redelivery costs (if any), marketing expenses, legal costs, storage, insurance and any other expenses of the Lessor incurred pending the sale or disposal of the Ship or otherwise in connection with the sale or disposal of the Ship;
- 7.4.7 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person resulting from the Ship becoming a wreck or obstruction to navigation, including in respect of the removal or destruction of the wreck or obstruction under statutory or other powers; and

- 7.4.8 all Losses which may be imposed on, incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time as a consequence (direct or indirect) of:
- (a) the breach by any person (other than the Lessor and the Bank) of any of its obligations to the Lessor under any of the Transaction Documents provided that any breach by the Lessor or the Bank of its obligations under any of the Transaction Documents shall not be excluded from the ambit of this clause 7.4.8 to the extent that such breach is itself caused by any act or omission of any Transaction Company or any person referred to in (c) below;
 - (b) any of the warranties and representations on the part of any person (other than the Lessor and the Bank) made or repeated to the Lessor in any Transaction Document being untrue or inaccurate in any material respect when made or repeated;
 - (c) any act or omission by any person acting as sales agent of the Lessor under any of the Transaction Documents (including any permitted delegate of such sales agent), the Supervisor or any of its Authorised Representatives (as defined in the Novated Building Contract), in each case, whether acting within or outside their relevant authority or any wilful or reckless misconduct or misfeasance by the Builder, the Lessee or the Supervisor; or
- 7.4.9 all Losses which may be imposed on, suffered or incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time in respect of any premiums, calls, supplementary calls, contributions or other sums payable by the Lessor or any Lessor Group Member in respect of the Insurances or any liability of the Lessor or any other Lessor Group Member by reason of it being or becoming a joint, additional or co-assured under or in respect of any insurance policy, contract or entry in any protection and indemnity or war risks association effected by the Lessee pursuant to clause 13.

7.5 Exclusions

The indemnities contained in clause 7.4 and clause 7.2 shall not extend to any Loss:

- 7.5.1 to the extent that such Loss is caused by Lessor Misconduct or recklessness (with full knowledge of the probable consequences) on the part of the applicable Indemnified Person (or a third party, not being a Transaction Company acting on behalf of the Lessor or other applicable Indemnified Person) which would otherwise seek to claim the benefit of such indemnities or, in circumstances where such Loss arises in connection with a payment owing to an Indemnified Person, if such payment was made in due time but was not accounted for by such Indemnified Person as a result of an error on their part;
- 7.5.2 to the extent that such Loss is caused by any Lessor Breach;
- 7.5.3 to the extent that such Loss constitutes a cost which is expressly to be borne by the Lessor for its own account under any other provision of this Agreement or any other Lease Documents;
- 7.5.4 in respect of which the Lessor or the applicable Indemnified Person has been expressly and specifically indemnified under any other provision of this Agreement;
- 7.5.5 to the extent that such Loss of the Lessor or the applicable Indemnified Person is or (but for operation of paragraph 4.6 of the Financial Schedule) would be taken into account in accordance with the Financial Schedule, in computing the amount of Rental payable by the Lessee under this Agreement;

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- 7.5.6 to the extent that such Loss arises out of or in connection with a Lessor's Security Interest;
 - 7.5.7 to the extent that such Loss would be a loss of profit derived from or arising out of loss of a business opportunity of the Lessor or the applicable Indemnified Person;
 - 7.5.8 to the extent that the event or circumstance giving rise to the Loss occurs after the end of the Lease Period and is not in any way directly or indirectly attributable to, or which occurs as a consequence of or in connection with, any event, circumstance, action or omission which occurred during the Lease Period;
 - 7.5.9 to the extent that such Loss is part of the normal administrative overheads of the Lessor or the applicable Indemnified Person; and/or
 - 7.5.10 to the extent that such Loss constitutes the Purchase Price or any part thereof (excluding any Contribution Payments required pursuant to clause 3.10.2).

In addition, to the extent that the Lessor or other Indemnified Person shall have actually and unconditionally received reimbursement from insurers for a Loss of the Lessor or any other Indemnified Person which has already been satisfied in full by the Lessee then, subject to clause 8.6, the Lessor shall procure that the Lessee is reimbursed for an amount equal to the amount received from the insurers. In addition, in circumstances where the Lessee has indemnified the Lessor or any other Indemnified Person in full in relation to a Loss which may be recoverable by insurance then, provided no Termination Event has occurred and is continuing, and provided the Lessor or such other Indemnified Person is (if requested by it) secured to its satisfaction (acting in good faith) against any Loss it may incur by virtue of the Lessee exercising such rights of subrogation and subject to the rights of insurers, the Lessee shall be subrogated to the claim of the Lessor or such other Indemnified Person in relation to the Loss.

7.6 Conduct of Claims

In connection with the indemnities in favour of any Indemnified Person under this Agreement, other than in relation to any matter which is an Issue under (and as defined in) the Tax Consultation Letter:

- 7.6.1 the Lessor will as soon as practicable notify the Lessee if a claim is made, or if it becomes aware that a claim may be made against the Lessor or any other Indemnified Person which may give rise to a Loss in respect of which the Lessor or any other Indemnified Person is or may become entitled to an indemnity under clause 7.4;
- 7.6.2 a notification under clause 7.6.1 shall give such details as the Lessor or the other Indemnified Person then has regarding the claim or potential claim and any Loss or potential Loss;
- 7.6.3 if the claim or potential claim may give rise to a Loss in respect of which the liability of the Lessor or such other Indemnified Person is fully insured under the protection and indemnity insurances relating to the Ship, the Lessor will act, and will procure that any other Indemnified Person will act, in accordance with the directions of the protection and indemnity club or association in which the Ship is entered in relation to defending, accepting or settling that claim, preserving nevertheless the rights of the Lessor against the Lessee under this Agreement and the other Lease Documents;

- 7.6.4 subject to clause 7.6.1 the Lessor will not, and will procure that no other Indemnified Person will, settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim unless:
- (a) the Lessor is of the opinion, acting in good faith, that the continuance of the proceedings in respect of such claim and/or the non-payment of any court judgment or administrative penalty will result in criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person; or
 - (b) the Lessor and the Lessee do not agree that there are reasonable grounds for disputing such claim or for a successful appeal against such judgment or penalty (as appropriate), whereupon the Lessee shall have the right (subject always to paragraph (a) above) to seek an opinion from leading counsel as to whether there is more than a sixty-five per cent (65%) chance of successfully disputing such claim or for such an appeal to be successful (and if such leading counsel is of that opinion, any costs reasonably incurred by the Lessee in obtaining such opinion shall be reimbursed by the Lessor and the Lessor will not settle the claim or discharge or pay the applicable judgment) provided however that if leading counsel is of the opinion that there is a less than sixty-five per cent (65%) chance of successfully disputing the action or for such an appeal to be successful, then the Lessor shall be entitled to settle the claim or discharge or pay the court judgment or administrative penalty, as the case may be.

It is agreed that if any insurers have made a partial payment in respect of any claim the Lessor shall have no responsibility to the Lessee if the insurers subsequently settle a claim in exercise of their rights of subrogation. The Lessor shall agree not to settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim, if it is secured to its reasonable satisfaction by the Lessee against the amount of such claim, court judgment or administrative penalty and the Lessor is satisfied (in its absolute discretion) that none of the circumstances envisaged in clause 7.6.5(e) below shall apply or arise if the Lessor does not settle the claim or discharge or pay any judgment or penalty in respect thereof;

- 7.6.5 Without prejudice to the provisions of this clause 7.6, the Lessee shall be entitled (subject to the Lessee complying in all respects with its obligations under this Agreement and the other Transaction Documents to which it is a party) to take (at its own cost) such lawful and proper actions as the Lessee reasonably deems fit to defend, avoid or mitigate any Loss or to take such action in the name of the Lessor or other relevant Indemnified Person, provided that the Lessee's ability to take action in the name of the Lessor or such other Indemnified Person shall be subject to:
- (a) the Lessor or such other Indemnified Person first being indemnified and secured to the satisfaction of the Lessor (or, as the case may be, such Indemnified Person), acting reasonably, against all Losses incurred and from time to time reasonably anticipated to be incurred in connection therewith;
 - (b) the ability of the Lessee to commence court proceedings in the name of the Lessor or such other Indemnified Person, or to instigate a counterclaim in the name of the

Lessor or such other Indemnified Person (but not, for the avoidance of doubt, to defend court proceedings brought by a third party which do not involve a counterclaim) being subject to the prior written consent of the Lessor (which consent the Lessor shall not unreasonably withhold but in relation to which the Lessee acknowledges the wish and interest of the Lessor and the Lessor's Group to preserve their reputation as a financial institution, their business interests and their customer relations);

- (c) if court proceedings have been commenced by a third party against the Lessor or such other Indemnified Person as defendant or if, pursuant to sub-clause (b) above, the Lessor gives its consent to the use of its name or the name of the relevant Indemnified Person in court proceedings (whether by way of claim or counterclaim), the Lessor shall permit the Lessee to have the full conduct of the court proceedings, or to instigate a counterclaim in the name of the Lessor or such other Indemnified Person, but the Lessee shall (i) consult with the Lessor and keep the Lessor fully informed in relation to their conduct and have due regard to the wishes of the Lessor in relation to the conduct of such court proceedings acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputations of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations and (ii) give timely notice to the Lessor of any meetings with counsel or attendances at court, and the Lessor and its advisers shall be entitled to attend any such meetings or court attendances;
- (d) in relation to all other matters contemplated by this clause 7.6, the Lessee shall keep the Lessor fully informed and have due regard to the wishes of the Lessor in relation to the use of the Lessor's name or the name of any other Indemnified Person acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputation of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations; and
- (e) notwithstanding sub-paragraph (c) above, the Lessor at any time may notify the Lessee that the Lessor is of the opinion, acting in good faith, that the continuance of such proceedings by the Lessee in the name of the Lessor or the name of any other Indemnified Person is damaging to the reputation of the Lessor or any Lessor Group Member as financial institutions or contrary to the business interests of any of them or will result in any criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person. A certificate signed by a director of the Lessor shall be conclusive as to the correctness of such opinion. If the Lessor so notifies the Lessee, the Lessee shall forthwith cease to be entitled to conduct the court proceedings in the name of the Lessor or the name of any other Indemnified Person, and the Lessor shall be at liberty to conduct, settle or discontinue such proceedings as it sees fit.

Without prejudice to the generality of this clause 7.6 and in particular sub-paragraph (e), the Lessor shall, at the cost of the Lessee, do such acts as the Lessee may reasonably request with a view to assisting the Lessee in taking actions to defend, mitigate or avoid any liability.

7.7 Pass-through of indemnity benefits

Where in this clause 7 an indemnity is expressed to be for the benefit of any person who is not a party to this Agreement the Lessor shall be entitled to indemnify such person on the same terms (and subject in particular to clause 7.6) mutatis mutandis as the indemnities expressed to be for the benefit of such person in this clause 7 and the Lessee shall indemnify the Lessor and hold the Lessor harmless on a full indemnity basis from and against each amount paid or payable by the Lessor to such person under any such indemnity, provided that to the extent this clause 7 purports to impose any obligations on Indemnified Persons other than the Lessor, the Lessor shall have procured the compliance by each such Indemnified Person with those purported obligations.

7.8 Survival of indemnities

The indemnities contained in this clause 7, and each other indemnity contained in this Agreement in favour of the Lessor and the other Indemnified Parties, (including, but not limited to, those contained in clause 7) shall survive any termination or other ending of the Lease Period and any breach of, or repudiation or alleged repudiation by, the Lessee or the Lessor of this Agreement or any of the other Lease Documents.

8 Taxes

8.1 General

The Lessee shall pay on a timely basis and discharge or cause to be paid on a timely basis and discharged, and indemnify promptly and keep the Lessor and each Lessor Group Member indemnified promptly against all and any Taxes which are imposed on or become payable during or in respect of all or any part of the Construction Period or the Lease Period on or in respect of the Ship or any activity in any way relating thereto or any Rental, or other amounts paid under this Agreement or any of the other Transaction Documents but subject to the remaining provisions of this clause 8.

8.2 Withholding taxes

If at any time any applicable law, regulation or regulatory requirement, or any governmental authority, monetary agency or central bank, requires any deduction or withholding from any payment of Rental or other amount due under any of the Transaction Documents:

8.2.1 the Lessee (unless otherwise agreed under any Transaction Document) shall pay, or shall procure the payment of, the full amount of the deduction or withholding in respect of Taxes to the appropriate authority, agency or bank within the time period for payment permitted by law;

8.2.2 if the payment is to be made by the Lessee, the sum due from the Lessee in respect of that payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lessor or, as the case may be, the applicable Lessor Group Member receives on the due date for such payment a net amount equal to the amount which it would have received had no such deduction or withholding been required to be made and the Lessee will promptly deliver to the Lessor copies of appropriate receipts evidencing any deduction or withholding so made; and

8.2.3 if the payment is to be made by any person other than the Lessee, the Lessee shall pay directly to the Lessor such sum (a “**compensating sum**”) as after taking into account any deduction or withholding which is required to be made in respect of the compensating sum, will enable the Lessor or the applicable Lessor Group Member to receive, on the due date for payment, a net sum equal to the sum which the Lessor or, as the case may be, the appropriate Lessor Group Member would have received in the absence of any obligation to make a deduction or withholding.

8.3 Tonnage Tax

In relation to the UK tonnage tax regime contained in Schedule 22 Finance Act 2000:

- (a) The Lessee will provide on an ongoing basis, upon the written request of the Lessor, such information that is in its possession and control as may be properly required to be furnished by the Lessor to HMRC or any Inspector of Taxes regarding the transactions contemplated by the Transaction Documents, including, without limitation, any joint certificate to be provided by the Lessor and the Lessee to the HMRC pursuant to paragraph 93 of Schedule 22 FA 2000;
- (b) The Lessor will enter into any such joint certificate with the Lessee and the Lessee will enter into any such joint certificate with the Lessor and the Lessor and the Lessee will provide to HMRC any information as may be properly required to be furnished by the Lessor in connection with such certificate or such election regarding the transactions contemplated by the Transaction Documents.

8.4 Grossing-up of indemnity payments

8.4.1 If and to the extent that any amount payable to the Lessor or any Lessor Group Member by or on behalf of the Lessee under this Agreement or any of the other Transaction Documents by way of indemnity proves, by reason of that sum being taxable in the hands of the Lessor or, as the case may be, any Lessor Group Member, to be insufficient for the Lessor to discharge the corresponding liability to a third party or to reimburse the Lessor or such Lessor Group Member for the cost incurred by it in discharging the corresponding liability to a third party, the Lessee shall pay to the Lessor or the applicable Lessor Group Member such additional amount as, after taking into account any Tax suffered by the Lessor in respect of that sum, is required to make up the insufficiency.

8.4.2 There shall be taken into account, in determining whether any amount referred to in clause 8.4.1 is insufficient, the amount of any deduction or other relief, allowance or credit received by the Lessor in respect of the Lessor’s corresponding liability to a third party or the cost incurred by the Lessor in discharging the corresponding liability to a third party to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.3 If and to the extent that any amount (the “**indemnity amount**”) constituting (directly or indirectly) an indemnity by the Lessee to the Lessor, but paid by the Lessee under this Agreement or any of the other Transaction Documents to any person other than the Lessor, shall be treated as taxable in the hands of the Lessor the Lessee shall pay to the Lessor such amount (the “**compensating amount**”) as (after taking into account any Tax suffered by the Lessor in respect of the compensating amount) shall reimburse the Lessor for any Tax suffered by it in respect of the indemnity amount.

8.4.4 There shall be taken into account in determining the amount of any compensating amount under clause 8.4.3 the amount and time of payment of any deduction or other relief, allowance or credit available to the Lessor in respect of the Lessor's corresponding liability or Losses in respect of which the indemnity amount is paid to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.5 To the extent that liability arises under clause 8.4.1 which may lawfully be avoided by the Lessee discharging the Lessor's liability directly, then the parties shall endeavour to settle their respective liabilities in this manner.

8.5 Credits etc.

If following the making of any increased payment or compensating sum or compensating amount by the Lessee pursuant to clauses 8.2 or 8.4 the Lessor receives or is granted a credit against, remission for or repayment of any Tax payable by it which is referable to such deduction or withholding or increased payment made by the Lessee and which has not already been taken into account pursuant to clause 8.4.2 or 8.4.4, the Lessor shall:

8.5.1 give to the Lessee a certificate setting out the basis of the computation of the amount of any credit, remission or repayment referred to in this clause 8.5; and

8.5.2 to the extent that it is satisfied that it can do so without prejudice to the retention of such credit, remission or repayment, promptly reimburse the Lessee with such amount as the Lessor shall determine to be such proportion of such credit, remission or repayment as will leave the Lessor, after such reimbursement, in the same net after Tax position as it would have been in had no such deduction or withholding been required to be made,

Provided that:

- (a) the Lessor shall be the sole judge (acting in good faith) of the amount of any such credit, remission or repayment and of the date on which it is received;
- (b) the order and manner in which the Lessor employs or claims Tax credits and allowances available to it shall be determined by the Lessor in its discretion provided always that the Lessor shall, in determining the order in which it employs or uses Tax Credits or allowances available to it, treat the Lessee in no less favourable a way than it treats its other customers in respect of similar transactions of a similar size;
- (c) the Lessor shall not be obliged to disclose to the Lessee any information regarding the Tax affairs or Tax computations of the Lessor or the Lessor's Group; and
- (d) if, following any reimbursement pursuant to this clause 8.5, the credit, remission or repayment in respect of which reimbursement was made is disallowed in whole or in part by any applicable Tax or other authority, the Lessee will pay to the Lessor the amount required to restore the after-Tax position of the Lessor to that which it would have been had adjustment under this clause 8.5.2 not been necessary.

This clause 8.5 applies also to the extent that any credit, remission or repayment is granted to a Lessor Group Member and the Lessor will procure that such Lessor Group Member complies with the obligations of the Lessor, with appropriate modifications, under this clause 8.5.

8.6 Duties and other taxes

The Lessee shall pay all stamp, documentary, registration and other like duties or Taxes (including any such duties or Taxes payable by the Lessor) imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents and shall indemnify the Lessor against any liability arising by reason of any delay or omission by the Lessee to pay such duties or Taxes.

8.7 Non-deductibility

If any amount paid or to be paid by the Lessor pursuant to this Agreement by way of rebate of Rental or reimbursement or otherwise is not fully allowed or will not be fully allowed as a deductible trading expense in computing for Tax purposes the chargeable profits of the Lessor (to the extent that the Lessor shall determine in good faith that the receipt by the Lessor out of which the obligation to make the relevant rebate reimbursement or other payment arises or arose is or will be brought into charge for computing for Tax purposes the chargeable profits of the Lessor) the Lessor shall be entitled to reduce the payment by such amount or, if the Lessor has not done so, the Lessee will pay to the Lessor such additional amount as will put the Lessor in the same after-Tax position as it would have been in had the payment been allowed as a deductible trading expense.

8.8 Deductibility

If a payment is made by the Lessee or the Lessor has reduced the amount of a rebate or reimbursement made by it pursuant to clause 8.7 and the Lessor in fact obtains a deduction for the whole or part of the rebate or reimbursement the Lessor shall pay to the Lessee such additional amount as the Auditors certify will leave the Lessor in the same after-Tax position had the payment pursuant to clause 8.7 not been necessary.

8.9 No double-counting

Notwithstanding the preceding provisions of this clause 8, if:

8.9.1 either a liability to Tax arises, or would have arisen but for an insufficiency of taxable profits, or a deduction for Tax purposes is not available to the Lessor, or an event giving rise to such a liability or non-deduction occurs (which would not have been, or given rise to, such a liability or non-deduction had all of the Assumptions proved to be correct) by reason of which the Lessee is (or would, but for this clause 8.9, be) liable to make a payment under the provisions of this clause 8; and

8.9.2 in consequence of any of the Assumptions proving not to be correct any amount of Rental payable under this Agreement or the amount of the Termination Sum or both is or are adjusted upwards or would be so adjusted but for the provisions of paragraph 4.6 of the Financial Schedule,

the Lessee shall not be liable to make any payments to the Lessor or otherwise in respect of Taxes under this clause 8.

8.10 Exclusion from tax indemnities

The Lessee is not obliged to indemnify the Lessor or any Lessor Group Member under clause 8.1 against:

8.10.1 any Tax liability to the extent that such liability is imposed by way of deduction or withholding from any payment due from the Lessee under this Agreement or any of the other Transaction Documents to the Lessor or any Lessor Group Member in circumstances where clause 8.2 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause);

- 8.10.2 any United Kingdom Value Added Tax (including any interest, penalties or fines thereon) payable by the Lessor or any Lessor Group Member in respect of the Lessor's acquisition of the Ship (other than to the extent that such Value Added Tax arises as a result of an Excluded Event) or any other Value Added Tax whether or not the Lessee is required to make any payment or increased payment in respect thereof under clause 8.11 and, in respect of a non-United Kingdom Value Added Tax, to the extent that the Lessee is already required under this Agreement to make any payment or increased payment in respect thereof; or
- 8.10.3 Taxes which would not have arisen but for any Lessor Breach or any Lessor Misconduct; or
- 8.10.4 any United Kingdom Tax liability which is suffered by the Lessor or any Lessor Group Member by reason of any payment made by or loss suffered by the Lessor or the applicable Lessor Group Member not being fully deductible in computing the chargeable profits for Tax purposes of the Lessor or the applicable Lessor Group Member whether or not the Lessor or the applicable Lessor Group Member is entitled to receive a compensating amount under clause 8.4 or an amount under clause 8.7; or
- 8.10.5 any Taxes to the extent that they would not have arisen but for the reasonably avoidable delay or failure by the Lessor or any Lessor Group Member in the filing of:
- (a) United Kingdom tax returns or any other documents in the United Kingdom or the payment of United Kingdom Taxes assessed on or payable by the Lessor or the applicable Lessor Group Member, or, as the case may be,
 - (b) tax returns in any jurisdiction other than the United Kingdom or any other documents in any jurisdiction other than the United Kingdom or the payment of Taxes in any jurisdiction other than the United Kingdom assessed on or payable by the Lessor or the applicable Lessor Group Member, provided that this clause 8.10.5(b) shall not apply to any failure or delay by the Lessor or the applicable Lessor Group Member prior to the time at which the Lessee, or as the case may be, the relevant Tax authority to whom such Taxes are due to be paid or with whom such returns or other documents are due to be filed, has notified the Lessor in writing of the requirement to pay such Taxes or file such returns or other documents,

and provided that this clause 8.10.5 shall not apply to any delay or failure by the Lessor or the applicable Lessor Group Member which:

- (i) has been consented to or requested by the Lessee or another Transaction Company in writing; and/or
- (ii) arises as a result of a failure by the Lessee promptly when requested to do so to provide the Lessor or the applicable Lessor Group Member with correct, suitable and adequate information which the Lessee has or might reasonably be expected to have or to obtain so as to enable the Lessor or the applicable Lessor Group Member to file the relevant tax return or pay such Taxes; or

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- 8.10.6 any Taxes which would not have been imposed but for, or to the extent increased by reason of, an assignment or transfer by the Lessor of its rights or obligations under this Agreement or the other Transaction Documents; or
- 8.10.7 where the Lessee is liable to compensate the Lessor or any Lessor Group Member in respect of the liability under any other provision of this Agreement and has discharged its obligations in respect thereof; or
- 8.10.8 any Corporation Tax attributable to any Rental or Termination Amount or interest actually receivable hereunder by the Lessor or to any other amounts payable to and unconditionally received by the Lessor under this Agreement or pursuant to or in connection with any of the other Transaction Documents or to any sales or other proceeds (including, without limitation, insurance moneys) actually received and retained by the Lessor in respect of the Ship or the Lessor's rights under the Novated Building Contract; or
- 8.10.9 any Tax liability in respect of documentary or similar Taxes in circumstances where clause 8.6 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause).

8.11 VAT

- 8.11.1 Save where expressly provided to the contrary, all payments made under this Agreement and the other Transaction Documents are calculated without regard to VAT. If any such payment constitutes the whole or any part of the consideration for a taxable or deemed taxable supply, the amount of that payment shall be increased by an amount equal to the amount of VAT which is chargeable in respect of the taxable supply in question against delivery of an appropriate VAT invoice provided that the Lessor shall not be liable to pay an amount in respect of VAT until such time as, and to the extent that it (or any member of its VAT group which is the representative member (or equivalent) of such VAT group for VAT purposes (the “**Representative Member**”)) receives a credit for such VAT as “input tax”, as defined in sub-section (1) of section 24 of VATA, under sections 25 and 26 of VATA (or the equivalent in any jurisdiction other than the United Kingdom), in which case such payment shall be made as soon as practicable after the credit is received.
- 8.11.2 If any amount in respect of VAT paid by the Lessor or the Representative Member pursuant to this Agreement or any of the Transaction Documents at any time shall be Irrecoverable VAT the Lessee shall forthwith on demand by the Lessor indemnify the Lessor and keep the Lessor fully indemnified at all times against such Irrecoverable VAT provided that if the Lessor determines that such Irrecoverable VAT subsequently proves to be recoverable and to the extent that no adjustment has been made in the calculation of such Irrecoverable VAT pursuant to the proviso in the definition of “Irrecoverable VAT”, the Lessor shall pay to the Lessee such amount, if any, as the Lessor shall determine will leave the Lessor in no better and no worse a position than the Lessor would have been in if no payment had been made by the Lessee to the Lessor under this clause 8.11.2.
- 8.11.3 If the Lessor makes any supply for VAT purposes pursuant to or in connection with this Agreement or any of the other Transaction Documents or any transaction or document contemplated herein or therein, the Lessee shall (save to the extent that the Lessor is entitled to be indemnified in respect of that VAT by an increased payment under clause

8.11.1 above) at such time as the Lessor certifies to the Lessee that any amount of VAT payable in respect of that supply has not been paid to the Lessor and having duly accounted for such VAT to HMRC at the correct time and having duly claimed bad debt relief in respect of that VAT the Lessor either has not or has not fully received such relief, pay on demand to the Lessor an amount equal to the aggregate of any VAT which is payable in respect of that supply and has not been the subject of bad debt relief together with interest on an amount equal to any VAT payable in respect of the supply at LIBOR ascertained in respect of the date on which such VAT was accounted for to HMRC for the period from that date until the date of the Lessor's certificate or the date upon which bad debt relief is received, provided that if an amount in respect of bad debt relief is subsequently recovered by the Lessor or the Representative Member which is attributable to VAT in respect of which the Lessee has made a payment under this clause 8.11.3 the Lessor shall, or shall procure that the Representative Member shall, pay an amount equal to such recovery to the Lessee to the extent such payment will not prejudice the retention of such VAT bad debt relief.

8.12 VAT mitigation

- 8.12.1 The Lessor and the Lessee agree to co-operate with a view to minimising any VAT payable by either party under any transaction referred to in clause 8.11 but so that neither party shall be bound to do anything which would not be good business practice and legal or which would involve any adverse consequences to it.
- 8.12.2 If it subsequently transpires that the Lessor recovers, or obtains a credit for, any VAT in respect of which the Lessor has been indemnified under clause 8.11 the Lessor shall refund to the Lessee such amount as the Lessor shall determine to be such proportion of such credit as will leave the Lessor, after such refund, in the same net position as if would have been had no VAT been required to be accounted for.

8.13 Information

- 8.13.1 Subject to clause 8.13.2, the Lessee shall provide such evidence, assistance, information and documentation relating to the Purchase Price, the Ship, the use to which the Ship is being put or such other evidence, information or documentation as may be requested by the Lessor and which is or ought reasonably to be available to the Lessee and which is under its control or power to procure, and which the Lessor may require in order for the Lessor to satisfy a legitimate request for information or documentation received from any Tax authority or in order to agree the Lessor's Tax computations or settle any other Tax matter and the Lessee undertakes to co-operate with the Lessor to enable the same to be provided to the relevant Tax authority.
- 8.13.2 The Lessee and Lessor acknowledge and agree that should either party, or as the case may be, any relevant advisors of either party (“**Advisors**”) determine that it shall be necessary for it, or as the case may be, such Advisors to disclose to any Tax authority such details relating to the transactions contemplated by the Transaction Documents as may be required to be disclosed by such person in accordance with the provisions of Part 7 of Chapter 8 of the Finance Act 2004 or any regulations made pursuant thereto, such person shall be permitted to make such disclosure **SAVE THAT** before making any such disclosure, the Lessor, or, as the case may be, the Lessee shall consult in good faith with the other party as to the requirement to make such disclosure and the terms on which such disclosure shall be made provided that notwithstanding such requirements to consult, any decision as to whether a disclosure is required to be made and the terms of that disclosure shall be made by the person wishing to make the disclosure acting in good faith.

9 Use and Employment

9.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period except as the Lessor may otherwise permit in writing.

9.2 Permitted use

The Lessee shall have the full possession and use of the Ship and the Ship may be employed throughout the world in any lawful trade for which the Ship is suitable subject to (i) the Lessee ensuring that the Ship is insured for the jurisdiction in which it is to operate (in accordance with clause 13) and to (ii) any limitations imposed by insurers and otherwise (iii) subject to and on the terms and conditions of this Agreement.

9.3 Other undertakings concerning use

The Lessee shall, and shall procure that each other Transaction Company shall:

- 9.3.1 avoid the Ship being operated or employed in any manner, trade or business contrary to Environmental Laws and all other laws or regulations, in any such case to the extent that they apply to the Ship, its ownership, operation and management or to the business of the Lessee, or in carrying illicit or prohibited goods or in any manner which would render her liable to condemnation or destruction, seizure, confiscation, penalties, requisition or sanctions or in any manner or trade which would or might reasonably be expected to prejudice the Lessor's ownership of the Ship unless the Lessee, by virtue of the provisions of the Time Charter as at the date hereof, is not entitled to prevent such operation or employment;
- 9.3.2 without prejudice to the generality of clause 9.3.1 above, ensure and/or procure that the Ship is properly used and, in particular, but without limitation, that it shall:
- (a) observe all material recommendations and requirements contained in all handbooks and manuals supplied by or procured from the Builder or the manufacturer or the supplier of components for the Ship relating to the proper use of the Ship; and
 - (b) ensure that the Ship is operated in accordance with the appropriate regulations and recommendations of all competent authorities of the flag state and the jurisdictions in or to which the Ship is employed or trades from time to time pursuant to the terms of this Agreement and of the Classification Society.
- 9.3.3 without prejudice to the generality of clause 9.3.1 above, throughout the Lease Period (and shall procure that any Approved Manager takes all necessary action to):
- (a) procure implementation and maintenance of a safety management system (**SMS**) which complies with the ISM Code, the flag state of the Ship and the Ship's Classification Society, which may from time to time be of mandatory application to the Ship and/or the Lessor and/or the Lessee and/or any other Transaction Company;

- (b) procure the obtaining and maintenance in force at all times of valid certificates evidencing compliance with the requirements of clause 9.3.3(a) above, including, without limitation, a valid Document of Compliance in relation to the Approved Manager and a valid Safety Management Certificate in respect of the Ship as required by the ISM Code;
- (c) provide the Lessor, at its request, with copies of any such Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate upon issuance;
- (d) if and to the extent required pursuant to the ISM Code, keep or procure that there is kept on board the Ship at all times a copy of any such Document of Compliance and the original of any such Safety Management Certificate; and
- (e) ensure that:
 - (i) the Ship has a valid International Ship Security Certificate;
 - (ii) the Ship's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Ship's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place;

9.3.4 without prejudice to the generality of clause 9.3.1 above, in the event of the Ship (and for so long as it is) operating in or into or off-shore from the United States of America or in United States waters, obtain and maintain all Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time and such other documentation as may be required by the US Coast Guard or any other relevant US authority and, if so requested by the Lessor, provide copies of Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time to the Lessor and take all reasonable precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in the flag state or in any jurisdiction in or to which the Ship may be employed or trade from time to time;

9.3.5 not at any time represent or hold out the Lessor as carrying goods or persons on the Ship or being in any way connected or associated with any operation or carriage whether for charter or reward or gratuity or gratuitously which may be undertaken by the Lessee during the Lease Period nor shall the Lessee represent itself as the agent of the Lessor for such purpose;

9.3.6 in the event of hostilities in any part of the world, avoid the Ship entering or trading to any zone which is declared a war zone or excluded area by any government or by the Ship's war risks insurers unless the Lessee has (at its expense) effected special, additional or modified insurance cover necessary to keep the Ship properly insured in accordance with this Agreement notwithstanding such entry into a war zone and, either prior to or promptly after such entry, shall have submitted the same to the Lessor to enable the Lessor to verify that such further insurances do meet such requirements and shall have ensured that all requirements under or pursuant to this Agreement in relation thereto shall have been

complied with and provided further that if the Ship is in a zone when it is declared a war zone or excluded area by the Ship's war risk insurers or any government the Lessee shall forthwith at its own expense effect special, additional or modified insurance as necessary to keep the Ship insured in accordance with this Agreement and shall then notify the Lessor in writing giving details of such insurances.

The requirements of this clause 9.3.6 shall be deemed satisfied if the Ship is held covered under a relevant government programme (by which is meant an insurance or an indemnity programme on terms acceptable to the Lessor, having regard to the insurance requirements set forth in this Agreement, of any member of the European Union and/or the United States of America or any other country approved by the Lessor); and

9.3.7 pay all tolls, dues and other outgoings whatsoever in respect of the Ship and the Insurances and keep proper books of account in respect of the Ship and, as and when the Lessor may so require, make such books available for inspection on behalf of the Lessor.

9.4 Provision of information in respect of the Ship's employment and trade

9.4.1 The Lessee shall procure that the Lessor is advised in writing if the Ship's trading pattern would or may result in a liability being imposed in the United States of America on the Lessor for US Transportation Tax, or any equivalent future Tax notwithstanding that, in such circumstances, it shall in such case be the responsibility of the Lessee to attend to all administrative matters relating thereto and to indemnify the Lessor for any such Tax liability.

9.4.2 At the Lessor's request, the Lessee shall provide the Lessor with such information and copy documents which the Lessor reasonably requests in relation to:

- (a) the Ship, its employment, position and engagements under the Time Charter;
- (b) copies (duly translated into English) of any charters of the Ship notified to and approved by the Lessor in accordance with clause 10.17 including any voyage or engagement which requires the Ship to enter into United States waters or operate in or offshore from the United States of America;
- (c) the amount of hire payable in respect of the bareboat chartering, time chartering or other hiring of the Ship and amount of payments and amounts due to the Ship's master and crew;
- (d) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship and any payments made in respect of the Ship; and
- (e) any towages and salvages,

provided that (in the case of information relating to, and copies of contracts for the chartering or hire of the Ship other than the Time Charter) the Lessee is able to procure that such information is provided or such copies are provided, in each case without breaching any confidentiality covenants on the part of any Guarantor Group Member under such contracts and, if the provision of this information or copies of the applicable charter contracts would, in the opinion of the Lessee (acting reasonably) cause such covenants to be breached, the Lessee delivers to the Lessor an opinion from the Lessee's English counsel setting out the reasons why (in the reasonable opinion of the Lessee's English

counsel) the terms of the proposed charter or sub-charter will not cause the Lessee to be in breach of the covenant in clause 9.2, provided always that if the Lessor is required by its Tax Authority to disclose any such charter or sub-charter the Lessee shall procure in so far as possible that the applicable Guarantor Group Member obtains the consent of its counterparty to such contract for a copy of the contract to be provided to the Lessor's Tax Authority.

9.4.3 The Lessee shall advise the Lessor promptly of any breach of any provisions of this clause 9.4 and shall thereafter keep the Lessor informed of progress of matters in relation thereto.

10 Maintenance and Operation

10.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period until such time as the Ship is sold except as the Lessor may otherwise permit in writing.

10.2 Supply and crewing

Throughout the Lease Period the Lessee shall procure that the Ship is manned, victualled, navigated, operated, supplied, fuelled, maintained and repaired, all at no cost to the Lessor.

10.3 Condition of the Ship

The Lessee shall procure that the Ship and every part thereof is kept in a good and safe condition and state of repair, ordinary wear and tear excepted, and shall ensure that all repairs to or replacements of lost, damaged or worn parts and equipment are effected in such a manner so as not to diminish the value of the Ship and in any event:

10.3.1 consistent with first-class ship ownership and management standards in relation to ships of the Ship's age and type;

10.3.2 so as to maintain the Ship's class, namely "DNV, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V (3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport" with Det norske Veritas (or the equivalent classification with another Classification Society), free of overdue conditions affecting the Ship's class unless waived;

10.3.3 so as to comply with all laws and regulations, including, without limitation, Environmental Laws, and to maintain all certificates, licences and permits applicable to vessels registered in the state of registration for the time being of the Ship being pursuant to clause 12 and to vessels trading to any jurisdiction to which the Ship may trade from time to time in any such case unless waived; and

10.3.4 without prejudice to the foregoing provisions of this clause 10.3, at least to the same standard, on a non-discriminatory basis, as other comparable vessels owned or operated by companies which are Guarantor Group Members.

10.4 Master, officers and crew

The Master, officers and crew of the Ship shall be the servants of the Lessee for all purposes whatsoever. The Lessee shall ensure that the wages and allotments and the

insurance and pension contributions as appropriate of the Master, officers and crew shall be regularly paid and all deductions from their wages in respect of tax liability shall be properly accounted for and the Master shall have no valid claim for disbursements other than those incurred by him in the ordinary course of trading of the Ship.

10.5 Modifications

The Lessee shall procure that no modification is made to the Ship which would:

10.5.1 materially and adversely alter the structure, type or performance characteristics of the Ship unless required by the Classification Society of the Ship from time to time; or

10.5.2 reduce the value of the Ship,

and in any event the Lessee shall require the prior written consent of the Lessor for any modifications which are made to the Ship the cost of which exceeds or will when completed exceed five million Dollars (\$5,000,000).

10.6 Surveys

The Lessee shall procure that the Ship is submitted to such periodical or other surveys as may be required by the Ship's flag state or for classification purposes and shall comply with all conditions affecting the Ship's class of the Classification Society of the Ship from time to time in accordance with their terms unless waived and the Lessee shall supply copies of any survey reports to the Lessor upon request from the Lessor.

10.7 Drydocking

The Lessee shall procure that the Ship is drydocked as often as may be required to ensure that the Ship maintains its classification with its Classification Society and otherwise in accordance with good commercial practice. If the Lessee fails to comply with the requirements of the relevant Classification Society, the Lessor shall have the right to inspect the Ship in accordance with clause 10.14. If so requested by the Lessor, the Lessee shall give the Lessor reasonable prior written notice of any intended drydocking of the Ship.

10.8 Release from arrest

Other than in the circumstances described in clause 6.3.2, the Lessee shall promptly pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given or which may reasonably be expected to give rise to maritime, statutory or possessory liens (other than Permitted Security Interests) on, or claims enforceable against, the Ship or the Insurances or any part thereof. If at any time during the Lease Period any writ or equivalent claim or pleading in admiralty is filed against the Ship or the Insurances or any part thereof, or the Ship or the Insurances or any part thereof is arrested or detained or attached or levied upon pursuant to legal process or purported legal process or in the event of the detention of the Ship in the exercise or the purported exercise of any such lien or claim as aforesaid (other than by reason of a Compulsory Acquisition or by reason of a Lessor's Security Interest), the Lessee shall procure the release of the Ship and the Insurances from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty as soon as reasonably

practicable and in any event within sixty (60) days of receiving notice thereof by providing bail or procuring the provision of security or otherwise as circumstances may require. Subject to the provisions of this Agreement, the Lessor shall cooperate with the Lessee to the extent that the Lessee wishes to make any payment through or requires to take any reasonable steps (other than court proceedings) in the name of the Lessor.

10.9 Manuals and technical records

The Lessee shall procure that:

- 10.9.1 all such records, logs, manuals, technical data and other materials and documents which are required to be maintained in respect of the Ship to comply with any applicable laws or the requirements of the Ship's flag state and Classification Society are maintained;
- 10.9.2 accurate, complete and up-to-date logs and records of all voyages made by the Ship and of all maintenance, repairs, alterations, modifications and additions to the Ship are kept; and
- 10.9.3 following the occurrence of a Termination Event and for as long as it is continuing on reasonable advance notice from the Lessor, the Lessor or its representatives is permitted at any time to examine and take copies of such logs and records and other records.

10.10 Ship's Software

The Lessee shall obtain and maintain and procure that there are obtained and maintained for the benefit of the Lessor, the Lessee, and the Time Charterer and any other person hiring or chartering or operating the Ship from time to time all licences and permits (without liability on the part of the Lessor for the payment of any royalties as may be required from time to time in respect of the Ship's Software) and shall procure that all such licences and permits are granted without any limitation or expiry (or are renewed prior to any such expiry).

10.11 Manager

The Lessee shall procure that no manager of the Ship is appointed which is not an Approved Manager. For the avoidance of doubt this shall not be construed as a prohibition on the appointment of sub-contractors by the Approved Manager, providing that the Approved Manager remains responsible for management of the Ship.

10.12 Safe operation

The Lessee shall take all steps necessary so as to ensure that the Ship should be navigated and operated in a proper, safe and seaman-like manner and in the manner prescribed by any legislation, including Environmental Laws, in force in the state of registration for the time being of the Ship and all other applicable jurisdictions.

10.13 Seaworthiness

Save for periods when the Ship is in dry-dock, the Lessee shall procure that the Ship should at all times be fit to go to sea without serious danger to human life (by reason of the condition, or the unsuitability for its purpose, of either the Ship or its machinery or equipment or any part of the Ship or its machinery or equipment or undermanning or overloading or unsafe or improper loading or any other matter relevant to the safety of the Ship).

10.14 Inspection

The Lessee shall ensure that the Lessor, its surveyors or other persons appointed by it will be permitted to inspect the Ship, upon reasonable notice and without interfering with the Ship's operation. Such inspections shall be without cost to the Lessee unless either such inspection reveals that the requirements of this clause 10 are not then being complied with in all material respects or it is made after the occurrence of a Termination Event that is continuing, in which case it shall be at the cost of the Lessee.

10.15 Ship-related expenses

The Lessee shall procure that, in relation to the operation of the Ship, at no time is the Lessor's credit pledged to pay for any costs of maintenance, repair, operation or use of the Ship or in relation to any of the other matters listed below and the Lessee shall pay or procure that there is paid within any applicable grace or credit period all costs, charges and expenses arising during or in respect of the Lease Period, from the purchase, exportation, importation, registration, ownership, chartering, sub-chartering, possession, control, use, operation, maintenance, repair, replacement, refurbishment, overhaul, insurance, storage, redelivery, dry-docking or disposal of the Ship or any modification to or any change or alteration in the Ship and otherwise howsoever in connection with the Ship, except:

10.15.1 for Taxes, to which clause 8 shall apply;

10.15.2 for the Purchase Price of the Ship pursuant to the Novated Building Contract; or

10.15.3 to the extent that such items are already the subject of indemnification, either under clause 7 or under the Financial Schedule.

While the Lessee's liability to pay ultimately the amount due in respect of any such costs, charges or expenses is not diminished, the Lessee may delay or refrain from paying any such costs, charges or expenses while it is contesting them in good faith by appropriate steps and provided that adequate reserves have been made to meet such liability in case the Lessee's contest ceases or is unsuccessful, for whatever reason and provided that such delay or withholding does not, in the reasonable opinion of the Lessor, carry with it any material risk of arrest, forced sale, loss, confiscation or forfeiture of the Ship or any interest therein.

The Lessee will also not hold out the Lessor as being involved in the operation of the Ship.

If a claim is made against the Lessor for payment of any amounts referred to in this clause 10.15, the Lessee shall produce to the Lessor such evidence as it shall reasonably require of the due payment of any sums referred to in this clause.

10.16 Notification of certain events

The Lessee shall, immediately upon the same coming to its attention and to the best of its then current knowledge, notify the Lessor by fax (confirmed forthwith by letter) of:

10.16.1 any casualty of the Ship which is or is likely to give rise to a loss or cost of five million Dollars (US\$5,000,000) or more;

10.16.2 any occurrence as a result of which the Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;

- 10.16.3 any requirement made by any insurer or Classification Society or by any competent authority which is not complied with within any applicable time period for compliance stipulated by such authority;
 - 10.16.4 any arrest or detention of the Ship, any exercise or purported exercise of any lien on the Ship or its Earnings or any requisition of the Ship for hire;
 - 10.16.5 any Environmental Claim made against the Lessor of which it is or becomes aware or in connection with the Ship, or any Environmental Incident or Environmental Claim in an amount in excess of one million Dollars (\$1,000,000) made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
 - 10.16.6 any claim for breach of the ISM Code or the ISPS Code being made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
 - 10.16.7 any other matter, event or incident, actual or threatened, the effect of which will or is reasonably likely to lead to the ISM Code or the ISPS Code not being complied with;
 - 10.16.8 any claims made in connection with a bodily injury to a third party involving amounts in excess of an amount of one million Dollars (\$1,000,000) or its equivalent in any other currency;
 - 10.16.9 any Security Interest (other than a Permitted Security Interest) arising over the Ship or the Insurances or Requisition Compensation; and
 - 10.16.10 any other event in respect of the Ship or the Insurances or Requisition Compensation which the Lessee expects to involve the Lessor in any loss or liability,
- and the Lessee shall keep the Lessor advised in writing on a regular basis and in such detail as the Lessor shall require of the response to any of those events or matters by the Lessee or the applicable Transaction Company or any other person.

10.17 Restrictions on chartering

The Lessee shall not, without the prior written consent of the Lessor acting reasonably (which shall be subject to the Lessor being satisfied with the information or documentation or opinion provided in accordance with clause 9.4.2):

- 10.17.1 let the Ship on demise charter;
- 10.17.2 let the Ship on or enter into any time or consecutive voyage charter in respect of the Ship to the Original Purchaser or any other person who has at any time had a right to acquire the Ship from the Builder;
- 10.17.3 put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed five million Dollars (US\$5,000,000) (or the equivalent in any other currency) unless either:
 - (a) that person has first given to the Lessor and in terms satisfactory to it a written undertaking not to exercise any lien on the Ship or its earnings for the cost of such work or for any other reason; or
 - (b) the cost of such work is covered by insurances; or

(c) the Lessee establishes to the reasonable satisfaction of the Lessor that it has sufficient funds to pay for the cost of such work; and

10.17.4 knowingly permit the Time Charterer to enter into any sub-charter of or for the Ship which would breach the terms of the covenant in clause 10.17.2.

11 Equipment

11.1 General

The following provisions of this clause 11 shall apply at all times during the Lease Period and until such time as the Ship is sold.

11.2 Use of Equipment

The Lessee shall have the use of all outfit, equipment, furnishings, furniture and fittings, spare and replacement parts belonging to the Ship, and the same or their substantial equivalent shall be returned to the Lessor on redelivery in good order and condition, ordinary wear and tear excepted, and except for changes and alterations properly made as permitted under this Agreement.

11.3 Renewal of Equipment

The Lessee shall procure that, at no cost to the Lessor, from time to time during the Lease Period such items of equipment forming part of the Ship as shall be damaged, worn or lost are replaced, renewed or substituted in such manner as not to diminish in any material adverse way the value of the Ship. Title to any part replaced, renewed or substituted shall remain with the Lessor until the part which replaced it or the new or substituted item of equipment becomes the property of the Lessor or is replaced, renewed or substituted by an item of equipment which at that time becomes the property of the Lessor. The Lessee shall ensure that title to any such new item of equipment shall be free of all Security Interests and shall vest in the Lessor upon fitting.

11.4 Additional equipment

At any time any necessary additional equipment may be fitted so as to render the Ship available for any purpose for which the Lessee may require to use or operate the Ship, subject always to clause 9.3, or as required by any Classification Society, subject to no permanent structural damage or reduction in value thereby being caused to the Ship by reason of its installation or subsequent removal. Any additional equipment so fitted shall be considered the property of the Lessee who may remove such additional equipment at any time before the expiration of the Lease Period unless (i) it is agreed between the Lessor and the Lessee that any such equipment shall remain on the Ship after redelivery in which event such equipment shall as from redelivery become the property of the Lessor, or (ii) such additional equipment is required by any Classification Society. The cost of fitting or removing any equipment together with the cost of making good any damage caused by such fitting or removal shall be payable in full by the Lessee.

12 Title and Registration

12.1 General

The following provisions of this clause 12 shall apply at all times during the Lease Period until such time as the Ship is sold.

12.2 Title and ownership

The Ship shall belong to the Lessor and title to and ownership of the Ship shall remain vested in the Lessor. The Lessee shall have no right, title or interest in or to or any option or any right to acquire title to or any proprietary interest in or to any part of the Ship except the rights expressly set out in this Agreement.

12.3 Approved Flag States

12.3.1 As at the date of this Agreement (but subject always to clause 12.3.2 and to the following states or countries satisfying and continuing to satisfy the criteria set out in clause 12.5 below), the Lessor agrees that any of Hong Kong, the Marshall Islands, the United Kingdom, Liberia, Bermuda or the Bahamas is acceptable to the Lessor as a state or country in which the Lessor agrees the Ship may be registered.

12.3.2 If the Lessor gives notice to the Lessee that any of the above mentioned states or countries falls within the restrictions or circumstances set out in clause 12.5 below, the applicable state or country shall cease to be an Approved Flag State for the purposes of this Agreement.

12.4 Registration

The Lessee agrees at its expense (and, in relation to clause 12.4.1 below, the Lessor agrees to provide all requisite assistance to the Lessee so as to enable the Lessee) to:

12.4.1 subject to clause 12.3.2 and to the criteria set out in clause 12.5 below, procure that at Delivery the Ship is, and thereafter throughout the Lease Period remains, registered in the name of the Lessor under the laws and flag of an Approved Flag State at the applicable time; and

12.4.2 (subject to clause 12.5 below) procure throughout the Lease Period that the registration of the Ship is maintained under the laws and flag of an other Approved Flag State and shall not knowingly do or suffer to be done anything whereby such registration may be forfeited or imperilled; and

12.4.3 pay, and indemnify the Lessor from and against, all registration and other charges and fees that may from time to time be payable in respect of such registration.

12.5 Reflagging

12.5.1 The Lessor may require the Lessee (at its cost and expense) to re-register the Ship under the laws and flag of any other state or jurisdiction (including, but not limited to, the Approved Flag States referred to in clause 12.3 above) in the event that (a) it becomes unlawful, impossible, impracticable or (in the opinion of the Lessor, acting in good faith) undesirable (including, without limitation, by reason of change of legal or political circumstances) for the Lessor to continue to be registered as the owner of the Ship under

the laws and flag of its then current register or (b) if classification inspections for vessels registered under the laws and flag of the state in which the Ship is registered at the relevant time are no longer undertaken by a classification society which is a member of IACS.

- 12.5.2 The Lessee, upon not less than 15 days written notice to the Lessor (or such shorter period as the Lessor may agree, such agreement not to be unreasonably withheld) and provided that no Relevant Event has occurred and is continuing, may elect to re-register the Ship in a state listed in clause 12.3.1 or any other state or country approved by the Lessor, such approval not to be unreasonably withheld or delayed, subject to:
- (a) the Ship being registered in the name of the Lessor, free from Security Interests other than Permitted Security Interests in the applicable register in such flag state;
 - (b) inspections of the Ship required by the proposed new flag state continuing to be undertaken by a classification society which is a member of IACS;
 - (c) it being possible to obtain a legal opinion satisfactory to the Lessor in its discretion in relation to the laws of such proposed flag state as to the validity and enforceability of the Lessor's ownership interest in the Ship contemplated by the Transaction Documents;
 - (d) the Lessor's liability as owner of the Ship not increasing as a result of such change of flag; and
 - (e) the right of the Lessor to treat the applicable state or country as being unacceptable in the future in accordance with clause 12.5.1 above.
- 12.5.3 The Lessor agrees, at the request and cost of the Lessee, promptly to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee to re-register the Ship in any Approved Flag State.
- 12.5.4 All costs and expenses (including legal costs and expenses and Taxes thereon and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any re-registration pursuant to clause 12.5 shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand. The provisions of clause 12.4 shall, with any necessary modifications, apply following any re-registration.
- 12.6 Name, colours etc.**
- 12.6.1 The Ship shall be painted in such colours and display such funnel insignia as the Lessee may from time to time lawfully require. The Lessee shall notify the Lessor of any intended change in the name of the Ship. At the request and cost of the Lessee, the Lessor agrees to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee in relation to any registration formalities required in connection with a change of the Ship's name.
- 12.6.2 All costs and expenses (including legal costs and expenses and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having

been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any registration formalities required in connection with a change of the Ship's name shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

12.7 Encumbrances

The Lessee shall not (save pursuant to the express powers conferred by this Agreement):

- 12.7.1 attempt or hold itself out as having any power to sell, charge or otherwise encumber or to sell or otherwise dispose of the Ship or any interest therein; or
- 12.7.2 let the Ship otherwise than as provided in this Agreement; or
- 12.7.3 create, incur, suffer or permit to exist any Security Interest (other than Permitted Security Interests) on or over the Ship, its earnings or on or over the Insurances,

and agrees to carry a properly certified copy of this Agreement with the Ship's papers and to exhibit the same to any person having business with the Ship which might give rise to any Security Interest thereon other than Permitted Security Interests.

12.8 Protection of Lessor

The Lessee shall seek to avoid anything being done which jeopardises the rights of the Lessor in the Ship or any part thereof and/or seek to avoid any omission which would prevent those rights from being exercised or enjoyed.

12.9 Notice of Lease

The Lessee shall place and keep or procure that there is placed and kept prominently displayed in the control room of the Ship throughout the Lease Period a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space of not less than six (6) inches wide by nine (9) inches high, substantially reading as follows:

“ NOTICE OF OWNERSHIP AND LEASE ”

“This Ship is owned by Peony Leasing Limited (the “Lessor”) and is subject to a lease agreement between the Lessor and Seaspan Finance I Co. Ltd (the “Lessee”). Neither the Lessee nor any manager, nor the master of the Ship nor any servant or agent of any of them have any right, power or authority whatsoever to contract on behalf of the Lessor or to pledge the credit of the Lessor or the involvement of the Lessor in any liability whatsoever and none of the Lessee, any manager, the master of the Ship and any other person has any right, power or authority to create, incur or permit to be imposed upon this Ship any Security Interest whatsoever except for general average, crew's wages or salvage”

or in such other form as the Lessor may reasonably require from time to time.

- 12.9.1 The Lessee shall not remove or cover up such notice, and will not place or permit to be placed any other notice affecting the ownership of the Ship or otherwise relating to the rights of the Lessor in or on the Ship or any part thereof save as is expressly permitted or required by the Transaction Documents without the prior written consent of the Lessor.

13 Insurances

13.1 General

The Lessee undertakes with the Lessor to procure that the following provisions of this clause 13 are complied with at all times during the Lease Period and, thereafter, until the Ship is sold, either by the Lessee or by any Guarantor Group Member to whom the Lessee delegates its rights and duties as sales agent in accordance with clause 2.8.9, except as the Lessor may otherwise permit. The Lessee confirms that throughout the Lease Period until the Ship is sold, the Ship shall be in every respect at the risk of the Lessee.

13.2 Maintenance of Insurances

The Ship shall be kept insured at no cost to the Lessor against:

- 13.2.1 fire and usual marine risks (including excess risks) and war risks;
- 13.2.2 protection and indemnity risks (including pollution risks and excess war protection and indemnity risks), on “full entry” terms; and
- 13.2.3 in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner or operator of vessels of a similar age, condition and type as the Ship and which may be requested by the Lessor from time to time (other than (i) the amount of any deductible, and (ii) loss of earnings/hire).

13.3 Terms of Insurances

Such Insurances shall be effected:

- 13.3.1 in Dollars or such other currency as the Lessor and the Lessee may agree;
- 13.3.2 in the case of fire and usual marine risks and war risks (on an agreed value basis) in an amount equal to the greater of (i) 120% of the highest Termination Sum applicable to the period for which the insurances are renewed and (ii) the market value of the Vessel;
- 13.3.3 in the case of protection and indemnity risks (including pollution liability risks), in an amount equal to the highest amount in respect of which cover is in accordance with customary insurance market practice taken out by prudent owners or operators of vessels of a similar type, size, age, condition and flag as the Ship with protection and indemnity risks associations that are members of the International Group of Protection and Indemnity Associations (but in the case of pollution risks, for a minimum amount of one billion Dollars (\$1,000,000,000) or where cover for such risks is not available in such an amount, such lesser amount as is the best level of cover available in the market at the applicable time); and

- 13.3.4 on terms approved under clause 13.19, but subject to a minimum requirement of the scope of coverage of that provided by the Norwegian Marine Insurance Plan 1996 or as provided by the equivalent full conditions forms of other nationality (so far as can be reasonably obtained in the market at the applicable time); and
- 13.3.5 through brokers and with insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in war risks and protection and indemnity risks associations, in each case approved under clause 13.19.

13.4 Further protection for Lessor

In addition to the terms set out in clause 13.3, the Insurances effected under such clause shall:

- 13.4.1 name (or be amended to name) the Lessor as additional assured (in the case of the Insurances referred to in clause 13.2.1) and (in the case of Insurances referred to in clause 13.2.2 and war risks insurance if such risks are insured against by entry of the Ship in a war risks association) either as an assured with limited rights on “misdirected arrow” conditions in accordance with the usual terms of the club or association or (at the option of the Lessor) as a joint member for its rights and interests and, as between the Lessor and the Lessee, without the Lessor being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such Insurances and the Lessee hereby agrees to promptly indemnify the Lessor against any liability the Lessor may have for premiums, calls or other assessments in respect of any such Insurances;
- 13.4.2 in the case of the Insurances in respect of marine risks and war risks, be endorsed by way of a loss payable clause to the effect that:
- (a) payment of a claim for a Total Loss will be made to the Lessor (who shall, upon receipt thereof, apply the same in accordance with clause 14.3);
 - (b) payment of a claim for an amount which equals or exceeds the threshold amount attributable to a Major Casualty amount shall be paid to the Lessor and, subject to no Relevant Event then having occurred which is continuing (after which such sums shall be applied in accordance with clause 14.3) shall be applied as follows:
 - (i) the sum received by the Lessor shall be paid over to the Lessee or any other applicable Transaction Company subject to the Lessor receiving evidence satisfactory to the Lessor that all loss and damage resulting from the casualty has been properly made good and repaired and that all repair accounts and other liabilities connected with the casualty have been paid by the Lessee or by any other Transaction Company; and
 - (ii) the insurers with whom the fire and usual marine risks and war risks insurances are effected may in the case of any Major Casualty, and with the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed) make payment on account of the repairs which are being carried out; and
 - (c) as long as no Relevant Event has occurred and is continuing, payment of any other claim shall be made to the Lessee or, as applicable, such other Transaction Company, who shall apply the same in or towards making good the loss and fully repairing all damage in respect whereof such payment shall have been made and

after the occurrence of a Relevant Event and whilst it is continuing and following notification by the Lessor to the approved brokers, payment of any such claim shall be made to the Lessor; and

- (d) in the case of the Insurances in respect of protection and indemnity risks, be endorsed by way of a loss payable clause to the effect that moneys payable thereunder shall be paid in reimbursement of the assured which has settled the liability to which the relevant claim relates or, if so agreed by the relevant insurers, be paid directly to the person to whom was incurred the liability in respect of which the relevant money was paid unless and until the Lessor, following the occurrence of a Relevant Event which is continuing, shall direct that they shall be paid to the Lessor whereupon they shall be paid to the Lessor.

13.5 Renewals

- 13.5.1 As soon as possible, but in any case not less than seven (7) days before the expiry of any of the policies, entries or contracts forming part of the Insurances or if there is a change in the insurers and/or markets through whom the Insurances are placed, the Lessee shall notify the Lessor of the names of the brokers (or other insurers) and any protection and indemnity and/or war risks association through or with whom such Insurances are proposed to be renewed and (if any material change is proposed) of the proposed terms and amounts of renewal. The Lessee shall also promptly notify the Lessor of any material change in the information notified to the Lessor pursuant to this clause 13.5.1 and shall provide the Lessor with particulars of such changes. If at any time the terms and amounts on and for which the Insurances are proposed to be renewed or the identity of the broker or war or protection and indemnity risks associations with whom the Insurances are proposed to be renewed are not approved by the Lessor, as contemplated by clause 13.19, the Lessor shall notify the Lessee promptly in writing of the withdrawal of its approval, and the Lessee shall procure that the Insurances are renewed or replaced on terms satisfactory to the Lessor.
- 13.5.2 Before the expiry of any Insurances the Lessee shall procure that such relevant Insurances are renewed and shall confirm to the Lessor that such renewals have been effected or shall procure that such confirmation is given to the Lessor before the expiry of any such Insurances.
- 13.5.3 Promptly after each such renewal, the Lessee shall procure that the Lessor is provided with the details of the terms and conditions and amounts on which and for which such Insurances have been renewed.
- 13.5.4 If, after renewal and after review by the Lessor of the terms and conditions of renewal, the Lessor advises the Lessee that the terms and conditions of such Insurances as renewed, do not conform with the requirements of this clause 13 (which advice shall specify the particular discrepancies) then, after consultation with the Lessor, the Lessee shall ensure that any such discrepancies are corrected promptly.

13.6 Custody of Policy Documents/Loss Payable Clauses

The Lessee shall procure that there shall be deposited with the brokers and/or insurers through which the Insurances are arranged from time to time copies of all slips, cover notes, policies certificates of entry or other instruments of insurance from time to time issued in connection with such of the Insurances referred to in this clause 13 as are effected

through such brokers and/or the war risks and protection and indemnity association approved in accordance with clause 13.19 and shall also procure that, in the case of the Insurances referred to in clause 13.2.1, the interest of the Lessor shall be endorsed on the relevant cover note or policy and, in the case of the protection and indemnity Insurances referred to in clause 13.2.2, the interest of the Lessor shall be endorsed on the relevant certificate of entry or policy, in each case in addition to incorporation of the relevant loss payable clause and the Lessee shall procure that the Lessor shall be furnished with copies of the relevant cover note or policy or certificate of entry or policy, duly endorsed.

13.7 Letters of undertaking

In relation to all Insurances effected from time to time under and in accordance with this clause 13, the Lessee shall ensure that all brokers and/or insurers and any protection and indemnity or war risks associations in which the Ship is entered, in each case being approved under clause 13.19, provide the Lessor with letters of undertaking:

- 13.7.1 in the case of an approved broker, in such form as represents the then current market practice in the insurance market in which the approved broker operates and any professional association of which that approved broker is a member; and
- 13.7.2 in the case of a protection and indemnity association, having regard to the current market practice and the practices prescribed by the International Group of Protection and Indemnity Associations or, if the relevant protection and indemnity association is not a member of the International Group of Protection and Indemnity Associations but has otherwise been approved by the Lessor in accordance with clause 13.19, the current practice of that association (and which will for all purposes provide for notification to the Lessor prior to the cancellation of any such entry); and
- 13.7.3 in the case of a war risks association, having regard to the current market practice in the insurance market in which such association operates.

13.8 Fleet Cover

If any of the Insurances referred to in clause 13.2.1 and/or 13.2.2 form part of a fleet cover, the Lessee will procure that (a) any letter of undertaking referred to in clause 13.7 is amended to provide that the relevant brokers shall undertake to the Lessor that they shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (b) that the applicable policy documents are endorsed to the effect that the applicable insurers shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (c) that the Lessor receives other comfort that this will not occur.

13.9 No material adverse alteration

The Lessee shall comply with the terms and conditions of the Insurances and shall not do and shall ensure that there is no act or omission which would give rise to a right to cancel any Insurances or render any Insurances, or any policy or policies or certificate or certificates of entry invalid, void, or unenforceable or render any sum paid out under any

policy or policies or certificate or certificates of entry or the Insurances evidenced thereby repayable in whole or in part. The Lessee will not make, and shall procure that no material alteration is made to the terms of any of the Insurances without the prior written consent of the Lessor.

13.10 Operation outside terms of Insurances

The Lessee will take all steps necessary so that:

- 13.10.1 the Ship is not operated in any way inconsistent with the provisions or warranties of or implied in, or in contravention of the cover provided by, any Insurance taken out in accordance with this clause 13;
- 13.10.2 the Ship is not engaged in any voyage or to carry any cargo not permitted by any Insurance, in each case without first obtaining the consent (if necessary) of the insurers to such operation or engagement and complying with such requirements as to extra premium or otherwise as the insurers may prescribe; or
- 13.10.3 all requisite certificates of financial responsibility and/or other consents, licences, approvals or authorisations as may from time to time be required are obtained and maintained if the Ship is likely to be operating in or into or off-shore from the United States of America.

13.11 Payment of premiums and calls

The Lessee shall procure that (taking account of any applicable grace period) all premiums, calls, contributions or other sums of money from time to time due in respect of any Insurance are paid punctually and in full.

13.12 Notification of Total Loss

The Lessee shall procure that the Lessor is notified of:

- 13.12.1 the levy of any distress on the Ship or its arrest, detention, seizure, condemnation as prize, Compulsory Acquisition or requisition for title or use; and
- 13.12.2 (save in the case of Compulsory Acquisition or requisition for title or use or any capture, seizure, arrest, detention or confiscation of the Ship by any government, or by persons acting or purporting to act on behalf of any government) any accident, casualty or other event which has caused or resulted in or is likely to cause or result in the Ship being or becoming a Total Loss.

13.13 Settlement of claims

- 13.13.1 The Lessee shall do all things necessary and provide all documents, evidence and information to enable the Lessor to collect or recover any moneys which at any time become due and payable to the Lessor or otherwise under in respect of the Insurances.
- 13.13.2 Subject to the Lessee having provided any necessary security in a timely manner so as to prevent the actual or continued arrest of the Ship and subject also to clause 7.6 and provided that no Termination Event or Mandatory Prepayment Event shall have occurred and be continuing, the Lessor agrees that the Lessee shall have the right to settle, compromise or abandon any claim under the Insurances for Total Loss or in respect of a

Major Casualty or to give notice of abandonment of the Ship to the insurers and/or to claim a constructive Total Loss upon the prior written approval of the Lessor (such approval not to be unreasonably withheld or delayed) but that the Lessor itself shall not settle, compromise or abandon any such claim without reference to the Lessee prior to the occurrence of any Termination Event or Mandatory Prepayment Event. After the occurrence of any Termination Event or Mandatory Prepayment Event while it is continuing or after termination of leasing of the Ship to the Lessee pursuant to clause 18.1 or, as the case may be, clause 18.2 the Lessor alone shall have the right to settle, compromise or abandon any claims under the Insurances and/or give notice of abandonment of the Ship to the Insurers and/or claim a Constructive Total Loss.

13.14 P & I Guarantee

The Lessee shall arrange for the execution and delivery of all guarantees and indemnities as may from time to time be required by the Ship's P & I Club or war risks association.

13.15 Additional Insurance

Nothing in this clause 13 shall prohibit the Lessee from placing additional insurance on the Ship at its own expense and for its sole benefit provided however that:

13.15.1 such insurance shall not prejudice the Insurances or recovery thereunder or exceed the amount permitted by warranties or other conditions contained in the Insurances without the written consent of the insurers of the Insurances;

13.15.2 where the written consent of the insurers as referred to in clause 13.15.1 is required, the Lessee shall procure that there shall be promptly furnished to the Lessor a copy of such consent and, in all cases, with particulars of any additional insurance effected including copies of any cover notes or policies; and

13.15.3 any insurance payments received by the Lessor arising solely from additional insurance effected by the Lessee under this clause 13.15 less amounts due (if any) by the Lessor in respect of Taxes in relation to the sums received shall be paid by the Lessor to the Lessee promptly after receipt thereof.

13.16 No Security Interest

The Lessee shall not, and shall procure that no other Transaction Company nor the Time Charterer will, create or permit to exist any Security Interest over or in respect of the Insurances save for the approved brokers' or insurers' right of set off and lien for unpaid premiums to the extent permitted by clause 13.8, and save for any security interest created by the Lessee in favour of the Security Trustee pursuant to and in accordance with the Proceeds Deed.

13.17 Provision of copies of communications

At the Lessor's request the Lessee shall procure that there is provided to the Lessor at the time of each such communication, copies of all material written communications between the Lessee, or any other Transaction Company and:

13.17.1 the approved brokers; and

13.17.2 the approved protection and indemnity and/or war risks associations; and

13.17.3 the approved insurance companies and/or underwriters;

which relate directly or indirectly to:

- (a) the Ship and the obligations of the Lessee or any other Transaction Company relating to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls and all communication relating to non-payment of premiums or calls and cancellation of any of the Insurances or relating to the imposition of any material new or modified condition, warranty, exclusion or qualification or the material alteration of the Insurances; and
- (b) any credit arrangements made between the Lessee or any other Transaction Company and any of the persons referred to in paragraphs 13.17.1 to 13.17.3 relating wholly or partly to the effecting or maintenance of the Insurances.

13.18 Provision of information

The Lessee shall procure that there shall be provided promptly any information reasonably required for the purpose of the Lessor obtaining or preparing any report from a reputable international independent marine insurance broker or adviser appointed by the Lessor as to the adequacy of the Insurances effected or proposed to be effected, and the Lessee shall, promptly upon demand, indemnify the Lessor in respect of reasonable fees incurred by or for the account of the Lessor in connection with one such report prepared immediately prior to Delivery and at annual intervals thereafter, but only following either any material change to the terms of any of the Insurances or a change in the identity of the approved brokers, the approved protection and indemnity and/or war risks association or the approved insurance companies and/or underwriters.

The Lessee shall also, on the Lessor's request (not more frequently than annually and, in case of a policy period of more than 12 months, not more than once in each policy period), provide copies of all policy documents and certificates of entry relating to the Insurances which are in the possession of the Lessee, its agents or managers or the approved brokers.

13.19 Approval process

At all times the Lessor's approval must be obtained in relation to placement and renewal of Insurances, particularly with respect to requirements as to amounts and terms of insurance and identity of brokers and insurers. The Lessor will act promptly and will not act unreasonably in relation to giving its approval in relation to these matters, and will give its approval to any insurer which has (and maintains) a credit rating of not less than A- with Standard & Poor's (or equivalent rating with another first class rating agency).

13.20 Insurance review

From time to time during any period of insurance cover the Lessor may review the terms of and identity of brokers, insurance companies and underwriters and war risks or protection and indemnity associations through which the Ship is insured under this clause 13. Such review shall be made in consultation with the Lessee and shall be undertaken at least three (3) months prior to the date for renewal of such insurance cover. After consultation, the Lessee shall implement such modifications as the Lessor may reasonably request in order to seek to ensure that such insurances at all times cover all risks which may customarily and generally be covered in transactions similar to that covered by this Agreement and that the terms of such insurances and the identity of brokers, underwriters, insurance companies and associations will continue to be approved by the Lessor, as provided for in clause 13.19.

13.21 Innocent Owner's Insurance/Contingent Liability Insurance

Nothing contained in this clause 13 shall affect the Lessor's right to take out innocent owner's or contingent liability insurance in relation to the insurances of the Ship for its own account, and the Lessor shall be so entitled.

13.22 Wreck Removal

In the event of the Ship becoming a wreck or obstruction to navigation, the Lessee (in addition to any other obligation it may have under clause 7) shall indemnify and hold harmless the Lessor against all costs, expenses, payments, charges, losses, demands, any liabilities, claims, actions, proceedings (whether civil or criminal) penalties, fines, damages, judgments, orders or other sanctions which may be incurred by, or made or asserted against the Lessee by reason that the Ship shall have become a wreck or obstruction to navigation (including, without limitation) in respect of the removal or destruction of the wreck or obstruction under statutory powers but only to the extent that such has not been recovered from the Ship's insurers.

14 Loss, Damage, Requisition and Salvage

14.1 Risk

Throughout the Lease Period and until such time as the Ship is delivered to a purchaser the Lessee shall bear the full risk of:

14.1.1 any Total Loss of or any other damage to the Ship howsoever arising; and

14.1.2 subject to clause 6.1 any other occurrence of whatever kind which deprives the Lessee of the use, possession or enjoyment of the Ship.

14.2 Payments on Total Loss or Compulsory Acquisition

If the Ship becomes a Total Loss after the Delivery Date, on the Total Loss Payment Date the Lessee will pay to the Lessor the amounts pursuant to and determined in accordance with clause 18.4. Any Total Loss Proceeds or any Requisition Compensation actually and unconditionally received by the Lessor following a Total Loss or Compulsory Acquisition will be applied in accordance with clause 14.3.

14.3 Application of Total Loss Proceeds

All Net Total Loss Proceeds and Requisition Compensation received by the Lessor shall be retained in full by the Lessor and shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to nought point nought one per cent. (0.01%) of the Net Total Loss Proceeds;

SECOND: in payment to the Lessor of amounts equal to all or any part of the Termination Amount as at the date of the receipt by the Lessor of the Net Total Loss Proceeds which have not, on or before the date of application of the Net Total Loss Proceeds, been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

14.4 Payments to Lessee

Any payment to the Lessee under "FOURTH" of clause 14.3 shall be made reasonably promptly but in any event within five (5) Business Days following the date of actual and unconditional receipt by the Lessor of the Net Total Loss Proceeds and the determination by the Lessor of the application thereof in accordance with clause 14.3.

14.5 Continuation of Lease Period

Notwithstanding that the Ship has become a Total Loss, the Lessee shall continue to pay Rental under this Agreement until all sums due by the Lessee to the Lessor under clause 14.2 have been paid in full. The Lease Period will end on the date on which all sums due under clause 14.2 have been paid provided however that if the Net Total Loss Proceeds are insufficient to satisfy the amounts to be retained by the Lessor pursuant to the applications in "FIRST", "SECOND" and "THIRD" set out in clause 14.3, the provisions of clause 5.3 shall apply.

14.6 Damage claims

Moneys, other than Total Loss Proceeds, received by the Lessor in respect of claims for repairable damage to the Ship shall be applied in the manner described in clause 13.4.2(b).

14.7 Sale of Ship after Total Loss

If the insurers of the Ship have:

14.7.1 satisfied or admitted in full their obligations under the Insurances; and

14.7.2 waived any rights they have in the Ship,

the Lessor shall as soon as practicable after the Total Loss Payment Date use all reasonable endeavours to sell the Ship and such sale shall, save for the foregoing obligation as to timing, be concluded in accordance with the provisions of clause 2.9.

14.8 Abandonment

14.8.1 If no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee has the sole right to determine whether or not a case has arisen for the giving of notice of abandonment to abandon the Ship to the insurers and/or claim a constructive Total Loss.

14.8.2 The Lessor authorises the Lessee to give such a notice if it so determines.

14.8.3 The Lessor will upon the request and at the cost of the Lessee promptly execute all such documents as may be required to enable the Lessee to abandon the Ship to the insurers and/or to claim a constructive Total Loss. The Lessor will give to the Lessee all

reasonable assistance in processing such a claim Provided that any costs reasonably incurred by the Lessor pursuant to this clause 14.8.3 shall be reimbursed by the Lessee to the Lessor promptly following the Lessor's demand.

14.9 Salvage and towage

All salvage and towage and all proceeds from derelicts will be for the benefit of the Lessee, subject to the prior right of the Lessor to retain from those proceeds any sums due and payable to it under this Agreement, and the cost of repairing any damage occasioned in the course of salvage or towage shall be borne by the Lessee.

14.10 Requisition for hire of the Ship

If the Ship is requisitioned for hire by any governmental or other competent authority during the Lease Period then, if and only for so long as such requisition for hire does not constitute a Compulsory Acquisition:

- 14.10.1 the leasing of the Ship under this Agreement shall continue (subject always to the provisions of clauses 17 and 18) for the remainder of the Lease Period and the Lessee shall remain fully responsible for the due compliance with all its obligations under this Agreement other than such obligations which the Lessee is unable to comply with by virtue of such requisition;
- 14.10.2 if no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee shall be entitled during the Lease Period as between the Lessor and the Lessee to all requisition hire paid to the Lessor or to the Lessee by such governmental or other competent authority or by any person acting by the authority of the same on account of such requisition, but subject always to any right of set-off which the Lessor may have in respect of amounts due and unpaid under the terms of this Agreement and the other Lease Documents;
- 14.10.3 as soon as practicable after the end of any requisition for hire, and whether that requisition shall end during or after the expiry or termination of the Lease Period, the Lessee shall cause the Ship to be put into the condition required by this Agreement;
- 14.10.4 the Lessor shall be entitled to all compensation payable by the relevant governmental or other competent authority, or by any person acting by the authority of the same, in respect of any change in the structure, state or condition of the Ship arising during the period of requisition for hire (and such compensation shall be paid to the Lessee by way of rebate of Rental unless a Termination Event or Mandatory Prepayment Event shall have occurred and be continuing in which event the Lessor shall be entitled to apply such compensation in or towards discharge of any and all amounts which are then owing to the Lessor under any of the Lease Documents or any of the other Transaction Documents); and
- 14.10.5 should the Ship be under requisition for hire at the end of the Lease Period:
 - (a) the leasing of the Ship under this Agreement shall nevertheless be terminated at the end of the Lease Period (unless otherwise agreed between the Lessor and the Lessee) but without prejudice to the accrued rights of the parties including, without prejudice to the generality of the foregoing, the obligations of the Lessee under clause 15 (as modified by paragraph (b) below), and the Lessor shall (for so long as it remains the owner of the Ship) be entitled to receive and retain any requisition hire payable in respect of the period from the expiry or termination of the Lease

Period it being agreed however that, subject to the Lessee having paid to the Lessor in full all amounts due by it under the Transaction Documents and under the Sister Ship Transaction Documents and to the Lessor first having retained out of such requisition hire such amount as it certifies as representing its continuing costs of owning and managing the Ship (including Lessor's Management Time at the Lessor's Management Time Cost Rate), the Lessor shall upon the eventual sale of the Ship pay to the Lessee by way of rebate of Rental any remaining surplus amount of such requisition hire; and

- (b) without prejudice to clause 14.10.3 the Lessee shall, if it is prevented by reason of the requisition for hire from re-delivering the Ship under clause 15, be relieved from its obligations so to do, but shall consult with the Lessor as to the most convenient method of enabling the Lessor to obtain redelivery of the Ship when the Ship is released from such requisition.

The Lessor shall be under no obligation to provide to the Lessee, or to any other person, any replacement for the Ship or any part thereof should the Ship or any part thereof be lost, damaged, the subject of Compulsory Acquisition, seized, or requisitioned for hire or use, nor shall the Lessor have any liability or responsibility whatsoever in respect thereof (unless and to the extent that the same results from any Lessor Breach).

15 Redelivery

15.1 Redelivery procedure

- 15.1.1 As soon as reasonably practicable following the termination of the leasing of the Ship under this Agreement (other than pursuant to clause 14.5), or upon the ending of the Lease Period by effluxion of time, the Lessee at its own expense shall redeliver the Ship to the Lessor safely afloat in accordance with this clause 15 (but subject to the rights of the Time Charterer) and in any event before the fifth anniversary of Delivery.
- 15.1.2 Upon the ending of the Lease Period by effluxion of time or upon the termination of the leasing of the Ship under this Agreement (other than a termination pursuant to clause 14.5 or any termination where the Lessee is not acting as sales agent of the Lessor) the Lessee, at its own expense, shall deliver the Ship safely afloat to a purchaser of the Ship who satisfies the requirements of clause 2.7 at such location (including without limitation, at sea) as shall be mutually agreed between the Lessee (as agent of the Lessor) and the purchaser upon completion of the sale of the Ship in accordance with clause 2.7 (and such delivery by the Lessee shall be deemed to have satisfied the obligation of the Lessee to redeliver the Ship to the Lessor) and subject to the rights of the Time Charterer.
- 15.1.3 Upon the termination of the leasing of the Ship under this Agreement where the Lessee is not acting as sales agent of the Lessor, the Lessee, at its own expense, shall redeliver the Ship safely afloat to the Lessor at a safe port worldwide to be designated by the Lessor acting reasonably and bearing in mind the location and trading pattern of the Ship as at the time of any required redelivery.

15.2 Redelivery condition

The Lessee shall ensure that on any redelivery of the Ship to the Lessor in accordance with clause 15.1.3 above and on any deemed redelivery to the Lessor in accordance with clause 15.1.2 above where the purchaser of the Ship so requires:

- 15.2.1 the Ship shall be in class free of conditions not complied with in accordance with their terms and overdue recommendations affecting the Ship's class;

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- 15.2.2 the Ship shall be in no worse structure, state and condition as at Delivery (fair wear and tear alone excepted) and have installed the machinery and equipment installed thereon at Delivery or replacements or substitutions therefor made in accordance with the terms of this Agreement;
- 15.2.3 the last consignment of containers carried on board the Ship shall have been unloaded;
- 15.2.4 the Ship shall be free of Security Interests other than any Lessor's Security Interest; and
- 15.2.5 the Ship shall be free of any charter or other contract of employment or affreightment other than the Time Charter in circumstances where the Time Charterer's rights under the QEL are subsisting.

The Lessee shall further ensure that, prior to re-delivery, all arrears of wages of the Master and crew of the Ship are fully paid.

15.3 Redelivery survey

- 15.3.1 In case only of redelivery of the Ship consequent upon termination of the Lease Period where the Lessee is not acting as sales agent or upon the expiry of the Lessee's sales agency rights pursuant to clauses 2.8.2 or 2.8.3, at or about the time of redelivery, a survey shall be made to determine the state and condition of the Ship, unless the Lessor agrees that no such survey is required or the Ship is to be sold.
- 15.3.2 The Lessee and the Lessor shall each appoint surveyors to be present at such survey and the surveyors present shall determine the state and condition of the Ship and shall identify the repairs or work necessary to place the Ship at the date of redelivery in the class and the structure, state and condition referred to in clause 15.2.
- 15.3.3 The surveyors referred to in clause 15.3.2 shall both be acting as experts, not arbitrators and, in case of disagreement, the matter shall be resolved pursuant to clause 29.
- 15.3.4 All proper costs occasioned by any such survey including the costs of the said surveyors appointed by the Lessee and the Lessor and, if appointed, the cost of the senior surveyor of the Ship's Classification Society shall be payable by the Lessee.

15.4 Consumable stores

All consumable stores, unused lubricating oils and bunkers on board the Ship at the time of redelivery shall be purchased by the Lessor from the Lessee and sold by the Lessor to the purchaser of the Ship. The price payable by the Lessor to the Lessee pursuant to this clause 15.4 will be the same as the price received at the same time by the Lessor from the purchaser of the Ship for those items.

15.5 Continuing performance of obligations

From the end of the Lease Period until the Ship has been sold in accordance with clause 2, the Lessee shall, at no cost to the Lessor, but subject to the Lessor permitting the Lessee continued possession of the Ship, continue to perform all its obligations under this Agreement other than its obligations to pay Rental and, in particular, it shall continue to perform its undertakings under clauses 9 to 14.

15.6 Ship's Software Licences on Redelivery

The Lessor shall be entitled to require that the Lessee grant or procure the grant (to the extent reasonably achievable) in favour of the Lessor or, as the Lessor may stipulate, a purchaser for or subsequent charterer of the Ship a licence to use all Ship's Software which may be necessary or desirable to be used for the maintenance and operation of the Ship, provided that this requirement shall not apply to (i) obsolete software which has been replaced by alternative or updated software or (ii) other software which the Lessee may satisfy the Lessor (acting reasonably) was not in use regularly during the last voyage or engagement of the Ship prior to redelivery and which is no longer required or desirable for the safe or efficient operation of the Ship.

16 Standby Lender Review and Standby Loan Transaction**16.1 Review**

- 16.1.1 During the Standby Lender Review Period, the Lessor shall procure that the Standby Lender carries out a review of (i) the creditworthiness of the Lessee and the Guarantor and, (ii) the security value of the Ship as at such time in order for the Standby Lender to determine in its sole and absolute discretion whether it is prepared to enter into the Standby Loan Transaction upon the expiry of the Lease Period.
- 16.1.2 Such Standby Lender Review shall be carried out by the Standby Lender:
- (a) in good faith;
 - (b) in accordance with its then current procedure for reviewing the creditworthiness of its customers of similar standing as the Lessee and the Guarantor; and
 - (c) applying its then current general credit criteria and the same criteria in the same manner as the Lessor would apply to the assessment of the creditworthiness of its customers of similar standing as the Lessee and the Guarantor.
- 16.1.3 Following the Standby Lender Review, the Standby Lender shall determine in its sole and absolute discretion whether or not it is able to enter into the Standby Loan Transaction and the Lessor shall notify the Lessee as soon as possible after the Standby Lender has conducted its review and reached its conclusions (and in any event such notification to be given by the Review Notification Date).
- 16.1.4 The Lessee acknowledges that neither the Lessor nor the Standby Lender shall be obliged to reveal any details of the credit procedure or the criteria applied (as referred to in clauses 16.1.2(b) and (c) above) or the reasons for the decision made by the Standby Lender under this clause 16.1 but if the Lessor notifies the Lessee that the Standby Lender Review has not been satisfactory, the Lessor agrees to enclose with such notification a certificate signed by a director of the Lessor to the effect that the Standby Lender Review has been carried out by the Standby Lender in accordance with clause 16.1.2.

16.2 Standby Loan Transaction

In the event that the Lessor notifies the Lessee pursuant to clause 16.1.3 that the Standby Lender is willing to enter into the Standby Loan Transaction, and the Lessee notifies the Lessor in writing within fourteen (14) Business Days of the Review Notification Date that it wishes to enter into the Standby Loan Transaction (each of which notifications must be given in respect of the Ship and all of the Sister Ships, but not some only), and subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction for the Ship on the Lease Period End Date.

17 Termination, Mandatory Prepayment and Further Novation Events

17.1 Termination Events

The Lessor and the Lessee agree that it is a fundamental term and condition of this Agreement that none of the following events shall occur during the Construction Period or the Lease Period and that the occurrence of any of the following events shall constitute a repudiatory breach of this Agreement and shall be a Termination Event for the purpose of this Agreement, whether it occurs during the Construction Period or the Lease Period:

- 17.1.1 any instalment of Rental or any other sum payable to the Lessor under this Agreement or under any of the other Lease Documents is not paid when due in accordance with the terms of the applicable document (and in the case of a sum payable on a due date, remains unpaid for three (3) Business Days after the due date for payment thereof and in the case of a sum payable on demand, remains unpaid for five (5) Business Days after the date of service by the Lessor of a written demand for payment thereof);
- 17.1.2 any of the Insurances required to be placed and maintained in clause 13 are placed or renewed on terms which do not comply with the provisions of clause 13;
- 17.1.3 at any time, any of the Insurances required to be maintained under clause 13 either lapse before the time of scheduled renewal without being renewed within three (3) days of so lapsing in accordance with the requirements of clause 13 or are cancelled or rendered invalid, void or unenforceable or any sums recovered under any of such Insurances are or become repayable in whole or in part;
- 17.1.4 the Guarantor fails to comply with its obligations under clause 5.3 of its Guarantee;
- 17.1.5 any Transaction Company fails to comply with any other term or condition of this Agreement or any other Transaction Document and:
 - (a) that failure would or may be likely, in the reasonable opinion of the Lessor, to have a material adverse effect on the rights of the Lessor under the Lease Documents or the ability of the relevant Transaction Company to perform any of its obligations under the Transaction Documents; and
 - (b) if such failure is remediable then, within thirty (30) days (or such longer period as the Lessor may specify or agree) after receipt by the Lessee of a written notification from the Lessor of that failure, the relevant Transaction Company shall have failed to remedy that failure;
- 17.1.6 any representation or warranty made by any Transaction Company in any of the Transaction Documents is or proves to have been incorrect in any material respect when made and, in case such incorrectness is remediable, within thirty (30) days after receipt by

the Lessee of a written notification from the Lessor of such failure (or such longer period as the Lessor may specify or agree) the relevant Transaction Company shall have failed to remedy it;

- 17.1.7 any of the following occurs in relation to any Financial Indebtedness of any of the Guarantor, the Lessee or (at any time prior to Delivery) the Replacement Purchaser which is owed to any Lessor Group Member (herein, “**BOS Financial Indebtedness**”), and would have, or is reasonably likely to have, a material adverse effect on the Lessee’s ability to perform under this Agreement and/or the Guarantor’s ability to perform under the Guarantee:
- (a) any BOS Financial Indebtedness of any such person is accelerated following an event of default and not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Security Interest securing any BOS Financial Indebtedness of any such person becomes enforceable;
- 17.1.8 any of the following occurs in relation to (i) any Financial Indebtedness where the principal amount then outstanding or capable of becoming due thereunder (or for which the Guarantor is otherwise liable) exceeds in aggregate \$25,000,000 in the case of a Guarantor or (ii) any Financial Indebtedness of the Lessee or (at any time prior to Delivery) the Replacement Purchaser:
- (a) any Financial Indebtedness of any such person is not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Financial Indebtedness of any such person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (c) a lease, hire purchase agreement or charter creating any Financial Indebtedness of any such person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any event of default, howsoever described; or
 - (d) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of any such person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (e) any Security Interest securing any Financial Indebtedness of any such person becomes enforceable;
- 17.1.9 any of the following occurs in relation to the Lessee or any Transaction Company (other than, following Delivery, the Replacement Purchaser):
- (a) it becomes unable to pay its debts as they fall due within the meaning of section 123(1)(e) of the Insolvency Act 1986;

- (b) a winding-up or administration order is made, provided however that, in case only of an order for winding-up, the occurrence of such event shall not constitute a Termination Event if such winding-up has commenced as part of a process of a fully-solvent reorganisation, previously approved by the Lessor, which shall not affect either the timing or amount of any amount payable under this Agreement or any other Transaction Document to the Lessor or the ability of the relevant Transaction Company to perform all its obligations, or the Lessor's ability to exercise its rights, under this Agreement or any of the other Transaction Documents;
- (c) an administrative or other receiver, trustee or liquidator is appointed over all or a part of the assets of the relevant Transaction Company; or
- (d) a petition for the winding-up of the relevant Transaction Company is presented or an application is made for an administration order in relation to the relevant Transaction Company (pursuant to Section 9 of the Insolvency Act 1986) if such petition or application is not withdrawn, discharged or dismissed within thirty (30) days or is not otherwise being contested in good faith by appropriate proceedings;
- (e) the relevant Transaction Company makes, proposes or otherwise threatens an arrangement for the benefit of all or any class of its creditors or an arrangement or composition with or for the benefit of all or any class of its creditors or convenes a meeting with all or any class of its creditors with a view to a composition or arrangement for the benefit of its creditors generally; or
- (f) the relevant Transaction Company ceases or suspends or threatens in writing to cease or suspend to carry on its business;

17.1.10 any litigation, arbitration or administrative action or proceeding is commenced against any Transaction Company (other than, following Delivery, the Replacement Purchaser) or any of its property, undertakings or assets before any court, arbitrator or administrative agency or authority which, if adversely determined, would, or would be reasonably likely to have, a material adverse effect on the financial condition or business or operations of the relevant Transaction Company and, in each case, on its ability to perform its obligations under the Transaction Documents unless:

- (a) the relevant Transaction Company demonstrates in writing to the Lessor (who shall act reasonably in considering such matters) to the Lessor's satisfaction, that such litigation, arbitration or administrative action or proceeding is or may reasonably be considered to be vexatious or frivolous or is unlikely to be adversely determined; or
- (b) it is dismissed or irrevocably stayed within sixty (60) days of commencement;

17.1.11 any event or circumstance occurs as referred to in clause 17.1.9 in relation to any Transaction Company (other than, following Delivery, the Replacement Purchaser) in any jurisdiction other than England and Wales;

17.1.12 any Transaction Company (other than, following Delivery, the Replacement Purchaser) ceases or suspends carrying on its business or a part of its business which, in the reasonable opinion of the Lessor, is or may be likely to be material in the context of this Agreement;

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- 17.1.13 the Guarantor transfers or disposes of, or threatens in writing to transfer or dispose of, a substantial part of its business (otherwise than in the normal course of business or for full consideration in money or money's worth);
 - 17.1.14 the Guarantee shall for any reason not be in full force and effect or shall be declared to be null and void, or (as applicable) the Guarantor shall contest the validity or enforceability of the Guarantee in writing or deny in writing that it has any further liability under the Guarantee;
 - 17.1.15 any Transaction Company repudiates in writing any material provision of a Transaction Document (other than the Time Charter) to which it is a party, or gives notice in writing of its intention to do so;
 - 17.1.16 without the Lessor's prior written consent, either of the Lessee or (at any time prior to Delivery) the Replacement Purchaser ceases to be owned (whether directly or indirectly) by the Guarantor;
 - 17.1.17 any condition precedent stipulated in clauses 3.1 to 3.3 is waived on a temporary basis and is not fulfilled to the satisfaction of the Lessor by the time stipulated in such waiver;
 - 17.1.18 the Ship is subject to any form of execution, attachment, arrest, sequestration or distress, except in relation to a Permitted Security Interest created by the Lessor or a Lessor Security Interest and the Lessee fails to procure the release of the Ship within sixty (60) days, or such longer period to which the Lessor may agree unless such event is covered by the Insurances in which case the relevant period is the period covered by such insurances;
 - 17.1.19 after Delivery the registration of the Ship is cancelled or terminated otherwise than in accordance with the terms of this Agreement or as a consequence of any act or omission of the Lessee or any other Transaction Company and is not re-instated within fifteen (15) days after the receipt by the Lessee of a written notification from the Lessor regarding remedy of that breach; or
 - 17.1.20 a Termination Event occurs and is continuing under any of the Sister Ship Lease Agreements.

17.2 Mandatory Prepayment Events

Each of the following shall be a Mandatory Prepayment Event for the purpose of this Agreement:

- 17.2.1 any of the Transaction Documents (other than the Time Charter) or any provision thereof (i) for any reason is not or ceases to be in full force and effect other than in accordance with its terms or (ii) is declared null and void or (iii) any of the parties to a Transaction Document (other than the Time Charter) shall contest the validity or enforceability of any Transaction Document (other than the Time Charter) or repudiates in writing any Transaction Document (other than the Time Charter) or any of its obligations thereunder or gives notice in writing of its intention to do so;
- 17.2.2 any consent necessary to enable any Transaction Company to comply with any provision of a Transaction Document (other than the Time Charter) is not granted, expires without being renewed or is revoked and that failure (in the sole opinion of the Lessor, acting in good faith) would have a material adverse effect on the rights of the Lessor under the Transaction Documents (other than the Time Charter) or the ability of any Transaction

Company to perform its material obligations under the Transaction Documents (other than the Time Charter) and the Lessee and the Lessor have negotiated in good faith for a period of thirty (30) days to agree an alternative means to continue the transaction contemplated by this Agreement and have been unable to do so;

17.2.3 there shall occur an Environmental Incident in circumstances where the Lessor believes, acting reasonably, that the Lessor is or will be held to be liable to third parties as a result thereof and either (i) such liability will or could, in the reasonable opinion of the Lessor, reasonably be expected to exceed the limit of the Ship's protection and indemnity insurance, or (ii) the Ship's protection and indemnity insurers have disclaimed or notified in writing an intention to disclaim liability as regards the Lessor;

17.2.4 there occurs a Change of Law or other change of circumstances which will result in the Lessor incurring:

- (a) a liability arising out of its ownership of the Ship which it does not have as at the date of this Agreement; or
- (b) an increase in liability arising out of its ownership of the Ship over and above that liability which it has as at the date of this Agreement,

which liability or increase in liability does not entitle the Lessor to increase the Rental pursuant to the Financial Schedule and is material in the context of the Lessor's maximum existing liabilities arising out of its ownership of the Ship from time to time prior to the date of that Change of Law or other change of circumstances and where, in either case, following consultation with the Lessee as to such liability or increased liability and the matters referred to below:

- (i) the Lessor and the Lessee have endeavoured to mitigate or eliminate that liability or increased liability and have failed to do so prior to commencement of the applicable Change of Law; and
- (ii) that liability or increased liability is not covered by insurance or other security which is, in the opinion of the Lessor acting reasonably, satisfactory having regard to the amount of that liability or increased liability; and
- (iii) that liability or potential liability is not removed or terminated by the Lessee moving the Ship to, and if necessary keeping the Ship in, a location or locations where that liability or increased liability would not be incurred or ensuring that the Ship does not enter into any location where that liability or increased liability would be incurred; or

17.2.5 there occurs a Change of Law as a result of which it becomes unlawful for (a) the Lessor to own and/or lease the Ship and/or continue to exercise its rights and/or perform its obligations under any Transaction Document or (b) any Transaction Company to continue to exercise its rights and/or perform its obligations under any Transaction Document (other than the Time Charter).

17.3 Further Novation Events

Each of the following shall be a Further Novation Event for the purpose of this Agreement:

17.3.1 any Termination Event or Mandatory Prepayment Event occurs prior to the Delivery Date;

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- 17.3.2 the Delivery Date does not occur on or before the Commitment Expiry Date;
- 17.3.3 if (a) the Ship is rejected by the Lessor upon the request of the Supervisor or (b) the Novated Building Contract is terminated or rescinded for any reason or becomes capable of immediate termination or rescission in accordance with article VIII thereof or (c) consequent upon a total loss of the Ship as envisaged by article XVII of the Novated Building Contract unless the Lessor is satisfied in its reasonable opinion that the Ship can be rebuilt in accordance with the specification by the Commitment Expiry Date or (d) the Builder becomes entitled to terminate or rescind the Novated Building Contract or the Builder purports to rescind or terminate the Novated Building Contract under article XI thereof;
- 17.3.4 the Lessee fails to pay when due any Contribution Payment due to the Lessor under clause 3.10 of this Agreement;
- 17.3.5 prior to the Delivery Date the Builder makes a claim against the Lessor under the Novated Building Contract (unless the claim arises as a result of Lessor Misconduct) and:
- (a) such claim is not settled in a manner acceptable to the Lessor acting reasonably on the earlier of the Delivery Date and the date falling thirty (30) days after the making of that claim; and
 - (b) the Lessor is not secured to its reasonable satisfaction in respect of any Loss it may suffer as a direct result of that claim;
- 17.3.6 prior to the Delivery Date the Supervisor commences proceedings against the Builder under the Novated Building Contract and the Lessor has not given its consent to such proceedings pursuant to clause 4.9 of the Supervision Agreement;
- 17.3.7 the Supervisor is in breach of any of its obligations to the Lessor pursuant to the Supervision Agreement or the Supervisor is otherwise acting outside the scope of its authority under the Supervision Agreement in a manner materially detrimental to the rights and interests of the Lessor;
- 17.3.8 the Refund Guarantor fails to comply with any of its obligations under the Refund Guarantee; or
- 17.3.9 the conditions precedent to the Lessor's obligation to make payment of any Instalment or to Delivery are not fulfilled or waived and such failure has, or in the reasonable opinion of the Lessor, is reasonably likely to have a material adverse effect upon the Lessor, or its rights and/or obligations and liabilities in respect of the Ship or under this Agreement and the other Transaction Documents.

18 Lessor's Rights on a Termination Event, Mandatory Prepayment Event or Further Novation Event

18.1 Termination rights

On, or at any time after the repudiation of this Agreement by the Lessee, including the occurrence of any Termination Event (and provided that the same is continuing), the Lessor may by notice to the Lessee, (i) if such repudiation or Termination Event occurs after the Delivery Date, accept such repudiation by the Lessee of this Agreement and shall terminate the Lease Period or (ii) if such repudiation or Termination Event occurs prior to

Delivery, may accept its entitlement to terminate its obligation to acquire and lease the Ship to the Lessee pursuant to this Agreement, and immediately, or on such date as the Lessor shall specify, may terminate its obligation to lease the Ship to the Lessee (whereupon the provision of clause 18.3.2 shall apply).

18.2 Mandatory prepayment

On or at any time after the Delivery Date following the occurrence of a Mandatory Prepayment Event (and provided that the same is continuing):

- 18.2.1 the Lessor may notify the Lessee that the Lessor has elected to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.5 but without reference to a notice period; and
- 18.2.2 on the applicable Lease Termination Date, the Lessee will pay to the Lessor the amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4 as at the required date of that payment; and
- 18.2.3 with effect on and from the date of the payment by the Lessee of all amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's obligations pursuant to the Financial Schedule; and
- 18.2.4 notwithstanding anything else to the contrary in this Agreement, the Lease Period will continue until and end on the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 18.6.

18.3 Further Novation

- 18.3.1 At any time after the occurrence of a Further Novation Event (other than a Termination Event) or at any time after the occurrence of a Mandatory Prepayment Event which occurs before the Delivery Date and in each case whilst such event is continuing:

- (a) the Lessor may by notice to the Lessee elect (prior to the Delivery Date) to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.2 but without reference to a notice period; and
- (b) if the Lessor makes an election under paragraph (a) above, the Lessor shall, as contemplated by clause 2.3, give notice to the Replacement Purchaser under clause 6.1 of the Novation Agreement and to the Refund Guarantor pursuant to the Refund Guarantee.

- 18.3.2 On or at any time following the occurrence of a Termination Event which occurs before the Delivery Date and whilst it is continuing, if the Lessor elects to exercise its rights under clause 18.1 following the occurrence of such Termination Event the Lessor shall, as contemplated by clause 2.3, give a notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

18.4 Payments on the Termination Date after the occurrence of a Termination Event, Mandatory Prepayment Event, Further Novation Event or a Total Loss

- 18.4.1 In the event that:

- (a) the Lessor has become entitled to treat this Agreement as having been repudiated and the obligation of the Lessor to acquire and lease the Ship to the Lessee or, as the case may be, the Lease Period shall have terminated pursuant to clause 18.1; or

- (b) a Mandatory Prepayment Event shall have occurred after Delivery and the Lessor has issued a notice to the Lessee pursuant to clause 18.2.1; or
- (c) a Mandatory Prepayment Event shall have occurred prior to Delivery or a Further Novation Event shall have occurred and the Lessor has issued a notice to the Lessee pursuant to clause 18.3.1(a); or
- (d) a Total Loss of the Ship shall have occurred after Delivery,

the Lessee will be liable to pay to the Lessor, on the applicable Termination Date or, as the case may be, the Total Loss Payment Date:

- (i) an amount equal to the aggregate of:
 - (A) any amounts of Rental, any Broken Funding Costs and other moneys then due and payable under any of the Lease Documents or any of the other Transaction Documents; and
 - (B) the amount of any Losses in respect of which the Lessee agreed to indemnify the Lessor pursuant to clause 7.4 (but, for the avoidance of doubt, not including any loss of profit) incurred by the Lessor in connection with that termination which are unpaid; and
- (ii) by way of agreed compensation and not as a penalty, the amount of the Termination Amount as at the date of that termination.

18.4.2 The Lessor agrees with the Lessee that in circumstances where the obligation to lease Ship has terminated or, as the case may be, where the Lease Period has terminated and in each case the Lessor has received payment in full of all amounts owing to the Lessor under any of the other Lease Documents in cleared funds and without conditions attached, if the amounts received by the Lessor exceed the total of all the amounts owed to the Lessor, the Lessor shall pay an amount equal to the excess to the Lessee by way of a rebate of Rental.

18.5 Lessor's rights to retake possession

On or at any time after the Termination Date following (i) a termination of the Lease Period pursuant to clause 18.1 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (ii) the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (iii) where the Lessee was appointed as sales agent pursuant to clause 2.8.1 but such appointment is terminated pursuant to clause 2.8.3, following the termination of the Lessee's appointment as sales agent; in each case the Lessor shall (as between the Lessor and the Lessee) be entitled to retake possession of the Ship in accordance with the provisions of clause 15.2. The Lessee agrees that the Lessor, for that purpose only, may put into force and exercise all its rights and entitlements at law and may enter upon any premises belonging to or in the occupation or under the control of the Lessee where the Ship is located.

18.6 Sale of the Ship following the Termination Date

At any time following termination of the Lease Period pursuant to clause 18.1 or following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 and following any other Termination Date in circumstances where the Lessor has become entitled to retake possession of the Ship in accordance with clause 18.5, the Lessor, (provided it is not prevented by law from doing so), shall use reasonable endeavours to sell the Ship. The Lessor will notify the Lessee as soon as reasonably practicable of any proposed sale or auction of the Ship by it and of the terms of that sale.

18.7 Application of payments on sale or further renovation

18.7.1 In the event of a sale of the Ship following a termination pursuant to clause 18.1 after Delivery, the Net Sale Proceeds will be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.2 In the event of a sale of the Ship following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 after Delivery, the Net Sale Proceeds shall be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.3 In the event of the renovation by the Lessor of its rights and obligations under the Novated Building Contract to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement following the occurrence of (i) a Further Novation Event, or (ii) a Mandatory Prepayment Event prior to Delivery or (iii) a Termination Event prior to Delivery, any moneys received from the Replacement Purchaser pursuant to clause 6.3 of the Novation Agreement or from the Refund Guarantor pursuant to the Refund Guarantee (either before or after such renovation) or from the Builder pursuant to the Novated Building Contract (either before or after such renovation) shall be applied by the Lessor in accordance with clause 2.10 as if those moneys were Net Sale Proceeds.

18.8 Continuation of obligations and storage until sale

Following termination of the Lease Period pursuant to clause 18.1 or 18.2 the Lessee will:

18.8.1 continue to comply with its obligations under this Agreement until the earlier of the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 or the date on which the Ship is redelivered to the Lessor in accordance with clause 15; and

18.8.2 pay, or reimburse, to the Lessor on demand all Losses suffered by the Lessor in connection with recovering possession of and in moving, storing, insuring and maintaining the Ship and in carrying out any works or modifications required to cause the Ship to conform with the provisions of clause 15.2 until such time as the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8.

18.9 Failure to perform insurance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 13, the Lessor, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event:

18.9.1 following notification to the Lessee, may effect and thereafter maintain all such Insurances as the Lessor in its sole discretion may think fit in order to procure compliance with such provisions; or

18.9.2 alternatively, at the Lessee's risk, may require the Ship to remain in, or to proceed to and remain in, a port designated by the Lessor until such provisions are fully complied with.

18.10 Failure to perform maintenance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 10, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within fifteen (15) days after receipt of that notification, arrange for the carrying out of such repairs, changes or surveys as are required in order to procure compliance with such provisions.

18.11 Failure to protect Lessor's rights

If the Lessee fails to comply with any of its material obligations pursuant to clause 12.8, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within 15 days after receipt of that notification, take any such measures as may be required for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.12 Failure to Prevent or Release from Arrest

If the Lessee fails to comply with any of the provisions of clause 10.8, the Lessor without being in any way obliged to do so, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, may, pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.13 Costs of Remedying Defaults

Without prejudice to the Lessor's rights under each of clauses 7.1, 7.2, 7.3 and 7.4, all Losses of whatsoever nature (including without limitation, Taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Lessor in connection with the exercise by the Lessor of any of its powers under clauses 18.9, 18.10, 18.11, and/or, as the case may be, 18.12 and interest on all such Losses from the date on which the same were suffered, incurred or paid by the Lessor until the date of receipt or recovery thereof (both before and after any relevant judgment) at the Default Rate shall be repayable by the Lessee to the Lessor on demand.

19 Representations and Warranties

19.1 General

The Lessee represents and warrants to the Lessor as follows:

19.2 Status

The Lessee is duly incorporated and validly existing under the laws of the Marshall Islands.

19.3 Share capital and ownership

The Lessee is a wholly-owned direct Subsidiary of the Guarantor.

19.4 Corporate powers

The Lessee has the corporate capacity, and has taken all corporate action and obtained all consents, if any, necessary for it:

19.4.1 to execute this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party; and

19.4.2 to make all the payments and perform all the obligations contemplated by, and to comply with this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party.

19.5 Consents in force

All the consents referred to in clause 19.4 remain in force and nothing has occurred which makes any of them liable to revocation.

19.6 Legal validity

The Lease Documents and the Transaction Documents to which the Lessee is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration) constitute the Lessee's legal, valid and binding obligations enforceable against the Lessee in accordance with their respective terms.

19.7 No conflicts

The execution by the Lessee of each Lease Document and each Transaction Document to which it is or is to be a party and its compliance with each Lease Document and each Transaction Document to which it is or is to be a party will not involve or lead to a contravention in any material respect of:

19.7.1 any law or regulation; or

19.7.2 the Bye-laws and Articles of Incorporation of the Lessee; or

19.7.3 any contractual or other obligation or restriction which is binding on the Lessee or any of its assets.

19.8 No Relevant Events

No Relevant Event has, to the Lessee's knowledge, occurred and is continuing.

19.9 No litigation

Except as disclosed to the Lessor in writing, and to the best of the Lessee's knowledge and belief, no legal or administrative action involving the Lessee has been commenced or taken which is likely to have a material adverse effect on the ability of the Lessee to perform its obligations under this Agreement.

19.10 Free of Security Interests

Other than Permitted Security Interests, the Novated Building Contract is and, at the Delivery Date, the Ship and the Insurances will be free from all Security Interests.

19.11 Completeness of Transaction Documents

The copy of each Transaction Document delivered to the Lessor before the date of this Agreement is a true and complete copy and, no amendments or additions to any Transaction Document have been agreed nor have the parties to any Transaction Document waived any of their respective rights under the Transaction Documents.

19.12 Compliance with certain undertakings

At the date of this Agreement, the Lessee is in compliance with clause 20.1.

19.13 Taxes paid

The Lessee has paid all Taxes applicable to, or imposed on or in relation to the Lessee and its business.

19.14 Information

To the best knowledge and belief of the Lessee:

19.14.1 all information which has been provided in writing to the Lessor by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement and any other Transaction Document is true and not misleading and does not omit any material fact or consideration taking into account the circumstances in which the information was provided; and

19.14.2 copies of all relevant documents supplied to the Lessor in relation to this Agreement, the other Transaction Documents and transactions contemplated thereby are true and complete copies of the originals of such documents.

19.15 Absence of withholding taxes

All payments to the Lessor by the Lessee under the Lease Documents may be made in full, free of any deduction or withholding in respect of Tax.

19.16 No Stamp Taxes

There are no stamp, documentary, registration or other like duties or Taxes imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents other than in respect of Slavenburg registrations at Companies House in England and Wales.

19.17 Filings

All registrations or filings required in connection with the enforceability of any Transaction Documents against the Lessee have been made or will be made within any applicable required period and (if applicable) the Lessee shall promptly file particulars of any Security Interest it grants or creates under the Transaction Documents in its Register of Mortgages and Charges.

19.18 Pari Passu

The obligations of the Lessee under the Transaction Documents to which it is a party rank pari passu with all other unsecured indebtedness of the Lessee, other than indebtedness mandatorily preferred by law.

19.19 Choice of law

The choice by the Lessee of English law to govern the Lease Documents and its submission to the jurisdiction of the English courts as contemplated in each of the Lease Documents are valid and enforceable.

19.20 Ship's condition at Delivery

In relation only to Delivery, the Ship will then comply with all requirements of this Agreement including as to its ownership, condition, insurance, class and employment.

19.21 No Money Laundering

In relation to the performance and discharge of its respective obligations and liabilities under this Agreement and the other Transaction Documents, the Lessee confirms that it is acting for its own account and that the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities).

19.22 Reservations

The representations and warranties of the Lessee in this clause are subject to:

- 19.22.1 the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court;
- 19.22.2 the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting or limiting the rights of creditors;
- 19.22.3 the time-barring of claims under any applicable limitation acts;
- 19.22.4 the possibility that a court may strike out provisions for a contract as being invalid for reasons of oppression, undue influence or similar reasons; and
- 19.22.5 any other reservations or qualifications of law expressed in any legal opinions obtained by the Lessor in connection with the Lease Documents.

19.23 Inconsistency

To the extent of any inconsistency between warranties and declarations in any other Transaction Documents and those in this Agreement, those in this Agreement shall prevail.

20 General Undertakings

The Lessee undertakes with the Lessor to comply with the following provisions of this clause at all times until the end of the Lease Period except as the Lessor may otherwise permit.

20.1 Status

20.1.1 The Lessee will maintain its separate corporate existence as a corporation under the laws of the Marshall Islands.

20.1.2 The Lessee will not make a tonnage tax election for the purposes of section 82 of and Schedule 22 of the Finance Act 2000.

20.2 Information provided to be accurate

All financial and other information which is provided to the Lessor in writing by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement or any of the other Transaction Documents will be true and not misleading and will not omit any material fact or consideration.

20.3 Provision of financial statements

The Lessee will send, or procure that there be sent, to the Lessor no later than 90 days after the end of the first half of each financial year of each relevant company, in the case of unaudited financial statements, and no later than 180 days after the end of each financial year of each relevant company in the case of audited annual accounts:

20.3.1 unaudited consolidated financial statements in respect of the first half financial year of each Guarantor;

20.3.2 the unaudited annual accounts of the Lessee; and

20.3.3 the consolidated audited annual accounts of the Guarantor and its Subsidiaries.

20.4 Form of financial statements

All accounts (audited and unaudited) delivered under clause 20.3 will:

20.4.1 be prepared in accordance with all applicable laws and generally accepted accounting principles in the principal place of business of the company concerned (or, as the case may be, generally accepted accounting principles in the jurisdiction adopted by a company for the purposes of the preparation of its accounts), consistently applied;

20.4.2 give a true and fair view of the state of affairs of each such company at the date of those accounts and of its profit for the period to which those accounts relate; and

20.4.3 fully disclose or provide for all significant liabilities of each such company.

20.5 Consents

The Lessee will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Lessor of, all consents required:

20.5.1 for the Lessee to perform its obligations under any Transaction Document to which it is a party;

20.5.2 for the validity, enforceability, priority or admissibility in evidence of any such Transaction Document;
and the Lessee will comply with the terms of all such consents.

20.6 Maintenance of Security Interests

The Lessee will:

20.6.1 at its own cost, do and procure that each other Transaction Company will do, all that it reasonably can to ensure that any Transaction Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and

20.6.2 without limiting the generality of clause 20.6.1, at its own cost, promptly register, file, record or enrol any Transaction Document to which it is a party with any court or authority in all relevant jurisdictions, pay any stamp, registration or similar tax in all relevant jurisdictions in respect of any Transaction Document to which it is a party, give any notice or take any other step which, in the opinion of the Lessor, is or has become necessary or desirable for any Transaction Document to which it is a party to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

20.7 Notification of litigation

The Lessee will provide the Lessor with details of any legal or administrative action involving the Lessee, any other Transaction Company (other than, following Delivery, the Replacement Purchaser), the Ship or any Transaction Document to which it is a party promptly after it becomes aware that such action has been instituted or it becomes apparent to the Lessee that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of the Lease Documents.

20.8 Principal place of business

The Lessee will forthwith notify the Lessor if it has a place of business in any jurisdiction which would require a Lease Document to be registered, filed or recorded with any court or authority in that jurisdiction.

20.9 Confirmation of no default

The Lessee, within five (5) Business Days after service by the Lessor of a written request (such notices to be served no more frequently than is reasonable), will serve on the Lessor a notice which is signed by an authorised signatory of the Lessee and which:

20.9.1 states that no Relevant Event has occurred; or

20.9.2 states that no Relevant Event has occurred, except for any specified event or matter, of which all material details are given.

20.10 Notification of default

The Lessee will notify the Lessor as soon as the Lessee becomes aware of:

20.10.1 any adjustment to the Contractual Delivery Date;

20.10.2 the occurrence of any Relevant Event; and

20.10.3 any matter which indicates that any Relevant Event may have occurred, and will keep the Lessor fully up-to-date with all developments.

20.11 Pari passu

The Lessee will ensure that at all times its liabilities under this Agreement and the other Lease Documents to which it is a party rank at least pari passu in all respects with all its other unsecured liabilities from time to time (apart from liabilities mandatorily preferred by law).

20.12 Provision of information

The Lessee will provide or procure that there is provided to the Lessor, reasonably promptly, such information (i) with respect to the compliance by the Lessee with the terms of this Agreement and each of the other Transaction Documents to which the Lessee is party and (ii) with respect to the compliance by each of the other Transaction Companies with the terms of the other Transaction Documents to which they are respectively party, or (iii) with respect to the Ship, as the Lessor from time to time may reasonably request.

20.13 Negative undertakings

The Lessee will not:

20.13.1 carry on any business other than the leasing in and chartering out of the Ship and each Sister Ship and matters reasonably incidental thereto (as contemplated by the Transaction Documents); or

20.13.2 enter into any form of amalgamation, consolidation, merger or de-merger or any form of reconstruction or reorganisation; or

20.13.3 save by, or as permitted by, the Transaction Documents and the Sister Ship Transaction Documents, transfer, lease, charge or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation.

20.14 Title; negative pledge

The Lessee will:

20.14.1 not attempt or hold itself out as having any power to sell, transfer or otherwise dispose of or abandon the Ship or any shares or interest therein;

- 20.14.2 hold the legal title to, and own the entire beneficial interest in all its assets, free from all Security Interests and other interests and rights of every kind, except for those created by or contemplated to be created pursuant to any of the Transaction Documents and Sister Ship Transaction Documents and (in the case of the Ship and Sister Ships only) except for Permitted Security Interests; and
- 20.14.3 save as contemplated by the Transaction Documents and Sister Ship Transaction Documents, not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

20.15 No amendment to any Transaction Document

The Lessee will not agree or purport to agree and will procure that no other Transaction Company will agree or purport to agree to any amendment or supplement to, or variation of, or waive or fail to enforce, any Transaction Document to which the Lessee or, as the case may be, such other Transaction Company is a party, unless the Lessee, or as the case may be, the applicable Transaction Company acting reasonably considers that the amendment, supplement, variation, or waiver will not prevent the fulfilment by the Lessee or the other Transaction Companies of their respective obligations to the Lessor, and will not adversely affect any of the rights, interests, benefits, powers and remedies of the Lessor under the Lease Documents.

21 Assignments, transfers and sale of the Ship

21.1 Assignment and/or transfer by Lessor

The Lessor may assign all (but not part) of its rights and/or transfer all (but not part) of its obligations under this Agreement and the other Lease Documents together with a contemporaneous transfer of its rights, title and interests in the Ship:

- 21.1.1 without the prior consent of the Lessee where the assignment or transfer is to a Lessor Group Member which is resident in the United Kingdom for the purpose of the charge to corporation tax and which carries on the trade of leasing subject only to:

- (a) the Lessor giving the Lessee not less than thirty (30) days prior written notice of such assignments or transfer;
- (b) the Lessor Parent Support Letter being in full force and effect and, simultaneously with such assignment or transfer, extended or reissued to cover such assignee or transferee; and
- (c) the transferee for the time being remaining a Lessor Group Member; and

- 21.1.2 to the Replacement Purchaser in the circumstances contemplated by clause 18.3 of this Agreement and clause 7 of the Novation Agreement; and

- 21.1.3 to any other person after the occurrence of any Termination Event which is continuing; or

- 21.1.4 to any person other than those contemplated in clause 21.1.1 to 21.1.3 above with the prior written consent of the Lessee,

Provided that:

- (a) any transferee under this clause 21.1 shall assume all of the Lessor's obligations;
- (b) no costs, charges or expenses (including stamp duties payable in respect of any transfer) shall be payable by the Lessee; and
- (c) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessee under this Agreement and the other Transaction Documents to which the Lessor and Lessee are respectively party shall be calculated as if no such assignment or transfer had taken place.

21.2 Transfer by Lessee

Subject to no Relevant Event having occurred and then continuing, the Lessee may transfer all (but not part) of its rights and obligations under this Agreement and the other Transaction Documents:

21.2.1 to any other Guarantor Group Member without the prior written consent of the Lessor; or

21.2.2 to any other person (subject to clause 21.2.3 below) with the prior written consent of the Lessor.

21.2.3 Any intended transfer by the Lessee pursuant to clause 21.2.1 or 21.2.2 shall be subject to the further conditions that:

- (a) the Lessee shall give thirty (30) days prior written notice to the Lessor (or such shorter period as the Lessor may agree (acting reasonably)) of any intended transfer;
- (b) the Lessor shall not be subject to any material additional expense or any liability or increased liability as a result thereof (which is not indemnified against by the Lessee and guaranteed by the Guarantor or secured to the Lessor's satisfaction where the same is in the nature of a liability which is capable of being so indemnified, guaranteed or secured);
- (c) the Lessor is satisfied that, following the proposed transfer, the Guarantee, General Assignment and any other security then held by the Lessor in respect of the Lessee's obligations under this Agreement will remain in full force and effect as security for the obligations of the proposed transferee, or the Lessor is satisfied that such Guarantee, General Assignment and other security will be replaced on terms and in accordance with arrangements satisfactory to the Lessor; and
- (d) the intended transfer will not invalidate or result in any adverse effect on the Lessor's claim to UK Capital Allowances;

21.2.4 Following any transfer pursuant to clause 21.2.1 or 21.2.2:

- (a) the Lessee shall reimburse the Lessor in respect of all Losses, costs, charges or expenses (including stamp duties payable in respect of any transfer) properly incurred by the Lessor in connection with any transfer by the Lessee pursuant to this clause 21.2;

- (b) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessor under this Agreement and the other Transaction Documents shall be calculated as if no such transfer had taken place; and
- (c) in the case of any transfer pursuant to clause 21.2.1 the Guarantor shall guarantee to the Lessor the obligations of the transferee on terms satisfactory to the Lessor.

21.2.5 The Lessor agrees to assist the Lessee, upon the request of the Lessee, to restructure any security granted to the Lessor in respect of the Lessee's obligation to pay the Termination Amount to the Lessor in connection with any transfer of rights and obligations pursuant to this clause 21.2.

21.2.6 All costs and expenses (including legal costs and expenses and the relevant fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which will be charged at the Lessor's Management Time Cost Rate) in connection with any such restructuring shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

21.3 Sale of the Ship

During the Lease Period the Lessor will not sell, transfer, assign or otherwise dispose of the legal title to, or beneficial interest in, the Ship, or agree so to do, except as expressly contemplated by this Agreement or the other Transaction Documents.

22 Increased Costs

22.1 Increased costs

22.1.1 This clause 22 applies, otherwise than where a payment is made in respect of the effect of a Change of Law in accordance with the provisions of the Financial Schedule, if at any time the Lessor notifies the Lessee that it considers that as a result of:

- (a) any Change of Law; or
- (b) the effect of complying with any regulation which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Lessor or any Lessor Group Member has incurred or will incur an "increased cost".

22.2 Meaning of "increased cost"

In this clause 22, "increased cost" means, in relation to the Lessor:

22.2.1 the cost or additional cost referred to in clause 22.1 above; or

22.2.2 an additional or increased cost incurred directly as a result of, or in connection with, the Lessor having entered into, or being a party to, the Transaction Documents or funding, maintaining or performing its obligations under the Transaction Documents; or a reduction

in the amount of any payment to the Lessor or any Lessor Group Member under any of the Transaction Documents or in the effective return which such a payment represents to the Lessor or on its capital; or

- 22.2.3 an additional or increased cost of funding all or maintaining all or any of the Lessor's expenditure under the Novated Building Contract or the Supervision Agreement or (as the case may require) the proportion of that cost attributable to the funding or maintaining of such expenditure; or
- 22.2.4 a liability to make a payment, or interest or the reduction in any amount payable or in the rate of return foregone, which is calculated by reference to any amounts received or receivable by the Lessor under this Agreement or any of the Transaction Documents; or
- 22.2.5 for the avoidance of doubt, any increased costs which relate to the implementation of the matters set out in the Basel II Accord.

22.3 Payment of increased costs

The Lessee shall pay to the Lessor the amounts which the Lessor from time to time notifies the Lessee that it has determined is necessary to compensate it for the increased cost.

22.4 Mitigation and consultation

- 22.4.1 If circumstances arise which would result in notification under clause 22.1 then, without limiting the rights of the Lessor under clause 22.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or might be considered likely in the Lessor's opinion to:
- (a) have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;
 - (b) involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or
 - (c) involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.

23 Funding Problems

23.1 Funding problems

If the Lessor notifies the Lessee that LIBOR cannot be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR:

- 23.1.1 the Lessor shall give notice thereof to the Lessee; and
- 23.1.2 the Lessor and the Lessee shall meet to discuss the matter in good faith and, unless within 30 days of the giving of such notice the Lessor and the Lessee arrive, by negotiation in good faith, at an alternative basis reasonably acceptable to the Lessor and the Lessee for continuing the Lessor's funding of its purchase of the Ship and/or continuing the leasing of the Ship under this Agreement and determining LIBOR (and any alternative basis agreed

in writing shall be retroactive to and effective from the commencement of the relevant period and shall continue until LIBOR can be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR), the Lessee shall indemnify the Lessor for its cost of funds from whatever source the Lessor may reasonably select, and for reasonable periods, in any such case following consultation with the Lessee.

24 Illegality, etc

24.1 Illegality

This clause 24 applies if the Lessor notifies the Lessee that it has become, or will with effect from a specified date, become:

24.1.1 unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or

24.1.2 contrary to, or inconsistent with, any regulation,
for the Lessor to continue to lease the Ship to the Lessee under this Agreement.

24.2 Termination

The Lessor is entitled either in its notice to the Lessee pursuant to clause 24.1 or by a subsequent notice, to terminate the Lease Period either immediately or at a future specified date being in any such case not earlier than the date on which it becomes unlawful, prohibited or contrary to, or inconsistent with, any regulation for the Lessor to continue to lease the Ship to the Lessee under this Agreement, but for the avoidance of doubt no Termination Fee shall be payable by the Lessee in such circumstances.

24.3 Manner of termination

A termination under clause 24.2 will be deemed to be a voluntary termination of the Lease Period in accordance with clauses 2.3 or 2.6 (notwithstanding that the Lessor shall not have received 30 days' notice) and the provisions of clauses 2.4 to 2.13 shall apply to that termination.

24.4 Mitigation

If circumstances arise which would result in notification under clause 24.1 then, without limiting the rights of the Lessor under clauses 24.2 and 24.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or, in the Lessor's opinion, might be considered likely to:

24.4.1 have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;

24.4.2 involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or

24.4.3 involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.

25 Release from Arrest: Lessor's and Lessee's Vessels

25.1 Release from arrest: Lessor's vessels

Other than the Ship or the Sister Ships or any other vessel owned by the Lessor and leased to a company which is owned by the Guarantor, if any vessel which is for the time being owned (in whole or in part) by or leased to any Lessor Group Member shall at any time have a writ or equivalent claim or pleading in admiralty filed against it or be arrested, attached or levied upon pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, and which arises out of the use or operation of the Ship or the Sister Ships or any other vessel owned in whole or in part by or leased or chartered to the Lessee or to any Transaction Company or other Guarantor Group Member or to any other company owned by the Guarantor with any other company, or otherwise by reason of the act or omission of any of the Lessee or any Transaction Company or other Guarantor Group Member, except where that lien or claim arises as a result of any Lessor Misconduct or the equivalent in relation to a Lessor Group Member (but excluding for this purpose any act or omission relating to the operation of the Ship or the Sister Ships or any other vessel owned by any Lessor Group Member and leased or chartered to the Lessee or any Transaction Company or any other Guarantor Group Member for which the Lessee or such Transaction Company or other Guarantor Group Member is responsible pursuant to this Agreement or the relevant leasing or chartering contracts):

25.1.1 the Lessee forthwith upon receiving notice thereof at its expense shall procure the release of such vessel from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty by providing bail or procuring the provision of security or otherwise as the circumstances may require; and

25.1.2 the Lessee shall be responsible for discharging each and every liability in connection with any such process, claim, lien or other action.

Without prejudice to the generality of the other indemnities contained in this Agreement or any of the other Transaction Documents, should any such other vessel owned (in whole or in part) by or leased or chartered to any Lessor Group Member and leased or chartered by it (otherwise than to the Lessee or any other Transaction Company or Guarantor Group Member) be arrested, detained, attached or levied upon or be the subject of or have a writ or equivalent claim or pleading in admiralty filed against it in such circumstances, the Lessee shall indemnify the Lessor against all Losses imposed on, suffered or incurred or expended by the Lessor and/or such Lessor Group Member in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty, together with any costs and expenses (including the provision of any guarantee or bond) or other outgoings which may be suffered or paid by the Lessor and/or any Lessor Group Member in releasing such vessel from any such arrest, seizure, custody, detention, attachment or distress.

25.2 Release from arrest: Lessee's vessels

If:

25.2.1 the Ship or the Sister Ships or any other vessel owned or operated by any Guarantor Group Member or any company owned by the Guarantor, at any time has a writ or equivalent claim or pleading in admiralty filed against it or is arrested, attached or levied upon

pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature in each such case arising out of the use or operation of any other vessel for the time being owned by any Lessor Group Member and leased or chartered by it otherwise than to the Lessee or any Transaction Company or to any other Guarantor Group Member or to any company owned by the Guarantor; and

25.2.2 should the charterers of such other vessel (being in that situation under obligations to the Lessor or the Lessor Group Member equivalent to those assumed by the Lessee under clause 25.1) fail to fulfil those obligations,

Provided that the Lessee shall first have given prior notice thereof to the Lessor and, to the extent practicable, consulted with the Lessor or such Lessor Group Member as far in advance as is reasonable in all the circumstances, the Lessee shall:

- (a) be entitled to act as agent for the Lessor or the Lessor Group Member to procure release of the Ship or the Sister Ships or such other vessel (as the case may require) from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be indemnified by the Lessor or the Lessor Group Member against claims made on the Lessee by the charterers of such other vessel in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty and all losses and expenses reasonably and properly so incurred by it.

26 Confidentiality

26.1 Confidentiality

At all times during the Lease Period, each of the Lessor and the Lessee shall keep confidential and shall not, without the prior written consent of the other:

26.1.1 issue any press release or make any other public announcement or statement in relation to the transactions evidenced by this Agreement and the other Transaction Documents; or

26.1.2 disclose to any other person (i) the financial details of this Agreement or any other Transaction Document or the transactions contemplated by this Agreement or any other Transaction Document or any other agreement entered into after the date of this Agreement by the Lessor or the Lessee in connection with this Agreement or any other Transaction Document or (ii) any information provided pursuant to any of the Transaction Documents; or

26.1.3 release copies of drafts of this Agreement or any other Transaction Document which disclose or reveal the identity of the parties (or any of them),

the information contemplated by clauses 26.1.1 to 26.1.3 above being “ **Confidential Information** ”

Provided that the parties shall be entitled, without any such consent, to disclose such Confidential Information:

- (a) if the same is already known to the receiving person at the time of disclosure as shown by the receiving person’s files and records immediately prior to that disclosure or is developed by the receiving person independently of such disclosure; or

-
- (b) in connection with any proceedings arising out of or in connection with this Agreement or any of the other Transaction Documents; or
 - (c) if required to do so by an order of a court of competent jurisdiction whether in pursuance of any procedure for discovery of documents or otherwise; or
 - (d) if it is reasonably believed by such party to be disclosable pursuant to any applicable law, stock exchange regulations or by a governmental order, decree, regulation or rule; or
 - (e) to any fiscal, monetary, tax, governmental or other competent authority; or
 - (f) to the auditors, legal or professional or insurance advisors, underwriters or brokers of the Lessee or the Lessor who (A) shall have a need to have such knowledge of the same in connection with carrying out work related to the transaction contemplated by this Agreement and the other Transaction Documents and (B) shall be advised of the confidential nature of any such information supplied to them and shall be instructed to maintain the confidentiality of any information supplied to them; or
 - (g) in any manner contemplated by any of the Transaction Documents; or
 - (h) if the same is in the public domain or shall become publicly known otherwise than as a result of a breach by such party or by the receiving person or any other person to whom disclosure is made of this clause 26.1; or
 - (i) if the same is acquired independently from a third party without breach of that third party's obligations of confidentiality; or
 - (j) in the case of the Lessee, to any director, officer, employee, agent or representative of any Guarantor Group Member, the Time Charterer or the Approved Manager and its Affiliates, and, in the case of the Lessor, any director, officer, employee, agent or representative of any Lessor Group Member provided that in each case the Lessee or the Lessor shall procure that the party to whom such disclosure is made shall comply with the requirements of this clause,

provided that if the Confidential Information is provided by a party on the basis that it is to be kept confidential, but the party providing the information discloses it to another person on a non-confidential basis, then the receiving parties shall no longer be obliged to treat such information as confidential.

26.1.4 The Lessor and the Lessee shall be responsible for ensuring that where Confidential Information is disclosed to persons under clause 26.1.3 such persons shall keep the information confidential and shall not disclose or divulge the same to any unauthorised person.

27 Notices

27.1 General

Unless otherwise specifically provided, any notice under or in connection with this Agreement shall be given by letter or fax; and references in this Agreement to notices in writing and notices signed by particular persons shall be construed accordingly.

27.2 Addresses for communications

A notice shall be sent:

to the Lessee:

Seaspan Finance I Co. Ltd
Unit 2
7th Floor Bupa Centre
141 Connaught Road West
Hong Kong F4 0000
China

Fax No: +852 2450 1689

Attn: Gerry Wang

with a copy to:

Seaspan Management Services Limited
c/o 2600-200 Granville Street
Vancouver, BC
Canada V6C 1S4

Fax No: +604 648 9351 / +604 676 2296

Attn: Gerry Wang

to the Lessor:

Peony Leasing Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Fax No: +44 20 7012 9455

Attn: Head of Structured Marine Finance

or to such other address as the relevant party may notify the other.

27.3 Effective date of notices

Subject to clauses 27.4 and 27.5:

-
- 27.3.1 a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is received;
- 27.3.2 a notice which is sent by fax shall be deemed to be served, and shall take effect, upon the confirmed despatch by the sender.
- 27.4 Service outside business hours**
- However, if under clause 27.3 a notice would be deemed to be served:
- 27.4.1 on a day which is not a business day in the place of receipt; or
- 27.4.2 on such a business day, but after 5 p.m. local time,
the notice shall be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.
- 27.5 English language**
- Any notice under or in connection with this Agreement shall be in English.
- 27.6 Meaning of “notice”**
- In this clause “ **notice** ” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.
- 28 Supplemental**
- 28.1 Rights cumulative, non-exclusive**
- The rights and remedies which this Agreement and the other Transaction Documents give to the Lessor are:
- 28.1.1 cumulative;
- 28.1.2 may be exercised as often as appears expedient; and
- 28.1.3 shall not, unless this Agreement or any Transaction Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.
- 28.2 Severability of provisions**
- If any provision of this Agreement or any Transaction Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of this Agreement or that Transaction Document or of the provisions of any other Transaction Document.
- 28.3 Variations, waivers etc.**
- A document shall only be effective to vary, waive, suspend or limit any provision of this Agreement or any Transaction Document, or the Lessor’s or the Lessee’s rights or remedies under such a provision or the general law, if the document is signed, or specifically agreed to in writing by the Lessor and the Lessee.

28.4 Counterparts

This Agreement and any Transaction Document may be executed in any number of counterparts and one such counterpart executed by each of the parties thereto and, provided that all parties sign, each executed counterpart duly executed and delivered shall be deemed an original but taken together they shall constitute one instrument.

28.5 Set-off

The Lessee authorises the Lessor without prejudice to any of the Lessor's rights of set-off at law, in equity or otherwise, at any time after the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event and whilst it is continuing to set-off or withhold from any sum or sums expressed in the Lease Documents to be payable to the Lessee by the Lessor any amount due and payable but unpaid to the Lessor from the Lessee under the Lease Documents. The Lessor shall not be obliged to exercise any right given to it by this clause 28.5. The Lessor shall notify the Lessee upon the exercise or purported exercise by the Lessor of any right of set-off or withholding.

28.6 Further Assurance

As soon as practicable after any such request by the Lessor and at its own expense, the Lessee shall execute, sign, perfect and do any and every such further assurances, document, act or thing as is, in the reasonable opinion of the Lessor:

28.6.1 necessary to carry out the transactions contemplated by this Agreement and the other Transaction Documents; or

28.6.2 necessary to protect or enforce any of the Lessor's rights under this Agreement or the other Transaction Documents or title of the Lessor in the Ship.

28.7 Time of the essence

Subject to any periods of grace provided for by or referred to in this Agreement and the other Transaction Documents, time shall be of the essence as regards performance by the Lessee of its obligations under this Agreement and the other Transaction Documents.

28.8 Entire Agreement

As at the date of this Agreement, the Transaction Documents constitute the entire agreement between the parties in relation to the leasing of the Ship by the Lessor to the Lessee and supersedes all previous proposals, agreements and other written or oral communications in relation thereto.

28.9 Third party rights

With the exception of Indemnified Persons, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed. However, notwithstanding any term of this Agreement to the contrary, no variation of this Agreement, and no release or compromise of any liability hereunder and no termination by the Lessor of the leasing of the Ship or of its obligation hereunder to lease the Ship shall require consent or approval of any third party.

29 Law and Jurisdiction

29.1 English law

This Agreement shall be governed by, and construed in accordance with, English law.

29.2 Exclusive English jurisdiction

Subject to clause 29.3, the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and the Lessee irrevocably designates, appoints and empowers WFW Legal Services Limited of 15 Appold Street, London EC2A 2HB to receive for it and on its behalf service of process issued out of the English courts in connection with any such dispute.

29.3 Choice of forum

Clause 29.2 is for the exclusive benefit of the Lessor which reserves the rights:

29.3.1 to commence proceedings in relation to any matter which arises out of or in connection with this Agreement in the court of any country other than England which has jurisdiction in respect of that matter; or

29.3.2 to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

29.4 Lessee rights unaffected

Nothing in this clause 29 shall exclude or limit any right which the Lessor may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

29.5 Meaning of “proceedings”

In this clause 29, “**proceedings**” means proceedings of any kind, including an application for a provisional or protective measure.

THIS AGREEMENT has been executed by the parties to it on the date stated at the beginning of this Agreement.

Schedule 1
Financial Schedule

(see attached)

Schedule 2
Description of Ship

The Ship to be constructed by the Builder under the Novated Building Contract with Builder's Hull No. 1851 to the following approximate principal specifications as at the date of this Agreement and subject to alteration pursuant to any amendment to the Novated Building Contract in accordance with the terms and conditions of this Agreement and the other Lease Documents.

Length overall	268.5m
Length between perpendiculars	254.3m
Breadth (moulded)	35.0m
Depth (moulded) to upper deck	19.5m
Draught (design), moulded	11.0m
Classification Society	Det norske Veritas
Class	DNC, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V(3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport

Schedule 3
Part A—Form of Lessor Parent Support Letter (Lessee)

[On Bank of Scotland plc notepaper]

To: [Lessee]

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
UK Finance Lease for Samsung Hull no. [—] (the “Ship”)

We refer to the Lease of even date herewith between the Subsidiary and yourselves (the “**Lessee**”) relating to the Ship (the “**Lease**”). Terms defined in the Lease shall have the same meanings when used in this letter.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Lessee under the Transaction Documents.

In consideration of the Lessee agreeing to lease the Ship from the Subsidiary we confirm that throughout the term of the Transaction Documents we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Lessee arising from the Transaction Documents.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Lessee under the Transaction Documents, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Lessee and, if the Lessee so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Transaction Documents are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Lessee and so as to ensure that the Lessee shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Transaction Documents to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Without prejudice to or limitation of our other statements and undertakings in this letter, and our contractual obligations and liabilities in respect of the foregoing, nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Transaction Documents.

This letter is intended to create legal relations between us and will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

The Letter is confidential and shall not be disclosed to any party save as permitted by clause 26 of the Lease.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Part B—Form of Lessee Parent Support Letter (Builder)

[On Bank of Scotland plc notepaper]

To: Samsung Heavy Industries Co. Ltd.,
34th Floor, Samsung Life Insurance Seocho Tower
1321-15 Seoul
South Korea

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
Samsung Hull no. [—] (the “Ship”)

We refer to the Novation Agreement to be entered into on or about the date hereof between (among others) the Subsidiary and yourselves (the “**Builder**”) pursuant to which the Subsidiary will become the new buyer of the Ship under a Shipbuilding Contract dated [•] 2007 originally between Seaspans Corporation and the Builder. Such novated Shipbuilding Contract is herein referred to as the “**Contract**”.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Builder under the Contract.

We further confirm that throughout the term of the Contract we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Builder arising from the Contract.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Builder under the Contract, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Builder and, if the Builder so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Contract are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Builder and so as to ensure that the Builder shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Contract to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Contract.

This letter will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Schedule 4
Lessee's Condition Precedent Documents

Part A

Lessor's Conditions Precedent to the First Instalment

The following are the documents and actions referred to in clause 3.1.1 as conditions precedent to the obligations of the Lessor under this Agreement and the payment of the First Instalment pursuant to the Novated Building Contract and the Novation Agreement:

- 1 An original of this Agreement, the Novation Agreement, the Supervision Agreement, the Refund Guarantee, the Guarantee, the QEL, the General Assignment, the Indexation Relief Letter, the Tax Consultation Letter and the Non Discrimination Letter and each other Transaction Document to which the Lessor is or is then to be a party (and each notice or document required to be delivered by each such Transaction Document), each duly signed by all parties thereto.
- 2 Copies of the certificate of incorporation and constitutional documents of the Lessee, the Guarantor and the Supervisor.
- 3 Copies of resolutions of the directors and, if necessary for the purposes of obtaining the opinions referred to in paragraph 12 in form and substance satisfactory to the Lessor, the shareholders of the Lessee, the Guarantor and the Supervisor or equivalent documents authorising the execution of each of the Transaction Documents to which any of them is or is to be a party and authorising named persons to give all notices under this Agreement and each Transaction Document.
- 4 The original of any power of attorney under which any Transaction Document is executed on behalf of the Lessee, the Guarantor and the Supervisor.
- 5 Copies of any governmental or other third-party consents, licences, approvals, registrations and filings (“ **Consents** ”) necessary for any matter contemplated by the Lease Documents and for the legality, validity, enforceability, and admissibility in evidence and effectiveness thereof having been obtained or effected and remain in full force and effect, including, but not limited to, such Consents required to make any payment under any Transaction Document or evidence that no such Consents are required.
- 6 Certified true copies of the Building Contract, the Time Charter and all of the other Transaction Documents to which the Lessor is not a party which have been executed at such time and all documents to be delivered pursuant to each of such documents each duly signed by all parties.
- 7 Evidence reasonably acceptable to the Lessor of the amounts of all payments already made by the Original Purchaser under the Building Contract to the Builder together with details relating to each payment including what the payment was for and the date on which payment was made, and an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement.

-
- 8 Documentary evidence that the novation of the Building Contract contemplated in the Novation Agreement has or, simultaneously with the Lessor's obligations referred to in clause 3.1.1 becoming effective, shall become effective.
 - 9 Receipt by the Lessor of any fees, costs and expenses payable by the Lessee which are due for payment on or prior to the date for the payment of the First Instalment and which are not rentalised in the Financial Schedule.
 - 10 Documentary evidence that the agents for service of process in England appointed by the Lessee, the Guarantor, the Supervisor and the Time Charterer (as applicable) in relation to all Transaction Documents have accepted such appointment.
 - 11 Opinions from:
 - (a) Kim & Chang as special Korean legal counsel in relation to the Builder and the Refund Guarantor and the execution of the Novation Agreement by the Builder and the Refund Guarantee by the Refund Guarantor, and as to matters of Korean law;
 - (b) Cozen O'Connor, as special Marshall Islands legal counsel in relation to the Lessee, the Guarantor, this Agreement, the Novation Agreement, the Guarantee, and as to matters of Marshall Islands law,
 - (c) Conyers, Dill & Pearman, as special Bermudan legal counsel in relation to the Supervisor, the Supervision Agreement and as to matters of Bermudan law;
 - (d) Halpern Law Office, as special Japanese legal counsel in relation to the Time Charterer, the QEL and as to matters of Japanese law; and
 - (e) The Lessor's insurance advisers, Marsh, in respect of the insurance provisions of this Agreement and insurance arrangements with respect to the Ship and the Sister Ships generally,
each in form and substance satisfactory to the Lessor.
 - 12 If the Lessor reasonably requires, in respect of any of the documents referred to above which may be provided in a language other than English, a certified English translation prepared by a translator approved by the Lessor.
 - 13 The Lessee has confirmed that the conditions precedent to its obligations set out in Schedule 5 have been satisfied or waived by the Lessee.
 - 14 Completion of all relevant money laundering compliance checks by the Lessor in respect of the Lessee, the Replacement Purchaser, the Guarantor and any other relevant company, in accordance with the Lessor Group's current procedural requirements.

Part B

Lessor's Conditions Precedent to each Instalment

The Lessor shall have received each of the following, in form and substance satisfactory to the Lessor:

- 1 evidence that the relevant Instalment has fallen due for payment under the terms of the Novated Building Contract and the Novation Agreement, which evidence shall be constituted by notice from the Builder to the Supervisor (and copied to the Lessor) in accordance with clause 7.2 of the Novation Agreement;
- 2 evidence as to the amount of the relevant Instalment and the account to which it is to be paid, which evidence shall be constituted by an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement;
- 3 if the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, the other Lease Amounts and the amount of the Instalments previously paid, cause the Maximum Commitment to be exceeded, the Lessor shall have received the required amount to be paid by the Lessee to the Lessor as a Contribution Payment under clause 3.10 within the time permitted under clause 3.10;
- 4 confirmation from a duly authorised officer of each of the Lessee, the Replacement Purchaser, the Guarantor and the Supervisor that there has been no change in the constitutive documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended and in full force and effect; and
- 5 receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clause 3.2 of this Agreement have been satisfied.

Part C

Lessor's Conditions Precedent to the Final Instalment

The following are the documents referred to in clause 3.3.1:

- 1 An Intended Delivery Notice in accordance with the terms of this Agreement;
- 2 The commercial invoice of the Builder addressed to the Lessor in respect of the Final Instalment payable under the Novated Building Contract;
- 3 Drafts of the Builder's Certificate and the Protocol of Delivery and Acceptance together with drafts of certain of the other documents referred to in article VII of the Novated Building Contract and evidence that, at Delivery, originals of all these documents (where applicable, signed for the Builder) will be delivered to, or to the order of, the Lessor;
- 4 Evidence that the obligations of the Lessee under clauses 10.10, 13.2 and 13.3 of this Agreement will be complied with, as from Delivery;
- 5 Confirmation from the Supervisor that the Ship has been constructed in compliance with the terms of the Novated Building Contract and any minor works identified by the Supervisor in the Intended Delivery Notice which are to be rectified by the Builder after the Delivery Date; and
- 6 If the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, and the other Lease Amounts and the amount of the Instalments previously paid cause the Maximum Commitment to be exceeded, receipt by the Lessor of the required amount to be paid as a Contribution Payment under clause 3.10 within the period of time permitted by clause 3.10.

Part D

Lessor's conditions precedent to Delivery

The following are the documents referred to in clause 3.3.2:

- 1 Duly executed originals of the documents specified in Part C paragraph 3 of this Schedule;
- 2 Evidence that the Ship is duly registered under a flag referred to in clause 12.3 in the name of the Lessor;
- 3 Evidence that the Ship has been granted the classification referred to in clause 10.3.2 free of overdue conditions affecting the Ship's class unless waived;
- 4 Copies of any Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate and all other documents required at that time for the Ship pursuant to the ISM Code and ISPS Code;
- 5 Evidence that the obligations of the Lessee in relation to Insurances under clauses 13.2 and 13.3 of this Agreement have been complied with;
- 6 If so requested by the Lessor, an insurance report, paid for by the Lessee, from an independent adviser selected by the Lessor (subject to prior agreement on their fee) confirming that the Ship's Insurances comply with the requirements of clause 13;
- 7 Copies of any consents which are required to be obtained and maintained in respect of the Ship and its operation;
- 8 The certificate of delivery and acceptance in the form of schedule 7 to this Agreement duly signed by the Lessee, and a copy of the protocol of delivery and acceptance in the form required by the Time Charter signed by the Time Charterer;
- 9 Confirmation from a duly authorised officer of each of the Lessee, the Supervisor and the Guarantor that there has been no change in the constitutional or organisational documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended in full force and effect and that all the Transaction Documents to which they are a party remain in full force and effect;
- 10 Receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clauses 3.2 and 3.3 of the Lease Agreement have been satisfied;
- 11 Confirmatory opinions each confirming that the opinions expressed in the legal opinions issued pursuant to paragraph 14 of Part A of Schedule 4 need not be altered or modified in any way or, as the case may be, supplemental opinions in respect of any matters in respect of which such confirmations cannot be given in form and content acceptable to the Lessor; and

-
- 12 An opinion from counsel selected by the Lessor in the proposed flag state for the Ship, in relation to the registration of the Ship, in form and content acceptable to the Lessor.

General Note

- 1 All copies of documents to be provided under any part of this Schedule 4 must be certified to be true, complete and up-to-date as at the date of certification, and must be certified by an authorised signatory of the person providing such copies.
- 2 In the event that any of the representations and warranties on the part of any of the Lessee, the Replacement Purchaser, the Supervisor, the Time Charterer and/or the Guarantor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 5
Lessee's Pre-Delivery Condition Precedent Documents

The following are the documents referred to in clause 3.4:

- 1 An original of each Transaction Document to which the Lessor or the Lessor Parent is a party duly executed by the Lessor or, as the case may be, the Lessor Parent;
- 2 Copies of resolutions of the directors of the Lessor authorising execution of each of the Transaction Documents to which it is a party by the persons signing them;
- 3 Certified copies of any power of attorney under which any Transaction Document is executed on behalf of the Lessor; and
- 4 Evidence of the due execution by the Bank of the Lessor Parent Support Letter given in favour of the Lessee in a form satisfactory to the Lessee (acting reasonably).

Schedule 6
Form of Instalment Request

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated: [—]

Dear Sirs

Lease Agreement (the “Lease Agreement”) dated [—] 2007 relating to Samsung Hull No. [—]

We refer to the Lease Agreement and give you notice that the expected date for the [—] Instalment of the Purchase Price is [—] .

We further notify you that the payments due on that date [is/are] as follows:

[—]

We confirm that no Relevant Event has occurred which is continuing.

Words and expressions defined in the Lease Agreement shall have the same meanings when used in this Instalment Request.

For and on behalf of
[Lessee]

Schedule 7
Form of Certificate of Delivery and Acceptance

Pursuant to a lease agreement (the “**Lease**”) dated [—] 2007 made between (i) [—] Limited (the “**Lessor**”) and (ii) [—] (the “**Lessee**”) in respect of the m.v. “ [—] ” (the “**Ship**”), registered under the laws and flag of [—] with Official Number [—] and on the basis of the confirmation given by the Lessee in this Certificate, the Ship was delivered by the Lessor to the Lessee, and accepted by the Lessee from the Lessor, at [—] hours [GMT]/[BST] on [—] at [—] under, and in accordance with the terms and conditions of, the Lease.

The Lessee confirms that as at the date of this Certificate:

- (a) no Relevant Event has occurred and is continuing; and
- (b) the representations and warranties set out in clause 19 of the Lease are true and correct as if each was made with reference to the facts and circumstances existing at the date of this Certificate.

Dated: [—]

For and on behalf of
[Lessee]

Schedule 8
Form of Intended Delivery Notice

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated : [—]

Dear Sirs

m.v. “ [—] ”—Lease Agreement dated [—] 2007 (the “Lease”)

We refer to the Lease. Words and expressions defined in the Lease shall have the same meaning when used in this notice.

The Supervisor hereby advises you that the anticipated date of Delivery is [—] and confirms that the Ship is built in accordance with the Novated Building Contract [subject only to []]*.

The Lessee hereby requests the Lessor to take delivery of the Ship on that date, to make all necessary arrangements to fund the Final Instalment of the Purchase Price and to lease the Ship to the Lessee pursuant to the Lease (subject to any revised or replacement notice which may be served on the Lessor if the anticipated date of Delivery is postponed). The Lessee confirms that:

- (a) no Relevant Event has occurred and is continuing, either now or at the anticipated Delivery Date;
- (b) each of the representations and warranties contained in clause 19 of the Lease is true and correct by reference to the facts and circumstances now existing, and will be true and correct by reference to the facts and circumstances existing on the anticipated Delivery Date**.

Yours faithfully

for and on behalf of
[—], as Lessee

for and on behalf of
[—] as Supervisor

* [any qualifications disclosed to and agreed by the Lessor to be inserted] .

** In the event that any of the representations and warranties on the part of the Lessee or the Supervisor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 9
Form of Notice of Assignment of Builder Warranties

To: [Samsung]

Dated: []

m.v. “[—]”

[—] Limited (the “**Lessor**”), of which the principal mailing address is currently c/o Bank of Scotland Structured Asset Finance Limited, PO Box 39900, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB, the Lessor of the vessel currently under construction with yourselves (the “**Builder**”) having Builder’s Hull No. [—] (the “**Ship**”) **GIVES NOTICE** that by an assignment dated [] 2007 made by the Lessor in favour of [—] (the “**Assignee**”) we have assigned to the Assignee absolutely the full benefit of all guarantees, warranties and indemnities of every kind (the “**Warranties**”) to which we are entitled now or at any later time to, in or in connection with a Building Contract dated [—] (the “**Building Contract**”) made between the Builder and Seaspan Corporation, in respect of the construction and sale of the Ship as novated from Seaspan Corporation to the Lessor by a Novation Agreement dated [] 2007 (the “**Novation Agreement**”) and made between (i) the Builder, (ii) Seaspan Corporation, (iii) the Lessor and (iv) [—] (the Building Contract, as novated and amended by the Novation Agreement, the “**Novated Building Contract**”).

The Assignee is entitled, as from the Delivery Date, to exercise and enforce all rights in respect of the Warranties including without limitation the right to receive damages and other sums in connection with the Novated Building Contract (but subject always to any express provisions in the Novation Agreement) and the Lessor shall, unless the Lessor notifies the Builder in writing to the contrary, have no further responsibility or liability in respect of such matters.

The Lessor instructs the Builder to comply with the instructions contained in this notice until otherwise notified by both the Lessor and Assignee. Until such time the instructions contained herein are irrevocable.

This notice is governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice by delivering a copy endorsed as set out below to the Lessor and the Assignee.

For an on behalf of
[Lessor]

To: [—] Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London EC2M 3YB

Attention: Head of Structured Marine Finance

cc: [Lessee]

m.v. “[—]”

We hereby acknowledge receipt of the notice set out above and hereby confirm:

- 1 our agreement to the assignment referred to therein; and
- 2 that we have not received any other notice of assignment in respect of the same matter.

For and on behalf of
[Samsung]

Dated :

Schedule 10
Standby Loan Transaction Characteristics

Borrower:	a company in the Guarantor Group
Guarantor:	the Guarantor will guarantee the obligations of the Borrower in the same form as the Guarantee (but subject to such amendments to the financial covenants therein as may be determined during the Lessor Standby Lender Review)
Lender:	Bank of Scotland plc
Amount:	an amount equal to the Final Rental under the Lease Agreement
Currency:	US Dollars
Maturity Date:	the loan shall be fully repaid by the seventh (7th) anniversary of the Lease Period End Date
Interest:	US\$[1/3] month LIBOR plus Margin, payable [monthly/quarterly]
Margin:	110 bps
Repayments:	the repayments will be [monthly/quarterly] and calculated so as to amortise to a final principal repayment on the Maturity Date of an amount equal to 30% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)
Security:	in addition to the Guarantee referred to above, the Borrower shall grant to the Lender a mortgage over the Ship, an assignment over the earnings, insurances and requisition compensation, and such other Security as may be required by the Lessor, all in a form satisfactory to it
Documentation:	to be prepared by the Lender's legal counsel, based on the appropriate Loan Market Association form but adapted to reflect the provisions of the Lease Agreement (particularly in the case of representations and warranties, operational covenants, undertakings and indemnities, and events of default)
Costs:	for the account of the Borrower

The following additional provisions shall apply to any Standby Loan Transaction entered into pursuant clause 2.14:

Amount: an amount equal to the relevant Termination Sum under the Lease Agreement plus, in the case of any termination under clause 2.2.1(a), all further amounts to be advanced under the Standby Loan Agreement during the Construction Period in respect of the Contract Price

Repayment: the repayments will be calculated so as to amortise initially to an amount as at the original Lease Period End Date equal to 80% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)

**Standby Lender
Review:**

the Standby Lender Review referred to in clause 16 of the Lease Agreement shall continue to apply (mutatis mutandis) and, in the event of an adverse determination by the Lender, the Lender shall be entitled to require a repayment of the standby loan on the original Lease Period End Date

Schedule 11

Specimen Profit and Loss Account for Lessor
(referred to in clause 6.8)

[LESSOR NAME]
PROFIT AND LOSS ACCOUNT
FOR THE [YEAR] [[—] MONTHS] ENDED [date]

	<u>Note</u>	<u>[period]</u> <u>\$000</u>	<u>[period]</u> <u>\$000</u>
INCOME FROM FINANCE LEASES		[—]	[—]
Administrative expenses		([—])	([—])
OPERATING PROFIT		[—]	[—]
Interest payable and similar charges		([—])	([—])
PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION		[—]	[—]
Tax on profit on ordinary activities		([—])	([—])
PROFIT FOR THE FINANCIAL PERIOD		[—]	[—]

Specimen Balance Sheet for Lessor
(referred to in clause 6.4)

[LESSOR NAME]
BALANCE SHEED AS AT [date]

	<u>Note</u>	<u>200[—]</u> <u>\$000</u>	<u>200[—]</u> <u>\$000</u>
CURRENT ASSETS			
Debtors amounts falling due:			
within one year		[—]	[—]
after one year		<u>[—]</u>	<u>[—]</u>
Total Debtors		[—]	[—]
CREDITIORS: amounts falling due within one year		<u>([—])</u>	<u>([—])</u>
NET CURRENT ASSETS		[—]	[—]
CREDITORS: amounts falling due after more than one year			
PROVISIONS FOR LIABILITIES AND CHARGES		<u>([—])</u>	<u>([—])</u>
NET ASSETS		<u>[—]</u>	<u>[—]</u>
CAPITAL AND RESERVES			
Called up equity share capital		[—]	[—]
Profit and loss account		<u>[—]</u>	<u>[—]</u>
EQUITY SHAREHOLDERS' FUNDS		<u>[—]</u>	<u>[—]</u>

LESSOR

SIGNED by

for and on behalf of
PEONY LEASING LIMITED
in the presence of:

Jus Lyall
Norton Rose LLP SE1
Associate

)
)
)
)
)

/s/ Keith Roderick Glasscoe

Keith Roderick Glasscoe

LESSEE

SIGNED by

for and on behalf of
SEASPAN FINANCE I CO. LTD.
in the presence of:

)
)
)
)
)

/s/ Hanno Erwes

Hanno Erwes
Attorney-In-Fact

Dated December 27, 2007

PEONY LEASING LIMITED (1)
as Lessor

and

SEASPAN FINANCE I CO. LTD. (2)
as Lessee

LEASE AGREEMENT
in respect of one 4520 TEU container carrier
to be built at Samsung Heavy Industries Co.,
Ltd
with Hull No. 1852

 **NORTON ROSE**

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THIS AGREEMENT is made on December 27, 2007,

BETWEEN

- (1) **PEONY LEASING LIMITED**, a company incorporated in England and Wales with company number 4442275 and whose registered office is at PO Box 39900, Level 7, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB (the “**Lessor**”); and
- (2) **SEASPAN FINANCE I CO. LTD.**, a corporation incorporated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the “**Lessee**”).

BACKGROUND

This Agreement sets out the terms and conditions on which the Lessor will acquire and lease to the Lessee, and the Lessee will take on lease, the Ship.

IT IS AGREED as follows:

1 Interpretation

1.1 Definitions

Subject to clause 1.6, in this Agreement:

“**Adjustment Date**” has the meaning given to that term in the Financial Schedule;

“**Adjustment Period**” has the meaning given to that term in the Financial Schedule;

“**Agreed Form**” in relation to any document, means that document in form, substance and terms approved in writing by the Lessor and the Lessee and any other Transaction Company which is a signatory thereto or otherwise in accordance with any such other approval procedure detailed in any relevant provision of this Agreement and any Lease Document;

“**Approved Flag State**” means each of the states described in clause 12.3.1 together with any other state or country approved by the Lessor pursuant to clause 12.5.2;

“**Approved Manager**” means Seaspan Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM11, Bermuda, or such other company as the Lessor may from time to time approve (such approval not to be unreasonably withheld or delayed, and such approval to be given in the case of any first class ship manager/operator nominated by the Lessee);

“**Arrangement Fee**” has the meaning given to such term in the Financial Schedule;

“**Assumptions**” has the meaning given to such term in the Financial Schedule;

“**Auditors**” means KPMG or such other firm of appropriately qualified accountants as may be the Lessor’s auditors from time to time;

“**Bank**” means Bank of Scotland plc a company incorporated in Scotland with company number SC 327000 and having its registered office at The Mound, Edinburgh, EH1 1YZ;

“ **Broken Funding Benefits** ” has the meaning given to such term in the Financial Schedule;

“ **Broken Funding Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Builder** ” means Samsung Heavy Industries Co., Ltd., a company incorporated in Korea with its principal place of business at 34th Floor, Samsung Life Insurance Seocho Tower 1321-15, Seocho-Dong, Seocho-Gu, Korea;

“ **Building Contract** ” means the contract dated 29 November 2007 for construction of the Ship signed by the Guarantor (as “Buyer”) and the Builder;

“ **Business Day** ” means a day (other than a Saturday or Sunday) on which banks are open for business in London, New York, Hong Kong, Vancouver and (during the Construction Period only) Seoul;

“ **Buyer’s Supplies Reimbursement Amount** ” means the amount payable by the Lessor to the Supervisor pursuant to clause 4.5(a) of the Supervision Agreement;

“ **CAA** ” means the Capital Allowances Act 2001;

“ **Capital Commitment Fee Letter** ” means the letter so called issued or to be issued in respect of the capital commitment fee relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Certificate of Delivery and Acceptance** ” means the certificate in the form of schedule 7 to be executed by the Lessee upon the delivery of the Ship in accordance with clause 3.11;

“ **Certificate of Financial Responsibility** ” has the meaning attributed to it in clause 9.3(d);

“ **Change of Law** ” means, in each case after the date of this Agreement:

- (a) the implementation, introduction, abolition, withdrawal or variation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by the Bank of England, the European Union or any central bank or tax, fiscal, revenue, monetary, governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (b) any change in any interpretation, or the introduction or making of any new or further interpretation, or any new or different interpretation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by any court, tribunal, governmental, local, international, national or other competent authority or agency or the Bank of England, the European Union or any central bank or tax, fiscal, revenue or monetary authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (c) compliance with any new or different request or direction from the Bank of England, the European Union or any central bank, tax, fiscal, regulatory monetary, revenue,

governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary);

“ **Classification Society** ” means Det Norske Veritas, the American Bureau of Shipping, Germanischer Lloyd or the Lloyds Register of Shipping or, with the prior written approval of the Lessor, any other classification society which is a member of IACS;

“ **Commitment Expiry Date** ” means 30 December 2011 or such later date as the Lessor may agree;

“ **Commercially Burdensome** ” has the meaning given to such term in clause 2.2.2;

“ **Compulsory Acquisition** ” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Ship by any Government Entity or other competent authority, whether de jure or de facto but shall exclude requisition for use or hire not involving a requisition for title;

“ **Construction Period** ” means the period commencing on the Effective Date and ending on the earlier of (i) the Delivery Date or (ii) the date on which any further novation referred to in clause 2.3 occurs;

“ **Contract Price** ” means eighty two million eight hundred and eleven thousand Dollars (US\$82,811,000) as the same may be adjusted from time to time in accordance with the provisions of the Novated Building Contract;

“ **Contribution Payment** ” means a payment by the Lessee to the Lessor in accordance with clause 3.10 by way of capital contribution to the Lessor’s Total Expenditure of an amount in Dollars equal to the aggregate amount by which the aggregate of Lessor’s Total Expenditure already paid by the Lessor and the amount next due in respect of the Lessor’s Total Expenditure would otherwise exceed the Maximum Commitment on the date on which such next payment in respect of Lessor’s Total Expenditure is to be incurred;

“ **Contribution Payment Request** ” means a notice given by the Lessor to the Lessee under clause 3.10.2 of this Agreement;

“ **Corporation Tax** ” has the meaning given to such term in the Financial Schedule;

“ **Default Rate** ” means the rate of interest determined by the Lessor, and certified by it to the Lessee, to be the aggregate of:

(a) two per cent (2%) per annum; and

(b) LIBOR;

“ **Delivery** ” means the time at which the Lessor delivers the Ship to the Lessee pursuant to clause 3, and “ **Delivered** ” shall be construed accordingly;

“ **Delivery Date** ” means the date on which Delivery occurs (anticipated to be 30 December 2010);

“ **Dollar Equivalent** ” has the meaning given to such term in the Financial Schedule;

“ **Dollars** ” and “ **\$** ” means the lawful currency from time to time of the United States of America and in respect of all payments to be made under this Agreement, means immediately available, freely transferable funds;

“ **Economically Burdensome** ” has the meaning given to such term in the Financial Schedule;

“ **Effective Date** ” means the date on which the conditions specified in clause 3.1.1 and, if payment of an Instalment is being made simultaneously with or immediately after the novation of the Building Contract, clause 3.2 are satisfied and the novation of the Building Contract takes effect in accordance with clause 3 of the Novation Agreement;

“ **Environmental Approval** ” means any permit, licence, certificate, filing, consent, authorisation, or any other approval required at any time by any Environmental Law;

“ **Environmental Claim** ” means any claim by any person which arises out of or in connection with an Environmental Incident or an alleged Environmental Incident or any breach of, or non-compliance with, or which otherwise relates to any Environmental Law or Environmental Approval and, for the purposes of this definition, “ **claim** ” includes any threatened claim which may reasonably be considered as likely to develop into an actual claim;

“ **Environmental Incident** ” means:

- (a) any release, discharge or emission of Environmentally Sensitive Material from the Ship other than any of the foregoing which the Lessee, acting reasonably, considers not to be material in the context of this Agreement and which is not reasonably likely to give rise to an Environmental Claim; or
- (b) any incident in which Environmentally Sensitive Material is released, discharged or emitted from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or is reasonably likely to be arrested, attached, detained or enjoined and/or the Ship and/or the Lessee or any Manager and/or any sub-lessee, time charterer, operator or other manager is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, discharged or emitted otherwise than from the Ship and in connection with which the Ship is actually and/or is reasonably likely to be arrested and/or where the Lessee or any Manager and/or any operator, time charterer, or other manager of the Ship is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action;

“ **Environmental Law** ” means any or all laws applicable or relating to pollution or contamination or protection of the environment, to the generation, manufacture, processing, distribution, use or misuse, treatment, storage, disposal, carriage or holding of Environmentally Sensitive Material or to actual or threatened emissions, releases, spillages or discharges of Environmentally Sensitive Material;

“ **Environmentally Sensitive Material** ” means liquefied natural gas, oil, oil products and any other element or substance whether natural or artificial and whether consisting of gas, liquid, solid or vapour (including any chemical, gas or other hazardous or noxious substance) which is or is capable of becoming polluting, toxic, hazardous, harmful or damaging to mankind or the environment or any living organism;

“ **Excluded Event** ” means any of:

- (a) a Change of Law or a change in GAAP; or
- (b) any action or inaction effected or required under or pursuant to any provision of this Agreement or the other Transaction Documents; or
- (c) anything requested or consented to by the Lessee or any Guarantor Group Member; or
- (d) any failure by the Lessee or any Guarantor Group Member to supply information reasonably requested by the Lessor or required to be given under the Transaction Documents; or
- (e) any act or omission of any party to the Transaction Documents or their affiliates (other than the Lessor or any Lessor Group Member);

“ **Financial Indebtedness** ” means, in relation to a person (the “debtor”), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a lease or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

but excludes any liability under a fully non-recourse project finance facility;

“ **Financial Schedule** ” means the financial schedule set out in Schedule 1;

“ **Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Further Novation Event** ” means any of the events or circumstances described in clause 17.3;

“ **Further Novation Notice** ” means a notice which the Lessor (as new purchaser) may issue to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement or, as the case may be, a notice which the Builder may issue to the Lessor and the Replacement Purchaser pursuant to clause 6.2 of the Novation Agreement;

“ **General Assignment** ” means the assignment dated on or about the date hereof pursuant to which the Guarantor and the Lessee (as assignors) assign to the Lessor (as assignee) the benefit of (i) the Time Charter and any other earnings of the Ship, (ii) the Insurances, and (iii) any Requisition Compensation;

“ **Government Entity** ” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant;

“ **Guarantee** ” means the guarantee issued or to be issued by the Guarantor in favour of the Lessor in respect of the obligations of, the Lessee, the Manager, the Supervisor and the Replacement Purchaser under the Transaction Documents;

“ **Guarantor** ” means Seaspan Corporation, a company incorporated in the Republic of the Marshall Islands with its principal office at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F4 000, People’s Republic of China;

“ **Guarantor Group** ” means each of the Guarantor and any company which is a Subsidiary of the Guarantor from time to time;

“ **Guarantor Group Member** ” means as at the date hereof and from time to time any member of the Guarantor Group;

“ **HMRC** ” means H.M. Revenue & Customs;

“ **Holding Company** ” in relation (i) to a company incorporated in England and Wales, has the meaning given in Section 736 Companies Act 1985 and (ii) in relation to a company or other person incorporated or formed outside England and Wales means a company or other person of which such company is the Subsidiary;

“ **IACS** ” means the International Association of Classification Societies;

“ **ICTA** ” means the Income and Corporation Taxes Act 1988;

“ **Indemnified Person** ” means the Lessor, the Bank, any other Lessor Group Member and their respective officers, directors, secondees, agents and employees;

“ **Indexation Relief Letter** ” means the letter so called issued or to be issued in respect of indexation relief relating to this Agreement addressed by the Lessor to the Lessee;

“ **Instalment** ” means each instalment of the Purchase Price, being:

- (a) the instalment of the Contract Price payable on the date upon which the Novation Agreement becomes effective, referred to as the “First Instalment” in article II.4(a) of the Novated Building Contract, in an amount of \$17,702,200 (the “ **First Instalment** ”);

-
- (b) the instalment of the Contract Price payable on any date between 19 December 2007 and 31 December 2007, referred to as the “Second Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$56,827,700, together with such additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the date of the Second Instalment (the “**Second Instalment**”); and
- (c) the instalment of the Contract Price referred to as the “Delivery Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$8,281,100, together with such other additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the Delivery Date (the “**Final Instalment**”),

or such other dates (up to the Commitment Expiry Date) or amounts (subject to the Maximum Commitment) to be agreed by the Lessor and the Lessee or, as the case may be, the Lessor and the Supervisor;

“**Instalment Date**” means the date for the payment of each Instalment and the expressions “**First Instalment Date**”, “**Second Instalment Date**”, and “**Final Instalment Date**” shall be construed accordingly (the Instalment Date relating to the date for the payment of the Final Instalment being the Delivery Date);

“**Instalment Request**” means a notice to be sent by the Lessee to the Lessor requesting the payment of an instalment in the form of Schedule 6;

“**Insurances**” means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are from time to time in place or taken out or entered into or which are required to be put in place or taken out or entered into in respect of the Ship or otherwise in relation to it pursuant to clause 13; and
- (b) all benefits, rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and claims of whatsoever nature,

provided however that this shall not include any policies and contracts of insurance which are or may be effected by the Lessor as referred to in clause 13.21 or by the Lessor pursuant to clause 18.9 following the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event;

“**Intended Delivery Notice**” means a notice addressed by the Lessee and the Supervisor to the Lessor, substantially in the form of Schedule 8;

“**Irrecoverable VAT**” has the meaning given to such term in the Financial Schedule;

“**ISM Code**” means the International Safety Management Code (including the guidelines on its implementation) adopted by the International Maritime Organisation Assembly as Resolutions A. 741(18) and A. 788(19) and incorporated into SOLAS as the same may be

amended or supplemented from time to time and all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or may in the future be issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code;

“ **ISPS Code** ” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation Assembly as the same may have been or may be amended or supplemented from time to time;

“ **Lease Amounts** ” means the amounts payable by the Lessor pursuant to clause 3.7 of this Agreement;

“ **Lease Documents** ” means this Agreement, the Certificate of Delivery and Acceptance, the Novated Building Contract, the Refund Guarantee, the QEL, the Guarantee, the Indexation Relief Letter, the Novation Agreement, the Supervision Agreement, the Tax Consultation Letter, the Non Discrimination Letter, the General Assignment, the Pooling Benefits Letter, the Capital Commitment Fee Letter, the Pre-Tax Loss Letter, the Technical Note Letter and any other document, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of any of the foregoing and to which the Lessor is a party and any other documents, notice, letter or instrument designated as a Lease Document by the Lessor and the Lessee;

“ **Lease Period** ” means the period during which the Lessee is entitled under the terms of this Agreement to possession and use of the Ship commencing on the Delivery Date and ending on the earlier of:

- (a) the Lease Period End Date; and
- (b) the date of termination of the leasing of the Ship under this Agreement;

“ **Lease Period End Date** ” means the date falling four years and three hundred and sixty days after the Delivery Date;

“ **Lease Rental Date** ” has the meaning given to such term in the Financial Schedule;

“ **Lease Termination Date** ” means the date on which the leasing of the Ship by the Lessor to the Lessee terminates under this Agreement, being:

- (a) the Lease Period End Date; or
- (b) where the leasing of the Ship ends following the occurrence of a Total Loss, the Total Loss Payment Date; or
- (c) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) by virtue of the fact that the leasing of the Ship pursuant to this Agreement has become Economically Burdensome, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(a), being a date not less than five (5) Business Days after service of that notice; or
- (d) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) for any reason other than that specified in paragraph (c) above, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(b) being a date no less than thirty (30) days after service of that notice; or

- (e) where the leasing of the Ship ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
- (f) where the leasing of the Ship ends pursuant to clause 18.2, by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
- (g) where the leasing of the Ship ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee by the Lessor pursuant to clause 24.1;

“ **Lessor** ” includes the successors and permitted assigns and transferees of the Lessor;

“ **Lessor Breach** ” means any breach by the Lessor or any Lessor Group Member and their respective agents, assigns, directors, officers, secondees and servants (each a “ **Lessor Party** ”) of its obligations, warranties or representations to the Lessee under the Transaction Documents to which the relevant Lessor Party is a party, but excluding any breach resulting from any act or omission of:

- (a) the Lessee, any Transaction Company or any person which derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of a Lessor Party;
- (b) a Lessor Party, that arises as a result of the failure of the Lease or any Transaction Company to duly and punctually perform all its obligations under any Transaction Document; or
- (c) a Lessor Party, that arises as a result of a breach of any of the express representations or express warranties of the Lessee or any Transaction Company;

“ **Lessor Group Member** ” means any member of the Lessor’s Group other than the Lessor;

“ **Lessor Misconduct** ” means any act or omission of the Lessor or any Indemnified Person, (excluding any act or omission of the Lessee or any Transaction Company, or any Person who derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of the Lessor or any Indemnified Person) which constitutes:

- (a) wilful misconduct;
- (b) reckless misconduct with:
 - (i) the intent to cause damage; or
 - (ii) actual knowledge that damage would probably result;

“ **Lessor Parent Support Letters** ” means the letters issued or, as the context may require, to be issued by the Bank:

- (a) in favour of the Lessee in the form set out in Schedule 3A; and
- (b) in favour of the Builder in the form set out in Schedule 3B,

and, in the singular, means either of them; and

“ **Lessor’s Group** ” means the Lessor and its ultimate Holding Company and any company which is a Subsidiary of such Holding Company from time to time;

“ **Lessor’s Legal Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Lessor’s Management Time** ” means the amount of time which any director or employee of the Lessor or any Lessor Group Member (other than those employees whose functions are of an administrative or clerical nature) spends or anticipates in good faith will be spent in connection with the taking of any actions, the consideration of any requests and/or the entering into of any discussions by the Lessor in accordance with this Agreement and the other Transaction Documents as shall be notified to the Lessee by the Lessor (provided however that this shall not include time spent on routine transactional management or on administrative or clerical matters);

“ **Lessor’s Management Time Cost Rate** ” means £300 per hour plus RPI, or as otherwise notified by the Lessor to the Lessee from time to time, acting reasonably;

“ **Lessor’s Security Interest** ” means any Security Interest on the Ship, its earnings, the Insurances or any Requisition Compensation which arises as a result of:

- (a) any claim against or affecting the Lessor that is not related to, or does not arise directly or indirectly as a result of, the transactions contemplated by this Agreement or any of the other Transaction Documents; or
- (b) any act or omission of the Lessor which is unrelated to or does not arise directly or indirectly as a result of the transactions contemplated by this Agreement and the other Transaction Documents; or
- (c) any Taxes imposed upon the Lessor other than those in respect of which the Lessor or any other Indemnified Person is required to be indemnified against by the Lessee or by any other person under this Agreement or under any of the other Transaction Documents;

“ **Lessor’s Total Expenditure** ” means:

- (a) for the purposes of paragraph (a) of the definition of Maximum Commitment, all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and, in respect of amounts payable in any other currency, means the Dollar Equivalent of such amounts; and
- (b) for the purposes of paragraph (b) of the definition of Maximum Commitment, the aggregate of all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and each of the Sister Ships (as such expressions are defined in, as the case may be, this Agreement or the relevant Sister Ship Lease Agreement);

“ **Lessor’s Underwriting Fee** ” has the meaning given to that term in the Financial Schedule;

“ **LIBOR** ” has the meaning given in the Financial Schedule;

“ **Losses** ” means any and all losses, costs, charges, expenses, fees, interest, commissions, payments, demands, claims, actions, proceedings, liabilities, penalties, fines, judgments, damages, orders, liens, salvage and general average or other sanctions other than Taxes, and except also those excluded by clause 7.5, and the expression “Loss” shall be construed accordingly;

“ **Major Casualty** ” means a casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$5,000,000 or the equivalent in another currency;

“ **Manager** ” means the Approved Manager or any Replacement Manager;

“ **Mandatory Prepayment Event** ” means any of the events or circumstances described in clause 17.2;

“ **Maximum Commitment** ” means each of:

- (a) \$85,811,000 in respect of the Lessor’s Total Expenditure on the Ship; and
- (b) \$400,000,000 in aggregate in respect of the Lessor’s Total Expenditure on the Ship and each of the Sister Ships,

in each case exclusive of any United Kingdom Value Added Tax payable under the law in force in the United Kingdom at the date of this Agreement, Provided however that:

- (i) during the period between the date of this Agreement and 31 December 2007, the Maximum Commitment under paragraph (b) above shall be limited to an aggregate of \$226,000,000; and
- (ii) if any Sister Ship Lease Agreement terminates (the “ **Terminated Lease** ”) pursuant to clauses 2.2 or 2.5 thereof prior to the date on which Delivery shall have occurred under this Agreement and all of the other Sister Ship Agreements (as “ **Delivery** ” is defined therein), for the purposes of paragraph (b) of the definition of Lessor’s Total Expenditure there shall be disregarded all amounts paid by the Lessor under the Terminated Lease by way of Purchase Price and Lease Amounts (as defined therein);

“ **Net Sale Proceeds** ” means in relation to a sale of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the amount of the consideration actually and unconditionally received by the Lessor from a purchaser of the Ship upon such sale and any non-refundable deposit paid to or for the account of the Lessor by a person acquiring or proposing to acquire the Ship under a contract or offer to purchase the Ship or other agreement to acquire the Ship which has been withdrawn, terminated or cancelled or has lapsed;

after deducting:

- (i) any VAT for which the Lessor is required to account in respect of such sale; and
- (ii) the Lessor’s costs and out-of-pocket expenses, excluding Recoverable VAT on such expenses, properly incurred in connection with such sale (including but not limited to brokers’ commissions, legal fees, registration fees and stamp duties) or properly incurred in recovering possession of or in moving, insuring, maintaining, laying up or dry-docking the Ship and in carrying out any repairs, works or modifications required to restore the Ship to the condition required by this Agreement or required pursuant to any sale and purchase agreement in respect of the Ship;

“ **Net Total Loss Proceeds** ” means, in relation to a Total Loss of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the Total Loss Proceeds actually and unconditionally received by the Lessor after deducting the Lessor’s costs and out-of-pocket expenses (excluding Recoverable VAT on such expenses) reasonably incurred by the Lessor in connection with the collection of such proceeds;

“ **Non Discrimination Letter** ” means the letter agreement so called issued or to be issued in relation to this Agreement addressed by the Lessor to the Lessee;

“ **Notice Response Date** ” shall have the meaning attributed thereto in clause 16.2;

“ **Novated Building Contract** ” means the Building Contract as novated and amended by the Novation Agreement;

“ **Novation Agreement** ” means the novation agreement entered or to be entered into in respect of the Building Contract and made between (i) the Builder, (ii) the Lessor, (iii) the Guarantor (as “Original Purchaser”) and (iv) the Lessee (as “Replacement Purchaser”);

“ **Permitted Security Interests** ” means:

- (a) Security Interests created by the Transaction Documents;
- (b) Lessor’s Security Interests;
- (c) liens for unpaid crew’s wages;
- (d) liens for salvage;
- (e) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (f) liens for master’s disbursements incurred in the ordinary course of trading;
- (g) other liens arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship and which secure amounts not exceeding five million Dollars (\$5,000,000) where the Lessee is contesting the claim giving rise to such lien in good faith by appropriate steps and for the payment of which adequate reserves have been made in case the Lessee finally has to pay such claim so long as any such proceedings shall not, and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;
- (h) any Security Interest created in favour of a claimant or defendant in any action of the court or tribunal before whom such action is brought as security for costs and expenses where the Lessee is prosecuting or defending such action in good faith by appropriate steps or which are subject to a pending appeal and for which there shall have been granted a stay of execution pending such appeal and for the payment of which adequate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of, the Ship or any interest in the Ship; and

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- (i) Security Interests arising by operation of law in respect of Taxes which are not overdue for payment or Taxes which are overdue for payment but which are being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;

“ **Pooling Benefits Letter** ” means the letter so called issued or to be issued in respect of any pooling benefits relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Pre-Delivery Termination Date** ” means the date on which the Lessor’s obligation to acquire the Ship pursuant to the Novated Building Contract and lease the Ship to the Lessee terminates, being:

- (a) where the obligation of the Lessor to acquire the Ship and lease the Ship to the Lessee ends by virtue of the fact that the transaction has become Economically Burdensome or the Lessee has determined that the transaction has become Commercially Burdensome, the date specified in the notice served on the Lessor by the Lessee pursuant to clause 2.2.1;
- (b) if the Ship becomes a Total Loss, the earlier of the date on which the Supervisor (acting on behalf of the Lessor and in accordance with the Supervision Agreement) agrees with the Builder that the damage shall not be repaired and that the Novated Building Contract shall be deemed to be rescinded and all amounts paid by the Lessor thereunder (together with interest thereon) be refunded by the Builder or, where no agreement is reached by the Builder and the Supervisor, the date falling six (6) months after the occurrence of the Total Loss;
- (c) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice;
- (d) where a Further Novation Event occurs, the date stipulated in the notice served on the Replacement Purchaser by the Lessor pursuant to clause 18.3.1; and
- (e) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee pursuant to clause 24.1;

“ **Pre-Tax Loss Letter** ” means the letter so called issued or to be issued in respect of any pre-tax loss relating to this Agreement addressed by the Lessor to the Lessee;

“ **Purchase Price** ” means the price for the Ship payable by the Lessor under the Novation Agreement and the Novated Building Contract, which price shall be reduced by any amounts payable by the Builder to the Lessor under article III.2 (*Adjustment of Contract Price - Speed*), article III.3 (*Adjustment of Contract Price - Fuel Consumption*), article III.4 (*Adjustment of Contract Price - Deadweight*), article III.5 (*Adjustment of Contract Price - Container Capacity*) of the Novated Building Contract, but shall not be reduced by any amounts payable by the Builder to the Lessor under article III.1 (*Adjustment of Contract Price - Delivery*) of the Novated Building Contract;

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- “ **QEL** ” means the quiet enjoyment letter in respect of the Ship between the Lessor and the Time Charterer;
- “ **Recoverable VAT** ” means any amounts paid or payable by or on behalf of the Lessor in respect of Value Added Tax which is not Irrecoverable VAT;
- “ **Refund Guarantee** ” means the refund guarantee issued or, as the context may require, to be issued by the Refund Guarantor in favour of the Lessor pursuant to the Novation Agreement;
- “ **Refund Guarantor** ” means National Agricultural Cooperative Federation, a company organised and existing in Korea, with its principal place of business at West Gate P.O.BOX 50, Seoul, Korea;
- “ **Relevant Event** ” means any Termination Event, Mandatory Prepayment Event or Further Novation Event, or any event which only with the passage of time, the giving of any notice or the fulfilment of any other condition (or a combination thereof) would constitute a Termination Event, Mandatory Prepayment Event or Further Novation Event;
- “ **Rental** ” has the meaning given to such term in the Financial Schedule;
- “ **Replacement Manager** ” means any company which the Lessor may approve from time to time as the manager of the Ship pursuant to clause 10.11;
- “ **Requisition Compensation** ” means all sums of money or other compensation from time to time payable in respect of the Compulsory Acquisition of the Ship;
- “ **Review Notification Date** ” means the date falling four (4) months after the commencement of the Standby Lender Review Period;
- “ **Revised Cash Flow** ” has the meaning given to that term in the Financial Schedule;
- “ **Saving on Funding Costs** ” has the meaning given to that term in the Financial Schedule;
- “ **Security Interest** ” means:
- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
 - (b) the rights of the claimant under an action in rem in which the ship concerned has been arrested or a writ has been issued or similar step taken; and
 - (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which person (B) would have been had person (B) held a security interest over an asset of person (A), but this paragraph (c) does not apply to a right of set-off or combination of accounts arising by operation of law or conferred by the standard terms of business of a bank or financial institution and which has not been exercised;

“ **Ship** ” means the vessel currently under construction with the Builder pursuant to the Novated Building Contract and having Builder’s Hull Number 1852 to be sold by the Builder to the Lessor pursuant to the Novated Building Contract and to be registered in the name of the Lessor as and from the Delivery Date and includes any share or interest therein, as the same is more particularly described in Schedule 2 and includes its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, and everything belonging or appurtenant to it whether on board or ashore (including, for the avoidance of doubt, any depot spares and other spare parts and other such items purchased by the Lessor under the Novated Building Contract) together with any and all substitutions, replacements and renewals of any of them and any and all substitutions therefor and replacements and renewals thereof and any additions thereto from time to time made in accordance with the provisions of this Agreement and any of the foregoing which, having been removed from it, remain the property of the Lessor pursuant to this Agreement and any additions thereto which have not been removed and have become the Lessor’s property in accordance with clause 11.4;

“ **Ship’s Software** ” means all computer software which is required for the operation of the Ship, including, but not limited to, navigation software;

“ **Sister Ship** ” and “ **Sister Ships** ” mean any or all (as the case requires) of the vessels currently under construction with the Builder identified as Hull numbers 1851, 1853, 1854, and 1855;

“ **Sister Ship Lease Agreements** ” means the lease agreements entered into on, or at any time after, the date of this Agreement in respect of each of the Sister Ships between the Lessor and the Lessee;

“ **Sister Ship Time Charters** ” means the time charters defined in each of the Sister Ship Lease Agreements as the “Time Charter”;

“ **Sister Ship Transaction Documents** ” means the documents defined as “ **Transaction Documents** ” in each of the Sister Ship Lease Agreements;

“ **SOLAS** ” means International Convention for the Safety of Life at Sea, 1974, with Protocol 1978 and Amendments of 1981, 1983, 1988, 1991, 1992, 1994, 1996, 1998, 2000, 2002, 2003 and 2004 as the same may be further amended or supplemented, consolidated or replaced from time to time;

“ **Standby Lender** ” means the Bank or such other company in the Lessor’s Group as shall be nominated by the Lessor for such purpose;

“ **Standby Lender Review** ” means the review which the Standby Lender is entitled to undertake pursuant to clause 16.1;

“ **Standby Lender Review Period** ” means the period commencing on the date falling six (6) months prior to the Lease Period End Date applicable to whichever of the Ship and the Sister Ships is the first vessel to be Delivered (as defined in this Agreement or, as the case may be, the relevant Sister Ship Agreement), and expiring on the Review Notification Date;

“ **Standby Loan Transaction** ” means a transaction with the characteristics described in Schedule 10;

“ **Subsidiary** ” means:

- (a) in respect of a person incorporated or formed outside England and Wales, any company or entity directly or indirectly controlled by such person, and for this purpose “control” means either the ownership of more than fifty (50) per cent. of the voting share capital (or equivalent rights of ownership) of such company or entity or the power to direct its policies and management whether by contract or otherwise; and
- (b) in respect of a person incorporated in England and Wales, a subsidiary within the meaning of Section 736 Companies Act 1985;

“ **Supervision Agreement** ” means the supervision agreement entered or to be entered into in respect of the construction of the Ship and made between (i) the Supervisor and (ii) the Lessor;

“ **Supervision Costs** ” means the amount payable by the Lessor to the Supervisor under clause 4.5(b) of the Supervision Agreement;

“ **Supervisor** ” means the Approved Manager, in its capacity as the “Supervisor” pursuant to the Supervision Agreement;

“ **Tax** ” includes all present and future taxes, levies (whether by deduction, withholding or otherwise), imposts, duties, or charges of a similar nature (or any amount payable on account of or as security for any of the foregoing), including, but not limited to, income tax, corporation tax, VAT, stamp duty, customs and other impost or export duty or excise duty, imposed by any statutory, governmental, national, international, state or local taxing or fiscal authority, body or agency or department whatsoever or any central bank, monetary agency or European Union institution, whether in the United Kingdom or elsewhere together with interest thereon and any additions, fines, surcharges, penalties in respect thereof or relating thereto and “ **Taxes** ” and “ **Taxation** ” shall be construed accordingly;

“ **Tax Consultation Letter** ” means the letter issued or to be issued in relation to this Agreement regulating the conduct of matters between the Lessor and HMRC or any other tax authority in respect of the transactions represented by the Transaction Documents addressed by the Lessor to the Lessee;

“ **Tax Written Down Value** ” has the meaning given to such term in the Financial Schedule;

“ **Technical Note Letter** ” means the letter agreement of that name issued or to be issued in relation to this Agreement addressed from the Lessor to the Lessee;

“ **Termination Amount** ” means the aggregate of the Termination Sum and the Termination Fee (if any);

“ **Termination Date** ” means, as the context may require, the Pre-Delivery Termination Date or the Lease Termination Date;

“ **Termination Event** ” means any of the events or circumstances described in clause 17.1;

“ **Termination Fee** ” has the meaning given in the Financial Schedule;

“ Termination Payment Date ” means:

- (a) in the case of a voluntary termination pursuant to clause 2.2, the Pre-Delivery Termination Date;
- (b) in the case of a voluntary termination pursuant to clause 2.5, the Lease Termination Date;
- (c) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.1, the Pre-Delivery Termination Date;
- (d) in the case of any termination of the leasing of the Ship pursuant to clause 18.1, the Lease Termination Date;
- (e) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.2, the Pre-Delivery Termination Date;
- (f) in the case of any termination of the leasing of the Ship pursuant to clause 18.2, the Lease Termination Date; and
- (g) in the case of the occurrence of a Further Novation Event, the Pre-Delivery Termination Date; and
- (h) in the case of a Total Loss, the Total Loss Payment Date;

“ Termination Sum ” has the meaning given to such term in the Financial Schedule;

“ Time Charter ” means the time charter agreement in respect of the Ship dated on or about the date hereof and entered into between the Guarantor and the Time Charterer;

“ Time Charterer ” means Kawasaki Kisen Kaisha, Ltd., a company incorporated in Japan;

“ Total Loss ” means:

- (a) an actual, constructive, compromised or arranged total loss of the Ship; or
- (b) any Compulsory Acquisition of the Ship; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to the Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Ship be released and restored to the Lessee or the Lessor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof; or
- (d) the expiry of one (1) year (or such longer period as the Lessor and the Lessee may agree) after the Ship shall have been requisitioned for hire or use by a Government Entity or other competent authority, whether de jure or de facto;

“ Total Loss Date ” means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;

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- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earlier of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Lessor with all of the relevant insurers of the Ship at the relevant time in which the said insurers agree to treat the Ship as a total loss; and
 - (c) in the case of a Compulsory Acquisition the date on which the requisition for title or other Compulsory Acquisition occurs; and
 - (d) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, the date upon which the relevant hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation constitutes a Total Loss (as stipulated by paragraphs (c) and (d) of the definition of “Total Loss”);

“ **Total Loss Payment Date** ” means, following the occurrence of a Total Loss, the earliest of the following dates to occur:

- (a) the date falling 120 days after the Total Loss Date or such later date as the Lessor may agree; or
- (b) the date on which the Lessor receives the Total Loss Proceeds or any Requisition Compensation;

“ **Total Loss Proceeds** ” means the proceeds of any policy or contract of insurance arising in respect of a Total Loss actually and unconditionally received by the Lessor following a Total Loss of the Ship;

“ **Total Vessel Cost** ” has the meaning given to such term in the Financial Schedule;

“ **Transaction Companies** ” means the Lessee, the Guarantor, the Supervisor (but only for so long as it owes any obligations to the Lessor under the Supervision Agreement), and the Replacement Purchaser (but only for so long as it owes any obligations to the Lessor under the Novation Agreement) and, in the singular, means any one of them;

“ **Transaction Documents** ” means the Lease Documents, the Time Charter, the Lessor Parent Support Letters and any other document, agreement, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of, as a pre-condition of, or otherwise in connection with any of the foregoing and any other document, agreement, acknowledgement, notice, letter or instrument designated as a Transaction Document by the Lessor and the Lessee;

“ **United Kingdom** ” or “ **UK** ” means United Kingdom of Great Britain and Northern Ireland;

“ **US Transportation Tax** ” means the 4% Tax imposed by the US on a foreign corporation’s US source gross transportation income for any tax year or any similar or equivalent Tax replacing or introduced in addition to the same;

“ **Value Added Tax** ” or “ **VAT** ” means:

- (a) value added tax of the United Kingdom as provided for in the VATA including legislation (delegated or otherwise) supplementary thereto, and any similar or substituted tax, or any tax imposed, levied or assessed in the United Kingdom on added value or turnover; and
- (b) any similar tax imposed, levied or assessed in any jurisdiction outside the United Kingdom; and

“ **VATA** ” means the Value Added Tax Act 1994;

1.2 Construction of certain terms

In this Agreement:

“ **consent** ” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisisation and legalisation;

“ **excess risks** ” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies or the ordinary collision clause in respect of the Ship in consequence of her insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“ **law** ” includes any form of delegated legislation, any order or decree, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

“ **person** ” includes any company or unincorporated legal entity, any state, political sub-division of a state and local or municipal authority and any international organisation and reference to any person shall include its successors, permitted assignees and permitted transferees in accordance with their respective interests;

“ **policy** ” in relation to any insurance includes a slip, cover note, certificate of entry or other documents evidencing the contract of insurance or its terms;

“ **protection and indemnity risks** ” means the usual risks covered by a full owner’s entry in a protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies;

“ **regulation** ” includes, without limitation, any regulation, rule, official directive, request or guideline (either having the force of law or compliance with which is customary in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and

“ **war risks** ” includes the risk of mines, all risks covered by the English Institute War and Strikes Clauses or any equivalent provision and all insurable risks excluded under the war and terrorism risks exclusion clauses or equivalent under the rules of the protection and indemnity club or association with whom the protection and indemnity risks cover is placed from time to time.

1.3 Meaning of “month”

A period of one or more “ **months** ” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (the “ **numerically corresponding day** ”), but:

- 1.3.1 on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
 - 1.3.2 on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;
- and “ **month** ” and “ **monthly** ” shall be construed accordingly.

1.4 General interpretation

In this Agreement:

- 1.4.1 references in clause 1.1 to a document being in the form of a particular Schedule include references to that form with any modifications to that form which the Lessor and the Lessee agree in writing;
- 1.4.2 references to, or to a provision of, a Transaction Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise with the consent of the Lessor;
- 1.4.3 references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- 1.4.4 words denoting the singular number shall include the plural and vice versa;
- 1.4.5 references to clauses and Schedules are, unless otherwise stated, references to clauses of and schedules to this Agreement;
- 1.4.6 clauses 1.1 to 1.4 apply unless the contrary intention appears; and
- 1.4.7 in relation to an entity which is not a corporation, reference to “incorporated” and cognate expressions shall be deemed to be references to its formation and establishment under applicable law.

1.5 Headings

The clause headings shall not affect the interpretation of this Agreement.

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- 1.6 Conflicts**
If any conflict arises or exists between the provisions of this Agreement and any of the other Lease Documents, the provisions of this Agreement shall prevail.
- 2 Lease**
- 2.1 Lease Period**
Subject to and upon the terms and conditions of this Agreement, the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, and will be entitled to the full possession and use of, the Ship for a period commencing on the Delivery Date and ending on the Lease Period End Date.
- 2.2 Voluntary termination prior to Delivery**
- 2.2.1 If at any time prior to Delivery:
- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome; or
 - (b) the Lessee has determined that the transaction contemplated by the Transaction Documents has become Commercially Burdensome (as evidenced by a certificate issued by a director or officer of the Lessee),
- the Lessee shall be entitled to terminate the agreement by the Lessor to acquire the Ship pursuant to the Novated Building Contract and to lease the Ship to the Lessee pursuant to this Agreement and the agreement by the Lessee to lease the Ship from the Lessor, by giving written notice to the Lessor in accordance with the provisions set out in clauses 2.2.3 and 2.2.4 below.
- 2.2.2 The transaction contemplated by the Transaction Documents shall be regarded as being “ **Commercially Burdensome** ” when the Lessee determines that it is no longer compatible with the commercial strategy of the Lessee and as a consequence the Lessee has good commercial reasons for wishing to terminate the transaction, provided however that the Lessee shall not be deemed to have a good commercial reason for terminating the transaction if primarily motivated by, or the termination is for the purposes of, the Lessee entering into any alternative financing arrangement with respect to the Ship with any other financier.
- 2.2.3 Any notice given by the Lessee pursuant to this clause 2.2 shall be irrevocable and shall state whether it is given pursuant to clause 2.2.1(a) or clause 2.2.1(b) and, in the case of a notice given pursuant to clause 2.2.1(b) above, shall attach a certificate from a director or officer of the Lessee certifying that the transaction contemplated by the Transaction Documents is Commercially Burdensome, which shall be conclusive as to the opinion of the Lessee.
- 2.2.4 The Lessee shall give at least:
- (a) five (5) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(a); and

- (b) thirty (30) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(b);

2.2.5 If a Mandatory Prepayment Event shall occur prior to Delivery or a Further Novation Event shall occur in each case which is continuing, the Lessor may exercise its rights under clause 18.2 or, as the case may be, clause 18.3 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.2, whereupon the provisions of clause 2.2.6 and 2.3 shall apply.

2.2.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount equal to the Termination Amount as at that date as determined in accordance with clause 18.4, together with all other moneys then due and payable but unpaid by the Lessee to the Lessor under the Lease Documents.

2.3 Further novation on voluntary termination before Delivery

If (a) the Lessee gives notice pursuant to clause 2.2 or (b) the Lessee is deemed to have given notice pursuant to clause 2.2 in accordance with the provisions of clause 18.3 to terminate the agreement to lease the Ship under this Agreement during the Construction Period or (c) the Lessor gives notice pursuant to clause 18.1 to terminate the agreement to lease the Ship during the Construction Period (and (in the case of clause 2.3(a)) the Lessor has received payment of all amounts owing to the Lessor by the Lessee under clause 18.4 in cleared funds in accordance with the payment instructions therefor and without conditions attached) the Lessor shall promptly give a Further Novation Notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

2.4 Continuation of Construction Period

Notwithstanding anything to the contrary contained in this Agreement, if the Lessee gives notice or is deemed to have given notice to terminate the agreement to lease the Ship under this Agreement during the Construction Period pursuant to clause 2.2, the Construction Period will continue until and end on the date on which the further novation referred to in clause 2.3 occurs.

2.5 Voluntary termination after Delivery

2.5.1 At any time after Delivery the Lessee is entitled to terminate the leasing of the Ship by the Lessor to the Lessee under this Agreement by giving written notice to the Lessor.

2.5.2 If:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome, the Lessee shall give at least five (5) Business Days notice of the proposed Lease Termination Date; and
- (b) in all other circumstances, the Lessee shall give at least thirty (30) days notice of the proposed Lease Termination Date.

2.5.3 Any notice given by the Lessee pursuant to clause 2.5.1 and 2.5.2 shall, subject to clause 2.5.7:

- (a) be irrevocable;

(b) state whether it is given pursuant to clause 2.5.2(a) or 2.5.2(b); and

(c) be given in respect of an imminently proposed sale.

2.5.4 If a Mandatory Prepayment Event shall occur which is continuing, the Lessor may exercise its rights under clause 18.2 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.5, whereupon the provisions of clause 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.5 If the Lessor issues a notice to the Lessee pursuant to clause 24 to terminate the Lease Period, such termination shall be treated as constituting a voluntary termination in accordance with this clause 2.5 whereupon the provisions of clauses 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount as determined in accordance with the provisions of clause 18.4.

2.5.7 Notwithstanding the service by the Lessee of a notice terminating the leasing of the Ship in accordance with clauses 2.5.1 and 2.5.2, if, after the service of such notice, the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee in each case as at the proposed Lease Termination Date, the leasing of the Ship shall continue as if such notice had not been issued.

2.5.8 If the Lessee is treated as having given a notice terminating the leasing of the Ship pursuant to clause 2.5.4 or 2.5.5 and the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee as at the applicable Lease Termination Date, the leasing of the Ship shall nevertheless terminate on the Lease Termination Date.

2.6 Continuation of Lease Period

Notwithstanding anything to the contrary in this Agreement, from the Lease Termination Date until the earlier of (i) the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 and (ii) the date on which the Ship is redelivered to the Lessor pursuant to clause 15 the Lessee shall continue in possession of the Ship as the Lessor's agent under a bailment terminable by the Lessor at will with no right of quiet enjoyment as between the Lessor and the Lessee (but otherwise without prejudice to its rights under clause 2.8 and to receive rebates of Rental under this Agreement); and as a term of its appointment as the Lessor's agent it shall continue to perform all its obligations under this Agreement as if the Lease Period were still continuing.

2.7 Terms and Conditions of sale

Any sale of the Ship pursuant to clause 2.8 (but not, for the avoidance of doubt, pursuant to clause 2.9) will be on the following terms and conditions and shall otherwise be completed in accordance with the provisions set out below:

2.7.1 the sale will be at a cash price payable by the purchaser to the Lessor in full on completion of that sale in Dollars or such other currency as the Lessor may agree (such agreement not to be unreasonably withheld or delayed);

2.7.2 the sale will be on the best terms (including price) which, in the opinion of a reputable firm of independent ship valuers and surveyors experienced in the container carrier sector, are reasonably obtainable on the open market on an “as is, where is” basis taking into account where continuing, the Time Charter and any charter of the Ship at that time which shall have been notified to the Lessor and approved by the Lessor pursuant to clause 10.17 and which is intended to continue (and is capable of continuing) after the date of sale and the termination of the bailment to the Lessee under this Agreement;

2.7.3 the sale may be to any person other than:

- (a) the Time Charterer, the Lessee or any other person to whom the Ship has at any time been leased or sub-leased; or
- (b) any person who is purchasing in trust for any of the parties referred to in (a); or
- (c) any other person to whom, by virtue of a Change of Law occurring after the date of this Agreement, a sale is certified by the Lessor (the “**Lessor’s Certificate**”) as being reasonably likely to result in the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship provided however that if the Lessee does not agree with the Lessor’s Certificate it shall be entitled to require the Lessor to obtain promptly a written opinion from leading tax counsel (“**Counsel**”) (in accordance with the provisions of clause 2.7.3(g)) stating whether or not the Lessor’s Certificate is correct;
- (d) if Counsel is of the opinion that the Lessor’s Certificate is incorrect, then the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, without the provision of any further security to the Lessor;
- (e) if Counsel is of the opinion that the Lessor’s Certificate is correct, the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) and (b) above, conditional upon the Lessee having first provided to the Lessor additional security of such appropriate amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any cost or expense on the End Date (as defined in the Financial Schedule);
- (f) if the Lessee notifies the Lessor in writing that it does not require the Lessor to obtain an opinion from Counsel, it shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, provided that it shall have first provided to the Lessor additional security of such amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim

capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any such cost or expense on the End Date (as defined in the Financial Schedule);

- (g) the Lessee shall be entitled to require the Lessor to obtain the opinion of Counsel chosen for the foregoing purpose by agreement between the Lessor and the Lessee (or in the absence of agreement by the Chairman of the Bar Council whom the Lessor and the Lessee shall instruct for that purpose). A consultation with Counsel shall be arranged expeditiously after the Lessor receives notification from the Lessee that it requires Counsel's opinion on the Lessor's Certificate. Counsel shall be instructed on the basis of instructions prepared by the Lessor's legal advisers in consultation with the Lessee and its legal advisers (with the intent that the Lessee and its legal advisers shall have a reasonable opportunity to consider and contribute to such instructions). The Lessee and its legal advisers shall be entitled to attend any consultation with Counsel save that the Lessee and its professional advisers shall withdraw from such consultation at the request of the Lessor for so long as, in the reasonable opinion of the Lessor, matters which are confidential or of a sensitive nature having regard to the business of the Lessor, or which relate to the confidential affairs of a third party, are to be discussed during such consultation. The cost of Counsel's opinion shall be for the account of the Lessee save where Counsel is of the opinion that the Lessor's Certificate is incorrect, in which case it shall be for the account of the Lessor;

- 2.7.4 the terms of the sale will include a warranty on the part of the Lessor that the Lessor will pass such title to the Ship as the Lessor has acquired pursuant to the Novated Building Contract free of Lessor's Security Interests, but otherwise shall be without any representation, recourse or warranty whatsoever to or on the part of the Lessor;
- 2.7.5 the Lessee, for its own account, may give any warranties reasonably required by the purchaser of the Ship in accordance with market practice for the sale of vessels of a similar type, design and age as the Ship;
- 2.7.6 the terms of the sale will include, subject to the consent of the Builder pursuant to the Novated Building Contract, an assignment by the Lessee of any unexpired portion of any assignable warranties and indemnities referred to in clause 6.5;
- 2.7.7 the sale will be on an "as is, where is and with all faults" basis and governed by the laws of England;
- 2.7.8 if the proposed sale provides for delivery of the Ship by the Lessor, such obligation is conditional on the Ship first being redelivered to the Lessor;
- 2.7.9 the sale will be for delivery on, or if for any reason a sale is not possible on that date as soon as reasonably practicable after, the termination date specified in the notice served by the Lessee pursuant to clause 2.5;
- 2.7.10 the sale will exclude, so far as permitted by the laws of England and any other laws governing or applicable to the sale of the Ship, all liability of the Lessor, in contract or tort, in relation to the Ship to the same extent as such liabilities are excluded by clause 6 except for the warranty given by the Lessor referred to in clause 2.7.4; and

2.7.11 if the Ship is at the date of entry into any contract for the sale of the Ship subject to any requisition for hire or (where continuing) the Time Charter or any other chartering of the Ship which shall have been notified to, and approved by the Lessor pursuant to clause 10.17 and which is continuing as at such date notwithstanding the termination of the bailment to the Lessee the sale will be subject to such requisition or any such other chartering of the Ship.

2.8 Sales agency

2.8.1 In respect of any sale of the Ship to be conducted:

- (a) following a termination of the leasing of the Ship pursuant to clause 2.5.2(a) or 2.5.2(b) (Voluntary Termination after Delivery) or any deemed voluntary termination of the leasing of the Ship pursuant to clause 24.3; or
- (b) on the Lease Period End Date; or
- (c) following any termination of the Lease Period pursuant to clause 18.1 (Termination Rights); or
- (d) following any termination of the Lease Period pursuant to clause 18.2 (Mandatory Prepayment);

the Lessor irrevocably appoints the Lessee to act as the agent of the Lessor for the purpose of negotiating the sale of the Ship on the terms set out in clause 2.7 subject to and upon the limitations set out in clauses 2.8.4 to 2.8.8 and the Lessor agrees that, until termination of such agency pursuant to clause 2.8.3 or 2.8.4, the Lessee shall continue to be empowered to negotiate a sale of the Ship, which shall then be concluded in the manner described in clauses 2.8.6 and 2.8.7.

2.8.2 The appointment of the Lessee as the sales agent of the Lessor shall commence on:

- (a) the date on which the Lessee notifies the Lessor that it wishes to terminate the leasing of the Ship in accordance with clause 2.2 or 2.5.2; and
- (b) on the date on which the Lessee is deemed to have exercised its rights of voluntary termination in accordance with clauses 2.5.4 or 2.5.5 following the issue by the Lessor of a notice pursuant to any of clauses 18.2 or 24; and
- (c) in the case of a termination of the leasing by the Lessor pursuant to clause 18.1, on the date on which the Lessor serves notice on the Lessee pursuant to clause 18.1; and
- (d) in any other circumstance, on the fourth anniversary of the Delivery Date,

and shall terminate on the earlier of (i) the date on which the Net Sale Proceeds are actually and unconditionally received and applied in accordance with clause 2.10 or (ii) the date on which the Lessor terminates the appointment of the Lessee pursuant to clause 2.8.3 below or (iii) in any event, and without any action being required by the Lessor, the fifth anniversary of the Delivery Date.

2.8.3 The Lessor shall be entitled to terminate the sales agency under clause 2.8.1 or, as the case may be, clause 2.8.2 by means of written notification to the Lessee:

- (a) at any time after notice is given under clause 18.1 or clause 18.2 and in each such case where the Lessee shall have failed to pay to the Lessor the Termination Amount and any other sums then due to the Lessor which are payable by the Lessee pursuant to clause 18.4 and such failure continues unremedied for a period of five (5) Business Days, unless the notice pursuant to 18.1 is given in respect of the occurrence of any of the events referred to in clauses 17.1.9 or 17.1.11 in relation to any of the Lessee or the Guarantor in which case the Lessor shall be entitled to terminate the sales agency with immediate effect; and

- (b) subject to paragraph (c) below, the date falling six (6) months after the applicable Lease Termination Date, if no sale of the Ship has been completed by that time; and
- (c) the date falling one day before the fifth anniversary of the Delivery Date, if no sale of the Ship has been completed by that time;

whereupon in the case where the Lessee's sales agency rights have been terminated in accordance with the provisions of this clause 2.8.3, the Lessor shall be entitled to repossess the Ship in accordance with clause 18.5 and the provisions of clause 2.9 shall apply.

- 2.8.4 The appointment of the Lessee as the Lessor's sales agent shall be on the basis that the Lessee is the Lessor's sole and exclusive agent from the date on which it is appointed until 45 days prior to the fifth anniversary of the Delivery Date at which point the Lessee shall continue as agent on a non-exclusive basis and the provisions of clause 2.8.10 shall apply.
- 2.8.5 The appointment of the Lessee as sales agent will constitute a full discharge by the Lessor of its obligations under clause 18.6 to use reasonable endeavours to sell the Ship for the period while such appointment is continuing.
- 2.8.6 The Lessee's authority is limited to the extent that the Lessee is not authorised to sell the Ship or to approve or execute on behalf of the Lessor any document relating to the sale of the Ship for which the Lessor's specific written authority will be required, which authority will not be unreasonably withheld or delayed where:
 - (a) the sale complies with the provisions of clause 2.7; and
 - (b) the sale price of the Ship exceeds the Tax Written Down Value.
- 2.8.7 Subject to clause 2.8.6 the Lessor agrees that, at the cost and expense of the Lessee, on reasonable notice it will complete the sale of the Ship and it shall execute any agreement, protocol of delivery and acceptance and/or bill of sale for, and any other documentation reasonably requested by the Lessee in respect of, the sale of the Ship which complies with the provisions of clause 2.7.
- 2.8.8 The Lessee will supply the Lessor with details of any offer received and keep the Lessor fully informed of the status of any negotiations for the sale of the Ship.
- 2.8.9 The Lessee is entitled to delegate its rights and duties under this clause 2.8 to any Guarantor Group Member without the approval of the Lessor or to such other person as the Lessor may approve, such approval not to be unreasonably withheld or delayed in relation to a first-class independent shipbroker and, in each case, on the basis that no further delegation shall be permitted without the Lessor's prior written approval.

2.8.10 In the event that by the date falling 45 days prior to the fifth anniversary of the Delivery Date (the “**Non-Exclusive Date**”), no arrangements have been concluded for the sale of the Ship on or before the Lease Period End Date and, in the opinion of the Lessor, no such arrangements are likely to be concluded, and subject to the sales agency not having terminated earlier under clause 2.8.3 prior to the Non-Exclusive Date, the Lessee will, if so required by the Lessor or the Lessee may, on notice to the Lessor, arrange a public auction of the Ship as soon as reasonably practicable after the Non-Exclusive Date and in any event by no later than the fifth anniversary of the Delivery Date (the “**Auction Sale Date**”). For the avoidance of doubt, notwithstanding that the Lessee is arranging an auction in accordance with this clause 2.8.10 the Lessee may nevertheless continue as the Lessor’s sales representative to endeavour to arrange for a private treaty sale of the Ship provided the same is completed by the Auction Sale Date and complies with the terms of clauses 2.7 and 2.8. The Lessor and the Lessee or any nominees or designee of either of them may bid at such auction and any sale resulting therefrom shall constitute a sale of the Ship if it otherwise complies with the other provisions of this Agreement

2.9 Sale of the Ship following any termination of the Lessee’s sales agency rights

If the Lessee’s right to act as sales agent is terminated pursuant to clause 2.8.2 or 2.8.3, the Lessor (as between the Lessor and the Lessee) shall have the sole right to determine the means, timing and the terms of the sale of the Ship (including by public auction) and clause 2.7 shall not apply to any such sale.

2.10 Application of Net Sale Proceeds

Upon the Ship being delivered to and accepted by a purchaser of the Ship, the leasing of the Ship under this Agreement shall terminate and the Net Sale Proceeds shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to 0.01% of the Net Sale Proceeds;

SECOND: in or towards payment to the Lessor of amounts equal to all or any part of the Termination Amount which, as at the date of the receipt by the Lessor of the Net Sale Proceeds, has not been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

2.11 Shortfalls

If the Net Sale Proceeds fall short of the aggregate of the amounts payable by the Lessee and described in FIRST, SECOND and THIRD of clause 2.10 the Lessee, on the date of receipt by the Lessor of the Net Sale Proceeds, shall pay to the Lessor an amount equal to the amount of that shortfall by way of additional Rental.

2.12 Payments to Lessee

Any payment to the Lessee under clause 2.10 in accordance with the paragraph entitled “FOURTH” shall be made reasonably promptly but in any event within five (5) Business Days after the date of actual and unconditional receipt by the Lessor of the Net Sale Proceeds.

2.13 Termination of obligation to pay Rental

With effect on and from the date of the Ship being delivered to and accepted by a purchaser following a sale of the Ship or the redelivery of the Ship pursuant to clause 15.1, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's accrued and contingent obligations pursuant to this Agreement including, without limitation, paragraph 5 of the Financial Schedule.

2.14 Standby Loan

In the event that the Lessee has given a notice of termination pursuant to clauses 2.2.1(a) or 2.5.2(a), and has also given a corresponding notice under clauses 2.2.1(a) or 2.5.2(a) of each of the Sister Ship Agreements specifying the same Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date), the Lessee shall be entitled to require that the Lessor procures that the Standby Lender enters into a Standby Loan Transaction in respect of the Ship and all of the Sister Ships (but not some only) and, subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction on such Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date) or as soon as reasonably practicable thereafter.

3 Conditions Precedent generally and to payment of Instalments and Delivery**3.1 Pre-delivery conditions to be fulfilled by Lessee**

3.1.1 All of the obligations of the Lessor under this Agreement and the obligations of the Lessor under the Novation Agreement and the Supervision Agreement including to pay the First Instalment are subject to the receipt by the Lessor of the documents described in Part A of Schedule 4 and the documents described in paragraph 5 of Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the First Instalment Date and in any event on or before 31 December 2007 or such other date to be agreed between the Lessee and Lessor.

3.1.2 The Lessor's obligation under this Agreement to pay the Second Instalment is subject in addition to receipt by the Lessor of the documents described in Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the Second Instalment Date.

3.2 Further Conditions to be fulfilled by Lessee in respect of each Instalment

The obligations of the Lessor to pay any Instalment and, in the case of the Final Instalment, to lease the Ship to the Lessee under this Agreement are further subject to the further conditions that:

3.2.1 the Lessor shall have received an Instalment Request not later than 11:00 a.m. (London time) on the third Business Day (in the case of the First and Second Instalments) prior to the relevant proposed date for payment of that Instalment by the Lessor pursuant to the Novation Agreement or, as applicable, the Novated Building Contract and the sixth Business Day (in the case of the Final Instalment) prior to the Delivery Date (or in any such case, such shorter period as the Lessor and the Lessee shall agree); and

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- 3.2.2 as at the Effective Date and each Instalment Date (including the Delivery Date):
- (a) no Relevant Event has occurred which is continuing; and
 - (b) each of the representations and warranties contained in clause 19 of this Agreement and in clause 4 of the Guarantee is then true and correct by reference to the facts and circumstances then existing.

3.3 Delivery conditions and covenants to be fulfilled by Lessee

- 3.3.1 The obligation of the Lessor to pay the Final Instalment pursuant to article II of the Novated Building Contract and the Supervision Costs on the Delivery Date is subject to the receipt by the Lessor of the documents described in Part C of Schedule 4 in form and substance satisfactory to the Lessor not less than four (4) Business Days before the Delivery Date (or such shorter period as the Lessor and the Lessee shall agree).
- 3.3.2 The Lessee undertakes to provide to the Lessor such of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor as are available no less than two (2) Business Days before the Delivery Date. The Lessee undertakes to provide to the Lessor the remainder of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor on or before the Delivery Date, save for such of them as may only be available upon Delivery (which for the avoidance of doubt the Lessee acknowledges should be limited to the protocol of delivery and acceptance to be delivered pursuant to the Novated Building Contract and the documents listed at item 8 of Part D of Schedule 4).
- 3.3.3 The Lessee shall keep the Lessor fully advised of the anticipated date of delivery of the Ship.

3.4 Pre-delivery conditions to be fulfilled by Lessor

The obligations of the Lessee under this Agreement are subject to the receipt by the Lessee of the documents described in Schedule 5 in form and substance satisfactory to the Lessee not less than two (2) Business Days prior to the date specified in clause 3.1 unless waived by the Lessee in writing to the extent not so satisfied.

3.5 Further Conditions to be fulfilled by Lessor

During the Construction Period the Lessor shall comply with the terms of the Novation Agreement, the Supervision Agreement and the Novated Building Contract and, subject to no Relevant Event having occurred and the Lessee not having exercised its rights under clause 2.2, the Lessor shall not:

- 3.5.1 terminate, cancel, rescind or treat as repudiated the Novation Agreement and/or the Supervision Agreement, and/or the Novated Building Contract; or
- 3.5.2 effect, grant or agree any amendment, variation, waiver or release in respect of the obligations of the Builder under the Novated Building Contract or assign or transfer its rights or obligations under the Novated Building Contract other than in accordance with the terms of the Novation Agreement or the Supervision Agreement.

3.6 Waivers

The requirements of clauses 3.1, 3.2 and 3.3 which are for the benefit of the Lessor alone, may be waived by the Lessor in whole or in part and with or without conditions and, if the Lessor agrees to give such a waiver on terms that any condition may be fulfilled after the due date for its fulfilment, the Lessee (unless the Lessor shall have expressly agreed otherwise in writing) shall procure that such condition is fulfilled within thirty (30) days after that due date (or such greater period as the Lessor may specify in writing), and the Lessor shall be entitled to treat any failure by the Lessee to procure the fulfilment of any such condition as a Termination Event.

3.7 Payment of Purchase Price etc.

Subject to satisfaction of the relevant conditions referred to in clauses 3.1, 3.2 and 3.3 and to the satisfaction of the conditions set out in clause 3.11, in each case at the time then due or agreed to be due, the Lessor agrees:

3.7.1 to pay the First Instalment of the Contract Price pursuant to the Novation Agreement and each other Instalment of the Contract Price pursuant to the Novated Building Contract (in each case in the amount and at the time described therein);

3.7.2 to pay when due to the Supervisor the Supervision Costs and the Buyer's Supplies Reimbursement Amount payable pursuant to clause 4.5 of the Supervision Agreement;

3.7.3 to pay on the First Instalment Date:

(a) the Arrangement Fee; and

(b) the Lessor's Legal Costs and the costs of the Lessor's insurance advisers,

each in an amount as agreed and in accordance with the payment details specified in the invoices received by the Lessor from the arranger and from the Lessor's legal and insurance advisers on or before the First Instalment Date; and

3.7.4 to pay the Lessor's Underwriting Fee on the First Instalment Date.

3.8 No set-off

The Lessor is not entitled to set-off or withhold from the Contract Price any amounts due or expressed to be due from the Lessee or any other Guarantor Group Member.

3.9 Alterations to payment amounts

Each of (a) the Instalments of the Contract Price payable pursuant to the Novation Agreement (in the case of the First Instalment) and the Novated Building Contract (in the case of the other Instalments) shall be in the amounts set out in, or calculated in accordance with, the Novation Agreement and/or (as the case may be) the Novated Building Contract and (b) the Supervision Costs and Buyer's Supplies Reimbursement Amount payable in accordance with the Supervision Agreement shall be in the amount set out in, or calculated in accordance with, the Supervision Agreement, in each such case as amended and supplemented from time to time in accordance with any relevant provisions of the Transaction Documents.

3.10 Contributions

- 3.10.1 The Lessor shall notify the Lessee if at any time the aggregate of the Lessor's Total Expenditure has reached or, taking account of the next payment or payments in respect of the Lessors' Total Expenditure, will reach the Maximum Commitment and in circumstances where the aggregate of the Lessor's Total Expenditure and the Lessor's projected expenditure exceeds or is likely to exceed the Maximum Commitment (a " **Commitment Shortfall** ") the Lessor shall notify the Lessee promptly and in any event not later than two (2) Business Days before required, that a Contribution Payment will be required.
- 3.10.2 Any notice from the Lessor requiring a Contribution Payment shall specify the amount of the Contribution Payment due from the Lessee and the scheduled date for payment thereof, being no later than one (1) Business Day prior to the date on which the Lessor is to make payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, before the date on which the Lessor is required to procure the issuing of a payment undertaking from the Bank in accordance with article II.5(c) of the Novated Building Contract, and will be accompanied by documentation evidencing the amount of the Contribution Payment, to the best of the Lessor's then estimation. Each such notice shall constitute a " **Contribution Payment Request** ".
- 3.10.3 If and so often as the Lessee receives a Contribution Payment Request under clause 3.10.2, the Lessee shall pay to the Lessor an amount equal to the Contribution Payment requested by the Lessor in the applicable Contribution Payment Request to the Lessor's account as specified in the Contribution Payment Request, to be received not less than one (1) Business Day prior to the date on which the Lessor is to make the payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, not less than one (1) Business Day before the date on which the Lessor is required to procure the issue of a payment undertaking from the Bank in respect of the Final Instalment in accordance with article II.5(c) of the Novated Building Contract.

3.11 Certificate of Delivery and Acceptance

On Delivery the Lessee will deliver to the Lessor the Certificate of Delivery and Acceptance duly executed by the Lessee, which shall be conclusive proof that the Lessee has unconditionally accepted the Ship for leasing under this Agreement without any reservations whatsoever.

3.12 Condition of Ship; Lessee's risk and responsibility

The Lessee acknowledges that:

- 3.12.1 the condition of the Ship (or any part of it) on delivery to the Lessee under this Agreement will, as between the Lessor and the Lessee be the sole risk and responsibility of the Lessee and that the Lessor has agreed to purchase the Ship pursuant to the Novated Building Contract for the sole purpose of leasing the Ship to the Lessee pursuant to this Agreement;
- 3.12.2 the Lessee will not be entitled for any reason whatsoever to refuse to accept delivery of the Ship under this Agreement once the Lessor acquires title to, and receives possession, of the Ship pursuant to the Novated Building Contract; and

3.12.3 the Lessor will not be liable for any loss of profit resulting directly or indirectly from any defect or alleged defect in the Ship or failure or alleged failure of the Ship to comply with the Novated Building Contract.

3.13 Delays in delivery

The Lessor will not be responsible for any loss or expense, or any loss of profit, arising from any delay in the delivery of, or failure to deliver, the Ship to the Lessee under this Agreement except where such delay or failure is caused by the negligence or wilful default of the Lessor or any Lessor Breach.

4 Rental

4.1 Construction Period Rentals

The Lessee shall not be required to pay any instalments of Rental during the Construction Period.

4.2 Lease Period Rental

On each Lease Rental Date falling in the Lease Period the Lessee shall pay to the Lessor in respect of the Lease Period an instalment of Rental calculated in accordance with paragraph 2.1 of the Financial Schedule. Each such instalment of Rental shall be subject to adjustment in accordance with the Financial Schedule.

4.3 Adjustments of Rental

The Lessee, on the dates determined in accordance with the Financial Schedule, shall pay to the Lessor by way of additional Rental all amounts from time to time arising from recalculation of Rental made pursuant to and due to the Lessor in accordance with the Financial Schedule. The Lessor shall pay to the Lessee all amounts from time to time arising from recalculation of Rental made pursuant to the Financial Schedule and due to the Lessee, and expressed to be payable by way of rebate of Rental, in accordance with the Financial Schedule. The Lessor shall make any such payments to such account as the Lessee may notify in writing to the Lessor from time to time.

4.4 Lessor's Capital Commitment Fee

The Lessee shall pay to the Lessor a capital commitment fee, on the basis and in the manner agreed between the Lessor and the Lessee in writing.

4.5 Survival of Financial Schedule

The provisions of the Financial Schedule shall survive any termination or expiry of the Lease Period and any breach or repudiation, or alleged breach or repudiation, by the Lessee or the Lessor of this Agreement.

4.6 Unconditional payment obligations

The Lessee's obligation to pay Rental in accordance with this clause 4 (unless and until Rental ceases to be payable in accordance with the provisions of clause 2.13 or clause 14.5 or clause 18.1) and any other payments payable by the Lessee to the Lessor under the Lease Documents is absolute and shall apply irrespective of any contingency whatsoever including but not limited to:

4.6.1 any set-off, counterclaim, recoupment, defence or other right which either party to this Agreement may have against the other;

- 4.6.2 any unavailability of the Ship for any reason, including but not limited to, any lack or invalidity of title or any other defect in the title, seaworthiness, condition, design, operation, merchantability or fitness for use or purpose of the Ship or the ineligibility of the Ship for any particular use or trade or for registration or documentation under the laws of any relevant jurisdiction or the Total Loss of or any damage to the Ship;
- 4.6.3 any failure or delay on the part of either party to this Agreement, whether with or without fault on its part, in performing or complying with any of the terms, conditions or other provisions of this Agreement and the other Transaction Documents;
- 4.6.4 any insolvency, bankruptcy, reorganisation, arrangement, readjustment of debt, dissolution, administration, liquidation or similar proceedings by or against the Lessor or the Lessee;
- 4.6.5 any lack of due authorisation of, invalidity, unenforceability or other defect in any of the Transaction Documents; or
- 4.6.6 any other cause which but for this provision would or might have the effect of terminating or in any way affecting any obligation of the Lessee hereunder;

it being the declared intention of the parties that the provisions of this clause 4.6 and the obligations of the Lessee to pay Rentals and make other payments in accordance with this Agreement and the other Transaction Documents shall survive any frustration of this Agreement or any other Lease Document and that, save as expressly and specifically provided in this Agreement, no moneys payable or paid hereunder by the Lessee to the Lessor shall in any event or circumstances be repayable to the Lessee.

4.7 No waiver

Clause 4.6 does not constitute a waiver by the Lessee of any right of the Lessee to claim damages or specific performance or any other injunctive relief against the Lessor arising out of a Lessor Breach.

5 Payments

5.1 Manner of payment

All payments of Rental and other amounts payable by the Lessee under this Agreement and any other Transaction Document shall be made:

- 5.1.1 without prior demand (unless expressly stated to be payable on demand);
- 5.1.2 in full without any right of set-off or counterclaim and free and clear of all deductions or withholdings whatsoever, unless any deductions or withholdings are required by law in which event clause 8.2 shall apply;
- 5.1.3 in Dollars (or, in the case of payments in respect of Losses, in the currency in which the relevant Losses are incurred);

5.1.4 in cleared funds to the account of the Bank of Scotland with Bank of New York, New York SWIFT BIC: IRVTUS3N for credit to account no. 11087USD01 with reference: "Peony Leasing Limited, sort code: 802013, IBAN No. GB59BOFS80201311087101, SWIFT BIC: BOFSGB2SXXX" or to such other account or accounts at such other place or places as the Lessor may from time to time notify to the Lessee in writing at least ten (10) days before the due date for payment.

5.2 Payments on Business Days

When any payment under a Lease Document would otherwise be due on a day which is not a Business Day the due date for payment shall be extended to the next following Business Day unless such Business Day falls in the next calendar month in which case payment shall be made on the immediately preceding Business Day.

5.3 Interest on delayed payments

If the Lessee fails to pay any sum due by the Lessee under this Agreement or any other Lease Document on its due date for payment (including any failure to pay on demand any amount due under this clause 5.3) the Lessee will pay to the Lessor on demand interest on such Rental or other amount from the date of such failure to the date of actual payment (both before and after any relevant judgment or liquidation of the Lessee) at the Default Rate.

5.4 Calculation of Interest

All interest and any other payments under any Lease Document which are of an annual nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

6 Extent of Lessor's Liability

6.1 Quiet Enjoyment

The Lessor undertakes with the Lessee that during the Lease Period it will not interfere with the quiet use, operation, possession and enjoyment of the Ship by the Lessee, otherwise than:

6.1.1 through the acts or omissions of the Lessee or its agents or representatives; or

6.1.2 pursuant to (i) the Lessor's rights under the Transaction Documents (and then subject to any restrictions on the exercise of those rights under the Transaction Documents) or (ii) obligations which may arise under applicable law or regulation or any ruling of any Government Entity or other competent authority or agency which is either binding on the Lessor or any Lessor Group Member or in respect of which compliance by owners of vessels of the same type as the Ship or by banks and other financial institutions or institutions of a similar nature to the Lessor is generally customary.

6.2 Further action

6.2.1 The Lessor further undertakes, if reasonably requested to do so by the Lessee, to take such action as is available to it and which must be performed exclusively by the registered owner and not the operator of the Ship to protect the use, possession and quiet enjoyment of the Ship during the Lease Period by the Lessee from interference by third parties.

6.2.2 All costs properly incurred by the Lessor in respect of any action taken by the Lessor under this clause 6.2 (including any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection therewith which shall be charged at the Lessor's Management Time Cost Rate) will be borne by the Lessee unless such action is required as a result of a failure by the Lessor to comply with its obligations under clause 6.1 and clause 6.2.1 (and which failure does not arise by reason of any breach by the Lessee or any other Transaction Company of its obligations or other failure to comply with or observe the terms of any Transaction Document).

6.3 Lessor's Security Interests

6.3.1 The Lessor:

- (a) warrants that as at the Delivery Date the Ship and the Lessor's interest in the Insurances and any Requisition Compensation will be free of all Lessor's Security Interests; and
- (b) undertakes with the Lessee that it will not create or permit to arise during the Lease Period any such Lessor's Security Interest over the Ship or any part of it or the Lessor's interest in the Insurances and any Requisition Compensation.

6.3.2 If any Lessor's Security Interest arises over the Ship, the Lessor will use its reasonable endeavours to procure the release of any such Lessor's Security Interest of which it is aware, Provided that the Lessor shall not be liable to pay or discharge or remove any such Lessor's Security Interest if such Lessor's Security Interest is being disputed by the Lessor in good faith and adequate reserves for the payment of the applicable amounts have been provided by the Lessor, provided further however that if the Lessee's quiet enjoyment of the Ship is in any way disturbed by reason of the existence or enforcement of any Lessor's Security Interest, the Lessor will promptly take steps to procure the release of any such Lessor's Security Interest and/or the cessation of the disturbance of the Lessee's quiet enjoyment.

6.3.3 If the Lessor fails to procure the release of a Lessor's Security Interest of which it is aware and the existence of which is interfering with the Lessee's quiet enjoyment of the Ship and/or the Ship is arrested, attached, levied upon pursuant to any legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, in each such case arising out of the existence of any Lessor's Security Interest the Lessee shall:

- (a) be entitled to act as the agent for the Lessor to procure the release of that Lessor's Security Interest and/or the release of the Ship from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be reimbursed by the Lessor for all reasonable losses and expenses properly so incurred by the Lessee as a result of the Lessor's breach of clause 6.3.1 or its failure to procure the release of the Lessor's Security Interest or, as the case may be, the Ship, against the production by the Lessee of reasonable supporting evidence for such loss and expenses.

6.4 Limitation on Lessor's liability for quiet enjoyment

The Lessee acknowledges that the undertakings contained in clauses 6.1, 6.2 and 6.3 are the only undertakings by the Lessor to the Lessee in respect of quiet enjoyment and in substitution for, and to the exclusion of, any other covenant for quiet enjoyment which may otherwise have been given or implied by law, all of which are hereby expressly excluded and waived by the Lessee.

6.5 Benefit of Novated Building Contract guarantee and third party warranties

6.5.1 The Lessor assigns and agrees to assign absolutely (without recourse or warranty) to the Lessee the full benefit of all assignable guarantees, warranties and indemnities (whether express or implied) given to the Lessor by the Builder under the Novated Building Contract. Pursuant to the assignment in this clause 6.5 the Lessee shall (after the Delivery Date) be entitled to take such action upon any such warranty or indemnity as assignee of the Lessor against the Builder or any guarantor, manufacturer, repairer or supplier as the Lessee shall see fit, but subject to the Lessee first ensuring that the Lessor is indemnified (and, in the case of any counterclaim by the Builder against the Lessor, secured) to its satisfaction against all Losses thereby incurred or to be incurred.

6.5.2 The Lessor agrees:

- (a) to serve notice on the Builder of the assignment contained in clause 6.5.1 in the form set out in Schedule 9 promptly thereafter; and
- (b) to the extent that any guarantee, warranty or indemnity referred to in clause 6.5.1 is not assignable, if so requested by the Lessee and at the Lessee's cost and expense, the Lessor will use reasonable endeavours to extend to the Lessee the benefit of that guarantee, warranty or indemnity.

6.5.3 Upon the expiry or termination of the Lease Period, the Lessee shall cease to be entitled to any rights under this clause 6.5 and shall (subject to clause 2.7.6) reassign to the Lessor at the expense of the Lessee the benefit of the remainder of any guarantee, warranty or indemnity assigned by the Lessor to the Lessee pursuant to this clause 6.5.

6.6 Limitations on Lessor's Liability

Save in respect of the Lessee's rights under clauses 6.1, 6.2, 6.3 and 6.4, the Lessee acknowledges and agrees that all rights, claims or remedies of the Lessee against the Lessor in relation to the Ship, whether express or implied or arising by operation of law or statute or otherwise (whether in contract or in tort or otherwise), are hereby excluded. In particular, the Lessee acknowledges and agrees that:

6.6.1 the Lessor makes no condition, term, representation or warranty (express or implied) of any kind as to title (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)) seaworthiness, safety, condition, capacity, quality, value, design, construction, durability, operation, performance, description, merchantability, or fitness for use of the Ship or any part thereof or as to the eligibility of the Ship or any part thereof for any particular trade or operation or as to the absence of latent or other defects (whether or not discoverable), or as to the absence of any infringement of any patent, trademark, copyright or intellectual property or other rights in or to the Ship or any part thereof or any other condition, term, representation or warranty whatsoever, express or implied, with respect to the Ship;

- 6.6.2 the Lessee waives all its rights and claims (whether express or implied, statutory or otherwise) in respect of any condition, term, representation, or warranty described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a));
- 6.6.3 to the extent possible under applicable law the Lessee:
- (a) waives all its rights and claims which it may have in tort or otherwise in respect of any of the matters described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
 - (b) agrees that the Lessor will have no greater liability in tort or otherwise than it would have in contract after taking into account the exclusions referred to in this clause 6.6;
- 6.6.4 the Lessee acknowledges that no condition, term, representation or warranty described in clause 6.6.1 has been made by or on behalf of the Lessor in relation to the Ship (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
- 6.6.5 nothing in this clause 6 shall exclude any liability of the Lessor for death or personal injury resulting from negligence falling within Section 1(1) of the Unfair Contract Terms Act 1977.

6.7 Ownership of other vessels

The Lessor and Lessee acknowledge that, during the Lease Period, the Lessor may own vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group. At the Lessee's request, the Lessor will transfer in accordance with clause 21 the Ship and the Sister Ships to another company which does not own any vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group.

6.8 Lessor financial information

The Lessor undertakes that, if requested by the Lessee, it shall deliver to the Lessee within 14 days after the end of June and December in each year during the Lease Period an unaudited balance sheet of the Lessor stating the gross amount of the Lessor's assets, long term liabilities and shareholders funds as at the end of the relevant half year and a profit and loss account showing the items for the relevant half year specified in the pro forma profit and loss account set out in Schedule 11, such amounts to be determined by the Lessor in accordance with the usual procedures and systems of the Lessor's Group and provided in the format set out in Schedule 11. The Lessor shall also provide the Lessee with a copy of its annual audited accounts within 14 days of such accounts being approved by its Board of Directors, and (from time to time) such other information as shall be reasonably requested by the Lessee (and at the Lessee's cost). The Lessee shall keep such information confidential save as otherwise required by law or as necessary for purposes of preparing consolidated accounts of the Lessee and its affiliates.

7 Costs and Indemnity

7.1 Lessor's transaction related expenses

The Lessee shall pay to the Lessor on its written demand, whether or not the Lease Period commences:

- 7.1.1 all expenses of the Lessor (including legal and out-of-pocket expenses) reasonably incurred by the Lessor in connection with the preparation, negotiation and completion of this Agreement and the other Transaction Documents (subject only to any cap on legal expenses which may be separately agreed by the parties) and in relation to the delivery of the Ship, including any costs, charges or expenses (including fees and commissions) of the Lessor in connection with the funding of the Final Instalment, calculated in accordance with clause 7.4.3 below to the extent that such expenses have not been taken into account in accordance with the Financial Schedule in computing the amount of any Rental;

- 7.1.2 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor in connection with any variation of this Agreement and the other Transaction Documents or any waiver or consent required under any of them (but not a variation, waiver or consent requested by the Lessor, unless the Lessor is legally obliged to request and procure such variation, waiver or consent);
- 7.1.3 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor following the occurrence of a Relevant Event in connection with the preservation or enforcement or attempted enforcement of any right conferred upon the Lessor by this Agreement and the other Transaction Documents or in respect of any breach of any representation or warranty or covenant; and
- 7.1.4 any expenses incurred by the Lessor in respect of any Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection with (a) the consideration of any variation, waiver or consent of or under this Agreement and the other Transaction Documents pursuant to clause 7.1.2 and (b) the preservation or enforcement or attempted preservation or enforcement of the Lessor's rights, the arrest or recovery of the Ship or otherwise in respect of any breach pursuant to clause 7.1.3 which for the avoidance of doubt shall be charged at the Lessor's Management Time Cost Rate;
- 7.1.5 all expenses payable under or pursuant to this clause 7.1 shall include any Irrecoverable VAT on such expenses; and
- 7.1.6 all payments under this clause 7.1 shall be made in the currency in which the expenses were incurred by the Lessor.

7.2 Non-payment by Lessee

The Lessee shall indemnify the Lessor on its written demand against any loss, damage, expense or liability which the Lessor or any other Indemnified Person may properly sustain or incur as a direct consequence of any default by the Lessee in payment of an amount which the Lessee has agreed to pay under this Agreement except to the extent that the Financial Schedule provides for the amount to be taken into account in the payment of Rental or to the extent that the Lessor or such other Indemnified Person has already been compensated for any such loss, damage, expense or liability under any other provision of this Agreement.

7.3 Currency indemnity

If any sum payable by the Lessee to the Lessor or any other Indemnified Person under this Agreement or any other Lease Document or under any order or judgment relating to a Lease Document has to be converted from the currency in which the Lease Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- 7.3.1 making or lodging any claim or proof against the Lessee, whether in its liquidation, any arrangement involving it or otherwise; or

7.3.2 obtaining an order or judgment from any court or other tribunal; or

7.3.3 enforcing any such order or judgment,

the Lessee shall indemnify the Lessor and/or the applicable Indemnified Person against the loss arising when the amount of the payment actually received by the Lessor and/or the applicable Indemnified Person is converted at the available rate of exchange from the Payment Currency into the Contractual Currency.

In this clause 7.3 the “available rate of exchange” means the rate which the Bank offers to other prime banks at the opening of business (London time) on the Business Day after it receives the sum concerned to sell the Payment Currency to purchase the Contractual Currency for immediate delivery.

Any amount due from the Lessee under this clause 7.3 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Lease Documents and the term “rate of exchange” includes any premiums and costs of exchange payable in connection with the purchase of the Contractual Currency with the Payment Currency.

7.4 General Indemnity

The Lessee shall indemnify and hold harmless on a full indemnity basis the Lessor and each other Indemnified Person against:

7.4.1 any costs, charges or expenses (other than Taxes, to which clause 8 shall apply) which the Lessee has agreed to pay under this Agreement or the other Lease Documents and which are claimed or assessed against or (prior to the occurrence of a Termination Event which is continuing, after consultation with the Lessee) paid by the Lessor or any other Indemnified Person;

7.4.2 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person arising directly or indirectly in any manner out of, or in any way connected with, the condition, testing, design, manufacture, construction, delivery, non-delivery, purchase, importation, export, registration, classification, certification, navigation, ownership, chartering, sub-chartering, employment, management, manning, victualling, provision of bunkers and lubricating oil, possession, repossession, performance, control, use, operation, maintenance, repair, transportation, dry-docking, replacement, refurbishment, modification, service, overhaul, insurance in accordance with the terms of this Agreement, sale or other disposal, return, redelivery, storage, laying-up, loss of or damage to the Ship or otherwise in connection with the Ship, this Agreement and the other Transaction Documents and regardless of:

- (a) whether or not such Losses are attributable to any defect in the Ship or to the design, construction or use thereof or to any reason whatsoever; and
- (b) when the Loss arises;

and, without prejudice to its generality, this clause 7.4.2 covers any such Losses arising out of an Environmental Claim or an Environmental Incident;

- 7.4.3 all Losses (including, without limitation, Broken Funding Costs and all or any Losses in respect of funds borrowed or mobilised by or on behalf of the Lessor, the liquidation of any deposits taken or made by the Lessor, the substitute investment of such funds with a return lower than the cost of such funds, the loss of use of such funds and the prepayment by the Lessor of such funds to the source from which they were borrowed or mobilised) imposed on, suffered or incurred by the Lessor and/or any other Indemnified Person by reason of:
- (a) an Instalment not being paid on the date referred to in the relevant Instalment Request applicable to such Instalment;
 - (b) Delivery occurring other than on the date specified therefor in the Intended Delivery Notice;
- including in relation to the Final Instalment, the cost to the Lessor in borrowing the Final Instalment for the period commencing with the date on which the Final Instalment is borrowed up to and including the Delivery Date (but only if such sum is not included in the calculation of Rentals under the Financial Schedule) or, if Delivery does not occur, up to and including the date on which the Lessor has received back the Final Instalment, such cost to be calculated at LIBOR determined daily for each day during the period described above plus the Margin Rate (as defined in the Financial Schedule) less if any, any Broken Funding Benefits and the Dollar interest paid on the Final Instalment to the Lessor by the bank holding the Final Instalment;
- 7.4.4 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person which result directly or indirectly from claims which may at any time be made on the ground that any design, article or material of or in the Ship or the operation or use thereof constitutes an infringement of patent or copyright or registered design or other intellectual property right or any other right whatsoever;
- 7.4.5 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in preventing or attempting to prevent the arrest, confiscation, seizure, taking in execution, requisition, impounding, forfeiture or detention of the Ship, or in securing or attempting to secure the release of the Ship;
- 7.4.6 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in connection with the sale or disposal or attempted sale or disposal of the Ship pursuant to the terms and conditions of this Agreement including, without limitation, broker's commissions, redelivery costs (if any), marketing expenses, legal costs, storage, insurance and any other expenses of the Lessor incurred pending the sale or disposal of the Ship or otherwise in connection with the sale or disposal of the Ship;
- 7.4.7 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person resulting from the Ship becoming a wreck or obstruction to navigation, including in respect of the removal or destruction of the wreck or obstruction under statutory or other powers; and

- 7.4.8 all Losses which may be imposed on, incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time as a consequence (direct or indirect) of:
- (a) the breach by any person (other than the Lessor and the Bank) of any of its obligations to the Lessor under any of the Transaction Documents provided that any breach by the Lessor or the Bank of its obligations under any of the Transaction Documents shall not be excluded from the ambit of this clause 7.4.8 to the extent that such breach is itself caused by any act or omission of any Transaction Company or any person referred to in (c) below;
 - (b) any of the warranties and representations on the part of any person (other than the Lessor and the Bank) made or repeated to the Lessor in any Transaction Document being untrue or inaccurate in any material respect when made or repeated;
 - (c) any act or omission by any person acting as sales agent of the Lessor under any of the Transaction Documents (including any permitted delegate of such sales agent), the Supervisor or any of its Authorised Representatives (as defined in the Novated Building Contract), in each case, whether acting within or outside their relevant authority or any wilful or reckless misconduct or misfeasance by the Builder, the Lessee or the Supervisor; or
- 7.4.9 all Losses which may be imposed on, suffered or incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time in respect of any premiums, calls, supplementary calls, contributions or other sums payable by the Lessor or any Lessor Group Member in respect of the Insurances or any liability of the Lessor or any other Lessor Group Member by reason of it being or becoming a joint, additional or co-assured under or in respect of any insurance policy, contract or entry in any protection and indemnity or war risks association effected by the Lessee pursuant to clause 13.

7.5 Exclusions

The indemnities contained in clause 7.4 and clause 7.2 shall not extend to any Loss:

- 7.5.1 to the extent that such Loss is caused by Lessor Misconduct or recklessness (with full knowledge of the probable consequences) on the part of the applicable Indemnified Person (or a third party, not being a Transaction Company acting on behalf of the Lessor or other applicable Indemnified Person) which would otherwise seek to claim the benefit of such indemnities or, in circumstances where such Loss arises in connection with a payment owing to an Indemnified Person, if such payment was made in due time but was not accounted for by such Indemnified Person as a result of an error on their part;
- 7.5.2 to the extent that such Loss is caused by any Lessor Breach;
- 7.5.3 to the extent that such Loss constitutes a cost which is expressly to be borne by the Lessor for its own account under any other provision of this Agreement or any other Lease Documents;
- 7.5.4 in respect of which the Lessor or the applicable Indemnified Person has been expressly and specifically indemnified under any other provision of this Agreement;
- 7.5.5 to the extent that such Loss of the Lessor or the applicable Indemnified Person is or (but for operation of paragraph 4.6 of the Financial Schedule) would be taken into account in accordance with the Financial Schedule, in computing the amount of Rental payable by the Lessee under this Agreement;

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- 7.5.6 to the extent that such Loss arises out of or in connection with a Lessor's Security Interest;
 - 7.5.7 to the extent that such Loss would be a loss of profit derived from or arising out of loss of a business opportunity of the Lessor or the applicable Indemnified Person;
 - 7.5.8 to the extent that the event or circumstance giving rise to the Loss occurs after the end of the Lease Period and is not in any way directly or indirectly attributable to, or which occurs as a consequence of or in connection with, any event, circumstance, action or omission which occurred during the Lease Period;
 - 7.5.9 to the extent that such Loss is part of the normal administrative overheads of the Lessor or the applicable Indemnified Person; and/or
 - 7.5.10 to the extent that such Loss constitutes the Purchase Price or any part thereof (excluding any Contribution Payments required pursuant to clause 3.10.2).

In addition, to the extent that the Lessor or other Indemnified Person shall have actually and unconditionally received reimbursement from insurers for a Loss of the Lessor or any other Indemnified Person which has already been satisfied in full by the Lessee then, subject to clause 8.6, the Lessor shall procure that the Lessee is reimbursed for an amount equal to the amount received from the insurers. In addition, in circumstances where the Lessee has indemnified the Lessor or any other Indemnified Person in full in relation to a Loss which may be recoverable by insurance then, provided no Termination Event has occurred and is continuing, and provided the Lessor or such other Indemnified Person is (if requested by it) secured to its satisfaction (acting in good faith) against any Loss it may incur by virtue of the Lessee exercising such rights of subrogation and subject to the rights of insurers, the Lessee shall be subrogated to the claim of the Lessor or such other Indemnified Person in relation to the Loss.

7.6 Conduct of Claims

In connection with the indemnities in favour of any Indemnified Person under this Agreement, other than in relation to any matter which is an Issue under (and as defined in) the Tax Consultation Letter:

- 7.6.1 the Lessor will as soon as practicable notify the Lessee if a claim is made, or if it becomes aware that a claim may be made against the Lessor or any other Indemnified Person which may give rise to a Loss in respect of which the Lessor or any other Indemnified Person is or may become entitled to an indemnity under clause 7.4;
- 7.6.2 a notification under clause 7.6.1 shall give such details as the Lessor or the other Indemnified Person then has regarding the claim or potential claim and any Loss or potential Loss;
- 7.6.3 if the claim or potential claim may give rise to a Loss in respect of which the liability of the Lessor or such other Indemnified Person is fully insured under the protection and indemnity insurances relating to the Ship, the Lessor will act, and will procure that any other Indemnified Person will act, in accordance with the directions of the protection and indemnity club or association in which the Ship is entered in relation to defending, accepting or settling that claim, preserving nevertheless the rights of the Lessor against the Lessee under this Agreement and the other Lease Documents;

- 7.6.4 subject to clause 7.6.1 the Lessor will not, and will procure that no other Indemnified Person will, settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim unless:
- (a) the Lessor is of the opinion, acting in good faith, that the continuance of the proceedings in respect of such claim and/or the non-payment of any court judgment or administrative penalty will result in criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person; or
 - (b) the Lessor and the Lessee do not agree that there are reasonable grounds for disputing such claim or for a successful appeal against such judgment or penalty (as appropriate), whereupon the Lessee shall have the right (subject always to paragraph (a) above) to seek an opinion from leading counsel as to whether there is more than a sixty-five per cent (65%) chance of successfully disputing such claim or for such an appeal to be successful (and if such leading counsel is of that opinion, any costs reasonably incurred by the Lessee in obtaining such opinion shall be reimbursed by the Lessor and the Lessor will not settle the claim or discharge or pay the applicable judgment) provided however that if leading counsel is of the opinion that there is a less than sixty-five per cent (65%) chance of successfully disputing the action or for such an appeal to be successful, then the Lessor shall be entitled to settle the claim or discharge or pay the court judgment or administrative penalty, as the case may be.

It is agreed that if any insurers have made a partial payment in respect of any claim the Lessor shall have no responsibility to the Lessee if the insurers subsequently settle a claim in exercise of their rights of subrogation. The Lessor shall agree not to settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim, if it is secured to its reasonable satisfaction by the Lessee against the amount of such claim, court judgment or administrative penalty and the Lessor is satisfied (in its absolute discretion) that none of the circumstances envisaged in clause 7.6.5(e) below shall apply or arise if the Lessor does not settle the claim or discharge or pay any judgment or penalty in respect thereof;

- 7.6.5 Without prejudice to the provisions of this clause 7.6, the Lessee shall be entitled (subject to the Lessee complying in all respects with its obligations under this Agreement and the other Transaction Documents to which it is a party) to take (at its own cost) such lawful and proper actions as the Lessee reasonably deems fit to defend, avoid or mitigate any Loss or to take such action in the name of the Lessor or other relevant Indemnified Person, provided that the Lessee's ability to take action in the name of the Lessor or such other Indemnified Person shall be subject to:
- (a) the Lessor or such other Indemnified Person first being indemnified and secured to the satisfaction of the Lessor (or, as the case may be, such Indemnified Person), acting reasonably, against all Losses incurred and from time to time reasonably anticipated to be incurred in connection therewith;
 - (b) the ability of the Lessee to commence court proceedings in the name of the Lessor or such other Indemnified Person, or to instigate a counterclaim in the name of the

Lessor or such other Indemnified Person (but not, for the avoidance of doubt, to defend court proceedings brought by a third party which do not involve a counterclaim) being subject to the prior written consent of the Lessor (which consent the Lessor shall not unreasonably withhold but in relation to which the Lessee acknowledges the wish and interest of the Lessor and the Lessor's Group to preserve their reputation as a financial institution, their business interests and their customer relations);

- (c) if court proceedings have been commenced by a third party against the Lessor or such other Indemnified Person as defendant or if, pursuant to sub-clause (b) above, the Lessor gives its consent to the use of its name or the name of the relevant Indemnified Person in court proceedings (whether by way of claim or counterclaim), the Lessor shall permit the Lessee to have the full conduct of the court proceedings, or to instigate a counterclaim in the name of the Lessor or such other Indemnified Person, but the Lessee shall (i) consult with the Lessor and keep the Lessor fully informed in relation to their conduct and have due regard to the wishes of the Lessor in relation to the conduct of such court proceedings acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputations of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations and (ii) give timely notice to the Lessor of any meetings with counsel or attendances at court, and the Lessor and its advisers shall be entitled to attend any such meetings or court attendances;
- (d) in relation to all other matters contemplated by this clause 7.6, the Lessee shall keep the Lessor fully informed and have due regard to the wishes of the Lessor in relation to the use of the Lessor's name or the name of any other Indemnified Person acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputation of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations; and
- (e) notwithstanding sub-paragraph (c) above, the Lessor at any time may notify the Lessee that the Lessor is of the opinion, acting in good faith, that the continuance of such proceedings by the Lessee in the name of the Lessor or the name of any other Indemnified Person is damaging to the reputation of the Lessor or any Lessor Group Member as financial institutions or contrary to the business interests of any of them or will result in any criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person. A certificate signed by a director of the Lessor shall be conclusive as to the correctness of such opinion. If the Lessor so notifies the Lessee, the Lessee shall forthwith cease to be entitled to conduct the court proceedings in the name of the Lessor or the name of any other Indemnified Person, and the Lessor shall be at liberty to conduct, settle or discontinue such proceedings as it sees fit.

Without prejudice to the generality of this clause 7.6 and in particular sub-paragraph (e), the Lessor shall, at the cost of the Lessee, do such acts as the Lessee may reasonably request with a view to assisting the Lessee in taking actions to defend, mitigate or avoid any liability.

7.7 Pass-through of indemnity benefits

Where in this clause 7 an indemnity is expressed to be for the benefit of any person who is not a party to this Agreement the Lessor shall be entitled to indemnify such person on the same terms (and subject in particular to clause 7.6) mutatis mutandis as the indemnities expressed to be for the benefit of such person in this clause 7 and the Lessee shall indemnify the Lessor and hold the Lessor harmless on a full indemnity basis from and against each amount paid or payable by the Lessor to such person under any such indemnity, provided that to the extent this clause 7 purports to impose any obligations on Indemnified Persons other than the Lessor, the Lessor shall have procured the compliance by each such Indemnified Person with those purported obligations.

7.8 Survival of indemnities

The indemnities contained in this clause 7, and each other indemnity contained in this Agreement in favour of the Lessor and the other Indemnified Parties, (including, but not limited to, those contained in clause 7) shall survive any termination or other ending of the Lease Period and any breach of, or repudiation or alleged repudiation by, the Lessee or the Lessor of this Agreement or any of the other Lease Documents.

8 Taxes

8.1 General

The Lessee shall pay on a timely basis and discharge or cause to be paid on a timely basis and discharged, and indemnify promptly and keep the Lessor and each Lessor Group Member indemnified promptly against all and any Taxes which are imposed on or become payable during or in respect of all or any part of the Construction Period or the Lease Period on or in respect of the Ship or any activity in any way relating thereto or any Rental, or other amounts paid under this Agreement or any of the other Transaction Documents but subject to the remaining provisions of this clause 8.

8.2 Withholding taxes

If at any time any applicable law, regulation or regulatory requirement, or any governmental authority, monetary agency or central bank, requires any deduction or withholding from any payment of Rental or other amount due under any of the Transaction Documents:

8.2.1 the Lessee (unless otherwise agreed under any Transaction Document) shall pay, or shall procure the payment of, the full amount of the deduction or withholding in respect of Taxes to the appropriate authority, agency or bank within the time period for payment permitted by law;

8.2.2 if the payment is to be made by the Lessee, the sum due from the Lessee in respect of that payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lessor or, as the case may be, the applicable Lessor Group Member receives on the due date for such payment a net amount equal to the amount which it would have received had no such deduction or withholding been required to be made and the Lessee will promptly deliver to the Lessor copies of appropriate receipts evidencing any deduction or withholding so made; and

8.2.3 if the payment is to be made by any person other than the Lessee, the Lessee shall pay directly to the Lessor such sum (a “**compensating sum**”) as after taking into account any deduction or withholding which is required to be made in respect of the compensating sum, will enable the Lessor or the applicable Lessor Group Member to receive, on the due date for payment, a net sum equal to the sum which the Lessor or, as the case may be, the appropriate Lessor Group Member would have received in the absence of any obligation to make a deduction or withholding.

8.3 Tonnage Tax

In relation to the UK tonnage tax regime contained in Schedule 22 Finance Act 2000:

- (a) The Lessee will provide on an ongoing basis, upon the written request of the Lessor, such information that is in its possession and control as may be properly required to be furnished by the Lessor to HMRC or any Inspector of Taxes regarding the transactions contemplated by the Transaction Documents, including, without limitation, any joint certificate to be provided by the Lessor and the Lessee to the HMRC pursuant to paragraph 93 of Schedule 22 FA 2000;
- (b) The Lessor will enter into any such joint certificate with the Lessee and the Lessee will enter into any such joint certificate with the Lessor and the Lessor and the Lessee will provide to HMRC any information as may be properly required to be furnished by the Lessor in connection with such certificate or such election regarding the transactions contemplated by the Transaction Documents.

8.4 Grossing-up of indemnity payments

8.4.1 If and to the extent that any amount payable to the Lessor or any Lessor Group Member by or on behalf of the Lessee under this Agreement or any of the other Transaction Documents by way of indemnity proves, by reason of that sum being taxable in the hands of the Lessor or, as the case may be, any Lessor Group Member, to be insufficient for the Lessor to discharge the corresponding liability to a third party or to reimburse the Lessor or such Lessor Group Member for the cost incurred by it in discharging the corresponding liability to a third party, the Lessee shall pay to the Lessor or the applicable Lessor Group Member such additional amount as, after taking into account any Tax suffered by the Lessor in respect of that sum, is required to make up the insufficiency.

8.4.2 There shall be taken into account, in determining whether any amount referred to in clause 8.4.1 is insufficient, the amount of any deduction or other relief, allowance or credit received by the Lessor in respect of the Lessor’s corresponding liability to a third party or the cost incurred by the Lessor in discharging the corresponding liability to a third party to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.3 If and to the extent that any amount (the “**indemnity amount**”) constituting (directly or indirectly) an indemnity by the Lessee to the Lessor, but paid by the Lessee under this Agreement or any of the other Transaction Documents to any person other than the Lessor, shall be treated as taxable in the hands of the Lessor the Lessee shall pay to the Lessor such amount (the “**compensating amount**”) as (after taking into account any Tax suffered by the Lessor in respect of the compensating amount) shall reimburse the Lessor for any Tax suffered by it in respect of the indemnity amount.

8.4.4 There shall be taken into account in determining the amount of any compensating amount under clause 8.4.3 the amount and time of payment of any deduction or other relief, allowance or credit available to the Lessor in respect of the Lessor's corresponding liability or Losses in respect of which the indemnity amount is paid to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.5 To the extent that liability arises under clause 8.4.1 which may lawfully be avoided by the Lessee discharging the Lessor's liability directly, then the parties shall endeavour to settle their respective liabilities in this manner.

8.5 Credits etc.

If following the making of any increased payment or compensating sum or compensating amount by the Lessee pursuant to clauses 8.2 or 8.4 the Lessor receives or is granted a credit against, remission for or repayment of any Tax payable by it which is referable to such deduction or withholding or increased payment made by the Lessee and which has not already been taken into account pursuant to clause 8.4.2 or 8.4.4, the Lessor shall:

8.5.1 give to the Lessee a certificate setting out the basis of the computation of the amount of any credit, remission or repayment referred to in this clause 8.5; and

8.5.2 to the extent that it is satisfied that it can do so without prejudice to the retention of such credit, remission or repayment, promptly reimburse the Lessee with such amount as the Lessor shall determine to be such proportion of such credit, remission or repayment as will leave the Lessor, after such reimbursement, in the same net after Tax position as it would have been in had no such deduction or withholding been required to be made,

Provided that:

- (a) the Lessor shall be the sole judge (acting in good faith) of the amount of any such credit, remission or repayment and of the date on which it is received;
- (b) the order and manner in which the Lessor employs or claims Tax credits and allowances available to it shall be determined by the Lessor in its discretion provided always that the Lessor shall, in determining the order in which it employs or uses Tax Credits or allowances available to it, treat the Lessee in no less favourable a way than it treats its other customers in respect of similar transactions of a similar size;
- (c) the Lessor shall not be obliged to disclose to the Lessee any information regarding the Tax affairs or Tax computations of the Lessor or the Lessor's Group; and
- (d) if, following any reimbursement pursuant to this clause 8.5, the credit, remission or repayment in respect of which reimbursement was made is disallowed in whole or in part by any applicable Tax or other authority, the Lessee will pay to the Lessor the amount required to restore the after-Tax position of the Lessor to that which it would have been had adjustment under this clause 8.5.2 not been necessary.

This clause 8.5 applies also to the extent that any credit, remission or repayment is granted to a Lessor Group Member and the Lessor will procure that such Lessor Group Member complies with the obligations of the Lessor, with appropriate modifications, under this clause 8.5.

8.6 Duties and other taxes

The Lessee shall pay all stamp, documentary, registration and other like duties or Taxes (including any such duties or Taxes payable by the Lessor) imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents and shall indemnify the Lessor against any liability arising by reason of any delay or omission by the Lessee to pay such duties or Taxes.

8.7 Non-deductibility

If any amount paid or to be paid by the Lessor pursuant to this Agreement by way of rebate of Rental or reimbursement or otherwise is not fully allowed or will not be fully allowed as a deductible trading expense in computing for Tax purposes the chargeable profits of the Lessor (to the extent that the Lessor shall determine in good faith that the receipt by the Lessor out of which the obligation to make the relevant rebate reimbursement or other payment arises or arose is or will be brought into charge for computing for Tax purposes the chargeable profits of the Lessor) the Lessor shall be entitled to reduce the payment by such amount or, if the Lessor has not done so, the Lessee will pay to the Lessor such additional amount as will put the Lessor in the same after-Tax position as it would have been in had the payment been allowed as a deductible trading expense.

8.8 Deductibility

If a payment is made by the Lessee or the Lessor has reduced the amount of a rebate or reimbursement made by it pursuant to clause 8.7 and the Lessor in fact obtains a deduction for the whole or part of the rebate or reimbursement the Lessor shall pay to the Lessee such additional amount as the Auditors certify will leave the Lessor in the same after-Tax position had the payment pursuant to clause 8.7 not been necessary.

8.9 No double-counting

Notwithstanding the preceding provisions of this clause 8, if:

8.9.1 either a liability to Tax arises, or would have arisen but for an insufficiency of taxable profits, or a deduction for Tax purposes is not available to the Lessor, or an event giving rise to such a liability or non-deduction occurs (which would not have been, or given rise to, such a liability or non-deduction had all of the Assumptions proved to be correct) by reason of which the Lessee is (or would, but for this clause 8.9, be) liable to make a payment under the provisions of this clause 8; and

8.9.2 in consequence of any of the Assumptions proving not to be correct any amount of Rental payable under this Agreement or the amount of the Termination Sum or both is or are adjusted upwards or would be so adjusted but for the provisions of paragraph 4.6 of the Financial Schedule,

the Lessee shall not be liable to make any payments to the Lessor or otherwise in respect of Taxes under this clause 8.

8.10 Exclusion from tax indemnities

The Lessee is not obliged to indemnify the Lessor or any Lessor Group Member under clause 8.1 against:

8.10.1 any Tax liability to the extent that such liability is imposed by way of deduction or withholding from any payment due from the Lessee under this Agreement or any of the other Transaction Documents to the Lessor or any Lessor Group Member in circumstances where clause 8.2 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause);

- 8.10.2 any United Kingdom Value Added Tax (including any interest, penalties or fines thereon) payable by the Lessor or any Lessor Group Member in respect of the Lessor's acquisition of the Ship (other than to the extent that such Value Added Tax arises as a result of an Excluded Event) or any other Value Added Tax whether or not the Lessee is required to make any payment or increased payment in respect thereof under clause 8.11 and, in respect of a non-United Kingdom Value Added Tax, to the extent that the Lessee is already required under this Agreement to make any payment or increased payment in respect thereof; or
- 8.10.3 Taxes which would not have arisen but for any Lessor Breach or any Lessor Misconduct; or
- 8.10.4 any United Kingdom Tax liability which is suffered by the Lessor or any Lessor Group Member by reason of any payment made by or loss suffered by the Lessor or the applicable Lessor Group Member not being fully deductible in computing the chargeable profits for Tax purposes of the Lessor or the applicable Lessor Group Member whether or not the Lessor or the applicable Lessor Group Member is entitled to receive a compensating amount under clause 8.4 or an amount under clause 8.7; or
- 8.10.5 any Taxes to the extent that they would not have arisen but for the reasonably avoidable delay or failure by the Lessor or any Lessor Group Member in the filing of:
- (a) United Kingdom tax returns or any other documents in the United Kingdom or the payment of United Kingdom Taxes assessed on or payable by the Lessor or the applicable Lessor Group Member, or, as the case may be,
 - (b) tax returns in any jurisdiction other than the United Kingdom or any other documents in any jurisdiction other than the United Kingdom or the payment of Taxes in any jurisdiction other than the United Kingdom assessed on or payable by the Lessor or the applicable Lessor Group Member, provided that this clause 8.10.5(b) shall not apply to any failure or delay by the Lessor or the applicable Lessor Group Member prior to the time at which the Lessee, or as the case may be, the relevant Tax authority to whom such Taxes are due to be paid or with whom such returns or other documents are due to be filed, has notified the Lessor in writing of the requirement to pay such Taxes or file such returns or other documents,

and provided that this clause 8.10.5 shall not apply to any delay or failure by the Lessor or the applicable Lessor Group Member which:

- (i) has been consented to or requested by the Lessee or another Transaction Company in writing; and/or
- (ii) arises as a result of a failure by the Lessee promptly when requested to do so to provide the Lessor or the applicable Lessor Group Member with correct, suitable and adequate information which the Lessee has or might reasonably be expected to have or to obtain so as to enable the Lessor or the applicable Lessor Group Member to file the relevant tax return or pay such Taxes; or

- 8.10.6 any Taxes which would not have been imposed but for, or to the extent increased by reason of, an assignment or transfer by the Lessor of its rights or obligations under this Agreement or the other Transaction Documents; or
- 8.10.7 where the Lessee is liable to compensate the Lessor or any Lessor Group Member in respect of the liability under any other provision of this Agreement and has discharged its obligations in respect thereof; or
- 8.10.8 any Corporation Tax attributable to any Rental or Termination Amount or interest actually receivable hereunder by the Lessor or to any other amounts payable to and unconditionally received by the Lessor under this Agreement or pursuant to or in connection with any of the other Transaction Documents or to any sales or other proceeds (including, without limitation, insurance moneys) actually received and retained by the Lessor in respect of the Ship or the Lessor's rights under the Novated Building Contract; or
- 8.10.9 any Tax liability in respect of documentary or similar Taxes in circumstances where clause 8.6 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause).

8.11 VAT

- 8.11.1 Save where expressly provided to the contrary, all payments made under this Agreement and the other Transaction Documents are calculated without regard to VAT. If any such payment constitutes the whole or any part of the consideration for a taxable or deemed taxable supply, the amount of that payment shall be increased by an amount equal to the amount of VAT which is chargeable in respect of the taxable supply in question against delivery of an appropriate VAT invoice provided that the Lessor shall not be liable to pay an amount in respect of VAT until such time as, and to the extent that it (or any member of its VAT group which is the representative member (or equivalent) of such VAT group for VAT purposes (the “**Representative Member**”)) receives a credit for such VAT as “input tax”, as defined in sub-section (1) of section 24 of VATA, under sections 25 and 26 of VATA (or the equivalent in any jurisdiction other than the United Kingdom), in which case such payment shall be made as soon as practicable after the credit is received.
- 8.11.2 If any amount in respect of VAT paid by the Lessor or the Representative Member pursuant to this Agreement or any of the Transaction Documents at any time shall be Irrecoverable VAT the Lessee shall forthwith on demand by the Lessor indemnify the Lessor and keep the Lessor fully indemnified at all times against such Irrecoverable VAT provided that if the Lessor determines that such Irrecoverable VAT subsequently proves to be recoverable and to the extent that no adjustment has been made in the calculation of such Irrecoverable VAT pursuant to the proviso in the definition of “Irrecoverable VAT”, the Lessor shall pay to the Lessee such amount, if any, as the Lessor shall determine will leave the Lessor in no better and no worse a position than the Lessor would have been in if no payment had been made by the Lessee to the Lessor under this clause 8.11.2.
- 8.11.3 If the Lessor makes any supply for VAT purposes pursuant to or in connection with this Agreement or any of the other Transaction Documents or any transaction or document contemplated herein or therein, the Lessee shall (save to the extent that the Lessor is entitled to be indemnified in respect of that VAT by an increased payment under clause

8.11.1 above) at such time as the Lessor certifies to the Lessee that any amount of VAT payable in respect of that supply has not been paid to the Lessor and having duly accounted for such VAT to HMRC at the correct time and having duly claimed bad debt relief in respect of that VAT the Lessor either has not or has not fully received such relief, pay on demand to the Lessor an amount equal to the aggregate of any VAT which is payable in respect of that supply and has not been the subject of bad debt relief together with interest on an amount equal to any VAT payable in respect of the supply at LIBOR ascertained in respect of the date on which such VAT was accounted for to HMRC for the period from that date until the date of the Lessor's certificate or the date upon which bad debt relief is received, provided that if an amount in respect of bad debt relief is subsequently recovered by the Lessor or the Representative Member which is attributable to VAT in respect of which the Lessee has made a payment under this clause 8.11.3 the Lessor shall, or shall procure that the Representative Member shall, pay an amount equal to such recovery to the Lessee to the extent such payment will not prejudice the retention of such VAT bad debt relief.

8.12 VAT mitigation

8.12.1 The Lessor and the Lessee agree to co-operate with a view to minimising any VAT payable by either party under any transaction referred to in clause 8.11 but so that neither party shall be bound to do anything which would not be good business practice and legal or which would involve any adverse consequences to it.

8.12.2 If it subsequently transpires that the Lessor recovers, or obtains a credit for, any VAT in respect of which the Lessor has been indemnified under clause 8.11 the Lessor shall refund to the Lessee such amount as the Lessor shall determine to be such proportion of such credit as will leave the Lessor, after such refund, in the same net position as if would have been had no VAT been required to be accounted for.

8.13 Information

8.13.1 Subject to clause 8.13.2, the Lessee shall provide such evidence, assistance, information and documentation relating to the Purchase Price, the Ship, the use to which the Ship is being put or such other evidence, information or documentation as may be requested by the Lessor and which is or ought reasonably to be available to the Lessee and which is under its control or power to procure, and which the Lessor may require in order for the Lessor to satisfy a legitimate request for information or documentation received from any Tax authority or in order to agree the Lessor's Tax computations or settle any other Tax matter and the Lessee undertakes to co-operate with the Lessor to enable the same to be provided to the relevant Tax authority.

8.13.2 The Lessee and Lessor acknowledge and agree that should either party, or as the case may be, any relevant advisors of either party (“**Advisors**”) determine that it shall be necessary for it, or as the case may be, such Advisors to disclose to any Tax authority such details relating to the transactions contemplated by the Transaction Documents as may be required to be disclosed by such person in accordance with the provisions of Part 7 of Chapter 8 of the Finance Act 2004 or any regulations made pursuant thereto, such person shall be permitted to make such disclosure **SAVE THAT** before making any such disclosure, the Lessor, or, as the case may be, the Lessee shall consult in good faith with the other party as to the requirement to make such disclosure and the terms on which such disclosure shall be made provided that notwithstanding such requirements to consult, any decision as to whether a disclosure is required to be made and the terms of that disclosure shall be made by the person wishing to make the disclosure acting in good faith.

9 Use and Employment

9.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period except as the Lessor may otherwise permit in writing.

9.2 Permitted use

The Lessee shall have the full possession and use of the Ship and the Ship may be employed throughout the world in any lawful trade for which the Ship is suitable subject to (i) the Lessee ensuring that the Ship is insured for the jurisdiction in which it is to operate (in accordance with clause 13) and to (ii) any limitations imposed by insurers and otherwise (iii) subject to and on the terms and conditions of this Agreement.

9.3 Other undertakings concerning use

The Lessee shall, and shall procure that each other Transaction Company shall:

- 9.3.1 avoid the Ship being operated or employed in any manner, trade or business contrary to Environmental Laws and all other laws or regulations, in any such case to the extent that they apply to the Ship, its ownership, operation and management or to the business of the Lessee, or in carrying illicit or prohibited goods or in any manner which would render her liable to condemnation or destruction, seizure, confiscation, penalties, requisition or sanctions or in any manner or trade which would or might reasonably be expected to prejudice the Lessor's ownership of the Ship unless the Lessee, by virtue of the provisions of the Time Charter as at the date hereof, is not entitled to prevent such operation or employment;
- 9.3.2 without prejudice to the generality of clause 9.3.1 above, ensure and/or procure that the Ship is properly used and, in particular, but without limitation, that it shall:
- (a) observe all material recommendations and requirements contained in all handbooks and manuals supplied by or procured from the Builder or the manufacturer or the supplier of components for the Ship relating to the proper use of the Ship; and
 - (b) ensure that the Ship is operated in accordance with the appropriate regulations and recommendations of all competent authorities of the flag state and the jurisdictions in or to which the Ship is employed or trades from time to time pursuant to the terms of this Agreement and of the Classification Society.
- 9.3.3 without prejudice to the generality of clause 9.3.1 above, throughout the Lease Period (and shall procure that any Approved Manager takes all necessary action to):
- (a) procure implementation and maintenance of a safety management system (**SMS**) which complies with the ISM Code, the flag state of the Ship and the Ship's Classification Society, which may from time to time be of mandatory application to the Ship and/or the Lessor and/or the Lessee and/or any other Transaction Company;

- (b) procure the obtaining and maintenance in force at all times of valid certificates evidencing compliance with the requirements of clause 9.3.3(a) above, including, without limitation, a valid Document of Compliance in relation to the Approved Manager and a valid Safety Management Certificate in respect of the Ship as required by the ISM Code;
- (c) provide the Lessor, at its request, with copies of any such Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate upon issuance;
- (d) if and to the extent required pursuant to the ISM Code, keep or procure that there is kept on board the Ship at all times a copy of any such Document of Compliance and the original of any such Safety Management Certificate; and
- (e) ensure that:
 - (i) the Ship has a valid International Ship Security Certificate;
 - (ii) the Ship's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Ship's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place;

9.3.4 without prejudice to the generality of clause 9.3.1 above, in the event of the Ship (and for so long as it is) operating in or into or off-shore from the United States of America or in United States waters, obtain and maintain all Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time and such other documentation as may be required by the US Coast Guard or any other relevant US authority and, if so requested by the Lessor, provide copies of Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time to the Lessor and take all reasonable precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in the flag state or in any jurisdiction in or to which the Ship may be employed or trade from time to time;

9.3.5 not at any time represent or hold out the Lessor as carrying goods or persons on the Ship or being in any way connected or associated with any operation or carriage whether for charter or reward or gratuity or gratuitously which may be undertaken by the Lessee during the Lease Period nor shall the Lessee represent itself as the agent of the Lessor for such purpose;

9.3.6 in the event of hostilities in any part of the world, avoid the Ship entering or trading to any zone which is declared a war zone or excluded area by any government or by the Ship's war risks insurers unless the Lessee has (at its expense) effected special, additional or modified insurance cover necessary to keep the Ship properly insured in accordance with this Agreement notwithstanding such entry into a war zone and, either prior to or promptly after such entry, shall have submitted the same to the Lessor to enable the Lessor to verify that such further insurances do meet such requirements and shall have ensured that all requirements under or pursuant to this Agreement in relation thereto shall have been

complied with and provided further that if the Ship is in a zone when it is declared a war zone or excluded area by the Ship's war risk insurers or any government the Lessee shall forthwith at its own expense effect special, additional or modified insurance as necessary to keep the Ship insured in accordance with this Agreement and shall then notify the Lessor in writing giving details of such insurances.

The requirements of this clause 9.3.6 shall be deemed satisfied if the Ship is held covered under a relevant government programme (by which is meant an insurance or an indemnity programme on terms acceptable to the Lessor, having regard to the insurance requirements set forth in this Agreement, of any member of the European Union and/or the United States of America or any other country approved by the Lessor); and

9.3.7 pay all tolls, dues and other outgoings whatsoever in respect of the Ship and the Insurances and keep proper books of account in respect of the Ship and, as and when the Lessor may so require, make such books available for inspection on behalf of the Lessor.

9.4 Provision of information in respect of the Ship's employment and trade

9.4.1 The Lessee shall procure that the Lessor is advised in writing if the Ship's trading pattern would or may result in a liability being imposed in the United States of America on the Lessor for US Transportation Tax, or any equivalent future Tax notwithstanding that, in such circumstances, it shall in such case be the responsibility of the Lessee to attend to all administrative matters relating thereto and to indemnify the Lessor for any such Tax liability.

9.4.2 At the Lessor's request, the Lessee shall provide the Lessor with such information and copy documents which the Lessor reasonably requests in relation to:

- (a) the Ship, its employment, position and engagements under the Time Charter;
- (b) copies (duly translated into English) of any charters of the Ship notified to and approved by the Lessor in accordance with clause 10.17 including any voyage or engagement which requires the Ship to enter into United States waters or operate in or offshore from the United States of America;
- (c) the amount of hire payable in respect of the bareboat chartering, time chartering or other hiring of the Ship and amount of payments and amounts due to the Ship's master and crew;
- (d) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship and any payments made in respect of the Ship; and
- (e) any towages and salvages,

provided that (in the case of information relating to, and copies of contracts for the chartering or hire of the Ship other than the Time Charter) the Lessee is able to procure that such information is provided or such copies are provided, in each case without breaching any confidentiality covenants on the part of any Guarantor Group Member under such contracts and, if the provision of this information or copies of the applicable charter contracts would, in the opinion of the Lessee (acting reasonably) cause such covenants to be breached, the Lessee delivers to the Lessor an opinion from the Lessee's English counsel setting out the reasons why (in the reasonable opinion of the Lessee's English

counsel) the terms of the proposed charter or sub-charter will not cause the Lessee to be in breach of the covenant in clause 9.2, provided always that if the Lessor is required by its Tax Authority to disclose any such charter or sub-charter the Lessee shall procure in so far as possible that the applicable Guarantor Group Member obtains the consent of its counterparty to such contract for a copy of the contract to be provided to the Lessor's Tax Authority.

9.4.3 The Lessee shall advise the Lessor promptly of any breach of any provisions of this clause 9.4 and shall thereafter keep the Lessor informed of progress of matters in relation thereto.

10 Maintenance and Operation

10.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period until such time as the Ship is sold except as the Lessor may otherwise permit in writing.

10.2 Supply and crewing

Throughout the Lease Period the Lessee shall procure that the Ship is manned, victualled, navigated, operated, supplied, fuelled, maintained and repaired, all at no cost to the Lessor.

10.3 Condition of the Ship

The Lessee shall procure that the Ship and every part thereof is kept in a good and safe condition and state of repair, ordinary wear and tear excepted, and shall ensure that all repairs to or replacements of lost, damaged or worn parts and equipment are effected in such a manner so as not to diminish the value of the Ship and in any event:

10.3.1 consistent with first-class ship ownership and management standards in relation to ships of the Ship's age and type;

10.3.2 so as to maintain the Ship's class, namely "DNV, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V (3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport" with Det norske Veritas (or the equivalent classification with another Classification Society), free of overdue conditions affecting the Ship's class unless waived;

10.3.3 so as to comply with all laws and regulations, including, without limitation, Environmental Laws, and to maintain all certificates, licences and permits applicable to vessels registered in the state of registration for the time being of the Ship being pursuant to clause 12 and to vessels trading to any jurisdiction to which the Ship may trade from time to time in any such case unless waived; and

10.3.4 without prejudice to the foregoing provisions of this clause 10.3, at least to the same standard, on a non-discriminatory basis, as other comparable vessels owned or operated by companies which are Guarantor Group Members.

10.4 Master, officers and crew

The Master, officers and crew of the Ship shall be the servants of the Lessee for all purposes whatsoever. The Lessee shall ensure that the wages and allotments and the

insurance and pension contributions as appropriate of the Master, officers and crew shall be regularly paid and all deductions from their wages in respect of tax liability shall be properly accounted for and the Master shall have no valid claim for disbursements other than those incurred by him in the ordinary course of trading of the Ship.

10.5 Modifications

The Lessee shall procure that no modification is made to the Ship which would:

10.5.1 materially and adversely alter the structure, type or performance characteristics of the Ship unless required by the Classification Society of the Ship from time to time; or

10.5.2 reduce the value of the Ship,

and in any event the Lessee shall require the prior written consent of the Lessor for any modifications which are made to the Ship the cost of which exceeds or will when completed exceed five million Dollars (\$5,000,000).

10.6 Surveys

The Lessee shall procure that the Ship is submitted to such periodical or other surveys as may be required by the Ship's flag state or for classification purposes and shall comply with all conditions affecting the Ship's class of the Classification Society of the Ship from time to time in accordance with their terms unless waived and the Lessee shall supply copies of any survey reports to the Lessor upon request from the Lessor.

10.7 Drydocking

The Lessee shall procure that the Ship is drydocked as often as may be required to ensure that the Ship maintains its classification with its Classification Society and otherwise in accordance with good commercial practice. If the Lessee fails to comply with the requirements of the relevant Classification Society, the Lessor shall have the right to inspect the Ship in accordance with clause 10.14. If so requested by the Lessor, the Lessee shall give the Lessor reasonable prior written notice of any intended drydocking of the Ship.

10.8 Release from arrest

Other than in the circumstances described in clause 6.3.2, the Lessee shall promptly pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given or which may reasonably be expected to give rise to maritime, statutory or possessory liens (other than Permitted Security Interests) on, or claims enforceable against, the Ship or the Insurances or any part thereof. If at any time during the Lease Period any writ or equivalent claim or pleading in admiralty is filed against the Ship or the Insurances or any part thereof, or the Ship or the Insurances or any part thereof is arrested or detained or attached or levied upon pursuant to legal process or purported legal process or in the event of the detention of the Ship in the exercise or the purported exercise of any such lien or claim as aforesaid (other than by reason of a Compulsory Acquisition or by reason of a Lessor's Security Interest), the Lessee shall procure the release of the Ship and the Insurances from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty as soon as reasonably

practicable and in any event within sixty (60) days of receiving notice thereof by providing bail or procuring the provision of security or otherwise as circumstances may require. Subject to the provisions of this Agreement, the Lessor shall cooperate with the Lessee to the extent that the Lessee wishes to make any payment through or requires to take any reasonable steps (other than court proceedings) in the name of the Lessor.

10.9 Manuals and technical records

The Lessee shall procure that:

- 10.9.1 all such records, logs, manuals, technical data and other materials and documents which are required to be maintained in respect of the Ship to comply with any applicable laws or the requirements of the Ship's flag state and Classification Society are maintained;
- 10.9.2 accurate, complete and up-to-date logs and records of all voyages made by the Ship and of all maintenance, repairs, alterations, modifications and additions to the Ship are kept; and
- 10.9.3 following the occurrence of a Termination Event and for as long as it is continuing on reasonable advance notice from the Lessor, the Lessor or its representatives is permitted at any time to examine and take copies of such logs and records and other records.

10.10 Ship's Software

The Lessee shall obtain and maintain and procure that there are obtained and maintained for the benefit of the Lessor, the Lessee, and the Time Charterer and any other person hiring or chartering or operating the Ship from time to time all licences and permits (without liability on the part of the Lessor for the payment of any royalties as may be required from time to time in respect of the Ship's Software) and shall procure that all such licences and permits are granted without any limitation or expiry (or are renewed prior to any such expiry).

10.11 Manager

The Lessee shall procure that no manager of the Ship is appointed which is not an Approved Manager. For the avoidance of doubt this shall not be construed as a prohibition on the appointment of sub-contractors by the Approved Manager, providing that the Approved Manager remains responsible for management of the Ship.

10.12 Safe operation

The Lessee shall take all steps necessary so as to ensure that the Ship should be navigated and operated in a proper, safe and seaman-like manner and in the manner prescribed by any legislation, including Environmental Laws, in force in the state of registration for the time being of the Ship and all other applicable jurisdictions.

10.13 Seaworthiness

Save for periods when the Ship is in dry-dock, the Lessee shall procure that the Ship should at all times be fit to go to sea without serious danger to human life (by reason of the condition, or the unsuitability for its purpose, of either the Ship or its machinery or equipment or any part of the Ship or its machinery or equipment or undermanning or overloading or unsafe or improper loading or any other matter relevant to the safety of the Ship).

10.14 Inspection

The Lessee shall ensure that the Lessor, its surveyors or other persons appointed by it will be permitted to inspect the Ship, upon reasonable notice and without interfering with the Ship's operation. Such inspections shall be without cost to the Lessee unless either such inspection reveals that the requirements of this clause 10 are not then being complied with in all material respects or it is made after the occurrence of a Termination Event that is continuing, in which case it shall be at the cost of the Lessee.

10.15 Ship-related expenses

The Lessee shall procure that, in relation to the operation of the Ship, at no time is the Lessor's credit pledged to pay for any costs of maintenance, repair, operation or use of the Ship or in relation to any of the other matters listed below and the Lessee shall pay or procure that there is paid within any applicable grace or credit period all costs, charges and expenses arising during or in respect of the Lease Period, from the purchase, exportation, importation, registration, ownership, chartering, sub-chartering, possession, control, use, operation, maintenance, repair, replacement, refurbishment, overhaul, insurance, storage, redelivery, dry-docking or disposal of the Ship or any modification to or any change or alteration in the Ship and otherwise howsoever in connection with the Ship, except:

10.15.1 for Taxes, to which clause 8 shall apply;

10.15.2 for the Purchase Price of the Ship pursuant to the Novated Building Contract; or

10.15.3 to the extent that such items are already the subject of indemnification, either under clause 7 or under the Financial Schedule.

While the Lessee's liability to pay ultimately the amount due in respect of any such costs, charges or expenses is not diminished, the Lessee may delay or refrain from paying any such costs, charges or expenses while it is contesting them in good faith by appropriate steps and provided that adequate reserves have been made to meet such liability in case the Lessee's contest ceases or is unsuccessful, for whatever reason and provided that such delay or withholding does not, in the reasonable opinion of the Lessor, carry with it any material risk of arrest, forced sale, loss, confiscation or forfeiture of the Ship or any interest therein.

The Lessee will also not hold out the Lessor as being involved in the operation of the Ship.

If a claim is made against the Lessor for payment of any amounts referred to in this clause 10.15, the Lessee shall produce to the Lessor such evidence as it shall reasonably require of the due payment of any sums referred to in this clause.

10.16 Notification of certain events

The Lessee shall, immediately upon the same coming to its attention and to the best of its then current knowledge, notify the Lessor by fax (confirmed forthwith by letter) of:

10.16.1 any casualty of the Ship which is or is likely to give rise to a loss or cost of five million Dollars (US\$5,000,000) or more;

10.16.2 any occurrence as a result of which the Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;

- 10.16.3 any requirement made by any insurer or Classification Society or by any competent authority which is not complied with within any applicable time period for compliance stipulated by such authority;
- 10.16.4 any arrest or detention of the Ship, any exercise or purported exercise of any lien on the Ship or its Earnings or any requisition of the Ship for hire;
- 10.16.5 any Environmental Claim made against the Lessor of which it is or becomes aware or in connection with the Ship, or any Environmental Incident or Environmental Claim in an amount in excess of one million Dollars (\$1,000,000) made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.6 any claim for breach of the ISM Code or the ISPS Code being made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.7 any other matter, event or incident, actual or threatened, the effect of which will or is reasonably likely to lead to the ISM Code or the ISPS Code not being complied with;
- 10.16.8 any claims made in connection with a bodily injury to a third party involving amounts in excess of an amount of one million Dollars (\$1,000,000) or its equivalent in any other currency;
- 10.16.9 any Security Interest (other than a Permitted Security Interest) arising over the Ship or the Insurances or Requisition Compensation; and
- 10.16.10 any other event in respect of the Ship or the Insurances or Requisition Compensation which the Lessee expects to involve the Lessor in any loss or liability,
- and the Lessee shall keep the Lessor advised in writing on a regular basis and in such detail as the Lessor shall require of the response to any of those events or matters by the Lessee or the applicable Transaction Company or any other person.

10.17 Restrictions on chartering

The Lessee shall not, without the prior written consent of the Lessor acting reasonably (which shall be subject to the Lessor being satisfied with the information or documentation or opinion provided in accordance with clause 9.4.2):

- 10.17.1 let the Ship on demise charter;
- 10.17.2 let the Ship on or enter into any time or consecutive voyage charter in respect of the Ship to the Original Purchaser or any other person who has at any time had a right to acquire the Ship from the Builder;
- 10.17.3 put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed five million Dollars (US\$5,000,000) (or the equivalent in any other currency) unless either:
- (a) that person has first given to the Lessor and in terms satisfactory to it a written undertaking not to exercise any lien on the Ship or its earnings for the cost of such work or for any other reason; or
 - (b) the cost of such work is covered by insurances; or

(c) the Lessee establishes to the reasonable satisfaction of the Lessor that it has sufficient funds to pay for the cost of such work; and

10.17.4 knowingly permit the Time Charterer to enter into any sub-charter of or for the Ship which would breach the terms of the covenant in clause 10.17.2.

11 Equipment

11.1 General

The following provisions of this clause 11 shall apply at all times during the Lease Period and until such time as the Ship is sold.

11.2 Use of Equipment

The Lessee shall have the use of all outfit, equipment, furnishings, furniture and fittings, spare and replacement parts belonging to the Ship, and the same or their substantial equivalent shall be returned to the Lessor on redelivery in good order and condition, ordinary wear and tear excepted, and except for changes and alterations properly made as permitted under this Agreement.

11.3 Renewal of Equipment

The Lessee shall procure that, at no cost to the Lessor, from time to time during the Lease Period such items of equipment forming part of the Ship as shall be damaged, worn or lost are replaced, renewed or substituted in such manner as not to diminish in any material adverse way the value of the Ship. Title to any part replaced, renewed or substituted shall remain with the Lessor until the part which replaced it or the new or substituted item of equipment becomes the property of the Lessor or is replaced, renewed or substituted by an item of equipment which at that time becomes the property of the Lessor. The Lessee shall ensure that title to any such new item of equipment shall be free of all Security Interests and shall vest in the Lessor upon fitting.

11.4 Additional equipment

At any time any necessary additional equipment may be fitted so as to render the Ship available for any purpose for which the Lessee may require to use or operate the Ship, subject always to clause 9.3, or as required by any Classification Society, subject to no permanent structural damage or reduction in value thereby being caused to the Ship by reason of its installation or subsequent removal. Any additional equipment so fitted shall be considered the property of the Lessee who may remove such additional equipment at any time before the expiration of the Lease Period unless (i) it is agreed between the Lessor and the Lessee that any such equipment shall remain on the Ship after redelivery in which event such equipment shall as from redelivery become the property of the Lessor, or (ii) such additional equipment is required by any Classification Society. The cost of fitting or removing any equipment together with the cost of making good any damage caused by such fitting or removal shall be payable in full by the Lessee.

12 Title and Registration

12.1 General

The following provisions of this clause 12 shall apply at all times during the Lease Period until such time as the Ship is sold.

12.2 Title and ownership

The Ship shall belong to the Lessor and title to and ownership of the Ship shall remain vested in the Lessor. The Lessee shall have no right, title or interest in or to or any option or any right to acquire title to or any proprietary interest in or to any part of the Ship except the rights expressly set out in this Agreement.

12.3 Approved Flag States

12.3.1 As at the date of this Agreement (but subject always to clause 12.3.2 and to the following states or countries satisfying and continuing to satisfy the criteria set out in clause 12.5 below), the Lessor agrees that any of Hong Kong, the Marshall Islands, the United Kingdom, Liberia, Bermuda or the Bahamas is acceptable to the Lessor as a state or country in which the Lessor agrees the Ship may be registered.

12.3.2 If the Lessor gives notice to the Lessee that any of the above mentioned states or countries falls within the restrictions or circumstances set out in clause 12.5 below, the applicable state or country shall cease to be an Approved Flag State for the purposes of this Agreement.

12.4 Registration

The Lessee agrees at its expense (and, in relation to clause 12.4.1 below, the Lessor agrees to provide all requisite assistance to the Lessee so as to enable the Lessee) to:

12.4.1 subject to clause 12.3.2 and to the criteria set out in clause 12.5 below, procure that at Delivery the Ship is, and thereafter throughout the Lease Period remains, registered in the name of the Lessor under the laws and flag of an Approved Flag State at the applicable time; and

12.4.2 (subject to clause 12.5 below) procure throughout the Lease Period that the registration of the Ship is maintained under the laws and flag of an other Approved Flag State and shall not knowingly do or suffer to be done anything whereby such registration may be forfeited or imperilled; and

12.4.3 pay, and indemnify the Lessor from and against, all registration and other charges and fees that may from time to time be payable in respect of such registration.

12.5 Reflagging

12.5.1 The Lessor may require the Lessee (at its cost and expense) to re-register the Ship under the laws and flag of any other state or jurisdiction (including, but not limited to, the Approved Flag States referred to in clause 12.3 above) in the event that (a) it becomes unlawful, impossible, impracticable or (in the opinion of the Lessor, acting in good faith) undesirable (including, without limitation, by reason of change of legal or political circumstances) for the Lessor to continue to be registered as the owner of the Ship under

the laws and flag of its then current register or (b) if classification inspections for vessels registered under the laws and flag of the state in which the Ship is registered at the relevant time are no longer undertaken by a classification society which is a member of IACS.

- 12.5.2 The Lessee, upon not less than 15 days written notice to the Lessor (or such shorter period as the Lessor may agree, such agreement not to be unreasonably withheld) and provided that no Relevant Event has occurred and is continuing, may elect to re-register the Ship in a state listed in clause 12.3.1 or any other state or country approved by the Lessor, such approval not to be unreasonably withheld or delayed, subject to:
- (a) the Ship being registered in the name of the Lessor, free from Security Interests other than Permitted Security Interests in the applicable register in such flag state;
 - (b) inspections of the Ship required by the proposed new flag state continuing to be undertaken by a classification society which is a member of IACS;
 - (c) it being possible to obtain a legal opinion satisfactory to the Lessor in its discretion in relation to the laws of such proposed flag state as to the validity and enforceability of the Lessor's ownership interest in the Ship contemplated by the Transaction Documents;
 - (d) the Lessor's liability as owner of the Ship not increasing as a result of such change of flag; and
 - (e) the right of the Lessor to treat the applicable state or country as being unacceptable in the future in accordance with clause 12.5.1 above.
- 12.5.3 The Lessor agrees, at the request and cost of the Lessee, promptly to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee to re-register the Ship in any Approved Flag State.
- 12.5.4 All costs and expenses (including legal costs and expenses and Taxes thereon and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any re-registration pursuant to clause 12.5 shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand. The provisions of clause 12.4 shall, with any necessary modifications, apply following any re-registration.
- 12.6 Name, colours etc.**
- 12.6.1 The Ship shall be painted in such colours and display such funnel insignia as the Lessee may from time to time lawfully require. The Lessee shall notify the Lessor of any intended change in the name of the Ship. At the request and cost of the Lessee, the Lessor agrees to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee in relation to any registration formalities required in connection with a change of the Ship's name.
- 12.6.2 All costs and expenses (including legal costs and expenses and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having

been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any registration formalities required in connection with a change of the Ship's name shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

12.7 Encumbrances

The Lessee shall not (save pursuant to the express powers conferred by this Agreement):

- 12.7.1 attempt or hold itself out as having any power to sell, charge or otherwise encumber or to sell or otherwise dispose of the Ship or any interest therein; or
- 12.7.2 let the Ship otherwise than as provided in this Agreement; or
- 12.7.3 create, incur, suffer or permit to exist any Security Interest (other than Permitted Security Interests) on or over the Ship, its earnings or on or over the Insurances,

and agrees to carry a properly certified copy of this Agreement with the Ship's papers and to exhibit the same to any person having business with the Ship which might give rise to any Security Interest thereon other than Permitted Security Interests.

12.8 Protection of Lessor

The Lessee shall seek to avoid anything being done which jeopardises the rights of the Lessor in the Ship or any part thereof and/or seek to avoid any omission which would prevent those rights from being exercised or enjoyed.

12.9 Notice of Lease

The Lessee shall place and keep or procure that there is placed and kept prominently displayed in the control room of the Ship throughout the Lease Period a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space of not less than six (6) inches wide by nine (9) inches high, substantially reading as follows:

“NOTICE OF OWNERSHIP AND LEASE”

“This Ship is owned by Peony Leasing Limited (the “Lessor”) and is subject to a lease agreement between the Lessor and Seaspan Finance I Co. Ltd (the “Lessee”). Neither the Lessee nor any manager, nor the master of the Ship nor any servant or agent of any of them have any right, power or authority whatsoever to contract on behalf of the Lessor or to pledge the credit of the Lessor or the involvement of the Lessor in any liability whatsoever and none of the Lessee, any manager, the master of the Ship and any other person has any right, power or authority to create, incur or permit to be imposed upon this Ship any Security Interest whatsoever except for general average, crew's wages or salvage”

or in such other form as the Lessor may reasonably require from time to time.

- 12.9.1 The Lessee shall not remove or cover up such notice, and will not place or permit to be placed any other notice affecting the ownership of the Ship or otherwise relating to the rights of the Lessor in or on the Ship or any part thereof save as is expressly permitted or required by the Transaction Documents without the prior written consent of the Lessor.

13 Insurances

13.1 General

The Lessee undertakes with the Lessor to procure that the following provisions of this clause 13 are complied with at all times during the Lease Period and, thereafter, until the Ship is sold, either by the Lessee or by any Guarantor Group Member to whom the Lessee delegates its rights and duties as sales agent in accordance with clause 2.8.9, except as the Lessor may otherwise permit. The Lessee confirms that throughout the Lease Period until the Ship is sold, the Ship shall be in every respect at the risk of the Lessee.

13.2 Maintenance of Insurances

The Ship shall be kept insured at no cost to the Lessor against:

- 13.2.1 fire and usual marine risks (including excess risks) and war risks;
- 13.2.2 protection and indemnity risks (including pollution risks and excess war protection and indemnity risks), on “full entry” terms; and
- 13.2.3 in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner or operator of vessels of a similar age, condition and type as the Ship and which may be requested by the Lessor from time to time (other than (i) the amount of any deductible, and (ii) loss of earnings/hire).

13.3 Terms of Insurances

Such Insurances shall be effected:

- 13.3.1 in Dollars or such other currency as the Lessor and the Lessee may agree;
- 13.3.2 in the case of fire and usual marine risks and war risks (on an agreed value basis) in an amount equal to the greater of (i) 120% of the highest Termination Sum applicable to the period for which the insurances are renewed and (ii) the market value of the Vessel;
- 13.3.3 in the case of protection and indemnity risks (including pollution liability risks), in an amount equal to the highest amount in respect of which cover is in accordance with customary insurance market practice taken out by prudent owners or operators of vessels of a similar type, size, age, condition and flag as the Ship with protection and indemnity risks associations that are members of the International Group of Protection and Indemnity Associations (but in the case of pollution risks, for a minimum amount of one billion Dollars (\$1,000,000,000) or where cover for such risks is not available in such an amount, such lesser amount as is the best level of cover available in the market at the applicable time); and

- 13.3.4 on terms approved under clause 13.19, but subject to a minimum requirement of the scope of coverage of that provided by the Norwegian Marine Insurance Plan 1996 or as provided by the equivalent full conditions forms of other nationality (so far as can be reasonably obtained in the market at the applicable time); and
- 13.3.5 through brokers and with insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in war risks and protection and indemnity risks associations, in each case approved under clause 13.19.
- 13.4 Further protection for Lessor**
- In addition to the terms set out in clause 13.3, the Insurances effected under such clause shall:
- 13.4.1 name (or be amended to name) the Lessor as additional assured (in the case of the Insurances referred to in clause 13.2.1) and (in the case of Insurances referred to in clause 13.2.2 and war risks insurance if such risks are insured against by entry of the Ship in a war risks association) either as an assured with limited rights on “misdirected arrow” conditions in accordance with the usual terms of the club or association or (at the option of the Lessor) as a joint member for its rights and interests and, as between the Lessor and the Lessee, without the Lessor being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such Insurances and the Lessee hereby agrees to promptly indemnify the Lessor against any liability the Lessor may have for premiums, calls or other assessments in respect of any such Insurances;
- 13.4.2 in the case of the Insurances in respect of marine risks and war risks, be endorsed by way of a loss payable clause to the effect that:
- (a) payment of a claim for a Total Loss will be made to the Lessor (who shall, upon receipt thereof, apply the same in accordance with clause 14.3);
 - (b) payment of a claim for an amount which equals or exceeds the threshold amount attributable to a Major Casualty amount shall be paid to the Lessor and, subject to no Relevant Event then having occurred which is continuing (after which such sums shall be applied in accordance with clause 14.3) shall be applied as follows:
 - (i) the sum received by the Lessor shall be paid over to the Lessee or any other applicable Transaction Company subject to the Lessor receiving evidence satisfactory to the Lessor that all loss and damage resulting from the casualty has been properly made good and repaired and that all repair accounts and other liabilities connected with the casualty have been paid by the Lessee or by any other Transaction Company; and
 - (ii) the insurers with whom the fire and usual marine risks and war risks insurances are effected may in the case of any Major Casualty, and with the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed) make payment on account of the repairs which are being carried out; and
 - (c) as long as no Relevant Event has occurred and is continuing, payment of any other claim shall be made to the Lessee or, as applicable, such other Transaction Company, who shall apply the same in or towards making good the loss and fully repairing all damage in respect whereof such payment shall have been made and

after the occurrence of a Relevant Event and whilst it is continuing and following notification by the Lessor to the approved brokers, payment of any such claim shall be made to the Lessor; and

- (d) in the case of the Insurances in respect of protection and indemnity risks, be endorsed by way of a loss payable clause to the effect that moneys payable thereunder shall be paid in reimbursement of the assured which has settled the liability to which the relevant claim relates or, if so agreed by the relevant insurers, be paid directly to the person to whom was incurred the liability in respect of which the relevant money was paid unless and until the Lessor, following the occurrence of a Relevant Event which is continuing, shall direct that they shall be paid to the Lessor whereupon they shall be paid to the Lessor.

13.5 Renewals

- 13.5.1 As soon as possible, but in any case not less than seven (7) days before the expiry of any of the policies, entries or contracts forming part of the Insurances or if there is a change in the insurers and/or markets through whom the Insurances are placed, the Lessee shall notify the Lessor of the names of the brokers (or other insurers) and any protection and indemnity and/or war risks association through or with whom such Insurances are proposed to be renewed and (if any material change is proposed) of the proposed terms and amounts of renewal. The Lessee shall also promptly notify the Lessor of any material change in the information notified to the Lessor pursuant to this clause 13.5.1 and shall provide the Lessor with particulars of such changes. If at any time the terms and amounts on and for which the Insurances are proposed to be renewed or the identity of the broker or war or protection and indemnity risks associations with whom the Insurances are proposed to be renewed are not approved by the Lessor, as contemplated by clause 13.19, the Lessor shall notify the Lessee promptly in writing of the withdrawal of its approval, and the Lessee shall procure that the Insurances are renewed or replaced on terms satisfactory to the Lessor.
- 13.5.2 Before the expiry of any Insurances the Lessee shall procure that such relevant Insurances are renewed and shall confirm to the Lessor that such renewals have been effected or shall procure that such confirmation is given to the Lessor before the expiry of any such Insurances.
- 13.5.3 Promptly after each such renewal, the Lessee shall procure that the Lessor is provided with the details of the terms and conditions and amounts on which and for which such Insurances have been renewed.
- 13.5.4 If, after renewal and after review by the Lessor of the terms and conditions of renewal, the Lessor advises the Lessee that the terms and conditions of such Insurances as renewed, do not conform with the requirements of this clause 13 (which advice shall specify the particular discrepancies) then, after consultation with the Lessor, the Lessee shall ensure that any such discrepancies are corrected promptly.

13.6 Custody of Policy Documents/Loss Payable Clauses

The Lessee shall procure that there shall be deposited with the brokers and/or insurers through which the Insurances are arranged from time to time copies of all slips, cover notes, policies certificates of entry or other instruments of insurance from time to time issued in connection with such of the Insurances referred to in this clause 13 as are effected

through such brokers and/or the war risks and protection and indemnity association approved in accordance with clause 13.19 and shall also procure that, in the case of the Insurances referred to in clause 13.2.1, the interest of the Lessor shall be endorsed on the relevant cover note or policy and, in the case of the protection and indemnity Insurances referred to in clause 13.2.2, the interest of the Lessor shall be endorsed on the relevant certificate of entry or policy, in each case in addition to incorporation of the relevant loss payable clause and the Lessee shall procure that the Lessor shall be furnished with copies of the relevant cover note or policy or certificate of entry or policy, duly endorsed.

13.7 Letters of undertaking

In relation to all Insurances effected from time to time under and in accordance with this clause 13, the Lessee shall ensure that all brokers and/or insurers and any protection and indemnity or war risks associations in which the Ship is entered, in each case being approved under clause 13.19, provide the Lessor with letters of undertaking:

- 13.7.1 in the case of an approved broker, in such form as represents the then current market practice in the insurance market in which the approved broker operates and any professional association of which that approved broker is a member; and
- 13.7.2 in the case of a protection and indemnity association, having regard to the current market practice and the practices prescribed by the International Group of Protection and Indemnity Associations or, if the relevant protection and indemnity association is not a member of the International Group of Protection and Indemnity Associations but has otherwise been approved by the Lessor in accordance with clause 13.19, the current practice of that association (and which will for all purposes provide for notification to the Lessor prior to the cancellation of any such entry); and
- 13.7.3 in the case of a war risks association, having regard to the current market practice in the insurance market in which such association operates.

13.8 Fleet Cover

If any of the Insurances referred to in clause 13.2.1 and/or 13.2.2 form part of a fleet cover, the Lessee will procure that (a) any letter of undertaking referred to in clause 13.7 is amended to provide that the relevant brokers shall undertake to the Lessor that they shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (b) that the applicable policy documents are endorsed to the effect that the applicable insurers shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (c) that the Lessor receives other comfort that this will not occur.

13.9 No material adverse alteration

The Lessee shall comply with the terms and conditions of the Insurances and shall not do and shall ensure that there is no act or omission which would give rise to a right to cancel any Insurances or render any Insurances, or any policy or policies or certificate or certificates of entry invalid, void, or unenforceable or render any sum paid out under any

policy or policies or certificate or certificates of entry or the Insurances evidenced thereby repayable in whole or in part. The Lessee will not make, and shall procure that no material alteration is made to the terms of any of the Insurances without the prior written consent of the Lessor.

13.10 Operation outside terms of Insurances

The Lessee will take all steps necessary so that:

- 13.10.1 the Ship is not operated in any way inconsistent with the provisions or warranties of or implied in, or in contravention of the cover provided by, any Insurance taken out in accordance with this clause 13;
- 13.10.2 the Ship is not engaged in any voyage or to carry any cargo not permitted by any Insurance, in each case without first obtaining the consent (if necessary) of the insurers to such operation or engagement and complying with such requirements as to extra premium or otherwise as the insurers may prescribe; or
- 13.10.3 all requisite certificates of financial responsibility and/or other consents, licences, approvals or authorisations as may from time to time be required are obtained and maintained if the Ship is likely to be operating in or into or off-shore from the United States of America.

13.11 Payment of premiums and calls

The Lessee shall procure that (taking account of any applicable grace period) all premiums, calls, contributions or other sums of money from time to time due in respect of any Insurance are paid punctually and in full.

13.12 Notification of Total Loss

The Lessee shall procure that the Lessor is notified of:

- 13.12.1 the levy of any distress on the Ship or its arrest, detention, seizure, condemnation as prize, Compulsory Acquisition or requisition for title or use; and
- 13.12.2 (save in the case of Compulsory Acquisition or requisition for title or use or any capture, seizure, arrest, detention or confiscation of the Ship by any government, or by persons acting or purporting to act on behalf of any government) any accident, casualty or other event which has caused or resulted in or is likely to cause or result in the Ship being or becoming a Total Loss.

13.13 Settlement of claims

- 13.13.1 The Lessee shall do all things necessary and provide all documents, evidence and information to enable the Lessor to collect or recover any moneys which at any time become due and payable to the Lessor or otherwise under in respect of the Insurances.
- 13.13.2 Subject to the Lessee having provided any necessary security in a timely manner so as to prevent the actual or continued arrest of the Ship and subject also to clause 7.6 and provided that no Termination Event or Mandatory Prepayment Event shall have occurred and be continuing, the Lessor agrees that the Lessee shall have the right to settle, compromise or abandon any claim under the Insurances for Total Loss or in respect of a

Major Casualty or to give notice of abandonment of the Ship to the insurers and/or to claim a constructive Total Loss upon the prior written approval of the Lessor (such approval not to be unreasonably withheld or delayed) but that the Lessor itself shall not settle, compromise or abandon any such claim without reference to the Lessee prior to the occurrence of any Termination Event or Mandatory Prepayment Event. After the occurrence of any Termination Event or Mandatory Prepayment Event while it is continuing or after termination of leasing of the Ship to the Lessee pursuant to clause 18.1 or, as the case may be, clause 18.2 the Lessor alone shall have the right to settle, compromise or abandon any claims under the Insurances and/or give notice of abandonment of the Ship to the Insurers and/or claim a Constructive Total Loss.

13.14 P & I Guarantee

The Lessee shall arrange for the execution and delivery of all guarantees and indemnities as may from time to time be required by the Ship's P & I Club or war risks association.

13.15 Additional Insurance

Nothing in this clause 13 shall prohibit the Lessee from placing additional insurance on the Ship at its own expense and for its sole benefit provided however that:

13.15.1 such insurance shall not prejudice the Insurances or recovery thereunder or exceed the amount permitted by warranties or other conditions contained in the Insurances without the written consent of the insurers of the Insurances;

13.15.2 where the written consent of the insurers as referred to in clause 13.15.1 is required, the Lessee shall procure that there shall be promptly furnished to the Lessor a copy of such consent and, in all cases, with particulars of any additional insurance effected including copies of any cover notes or policies; and

13.15.3 any insurance payments received by the Lessor arising solely from additional insurance effected by the Lessee under this clause 13.15 less amounts due (if any) by the Lessor in respect of Taxes in relation to the sums received shall be paid by the Lessor to the Lessee promptly after receipt thereof.

13.16 No Security Interest

The Lessee shall not, and shall procure that no other Transaction Company nor the Time Charterer will, create or permit to exist any Security Interest over or in respect of the Insurances save for the approved brokers' or insurers' right of set off and lien for unpaid premiums to the extent permitted by clause 13.8, and save for any security interest created by the Lessee in favour of the Security Trustee pursuant to and in accordance with the Proceeds Deed.

13.17 Provision of copies of communications

At the Lessor's request the Lessee shall procure that there is provided to the Lessor at the time of each such communication, copies of all material written communications between the Lessee, or any other Transaction Company and:

13.17.1 the approved brokers; and

13.17.2 the approved protection and indemnity and/or war risks associations; and

13.17.3 the approved insurance companies and/or underwriters;

which relate directly or indirectly to:

- (a) the Ship and the obligations of the Lessee or any other Transaction Company relating to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls and all communication relating to non-payment of premiums or calls and cancellation of any of the Insurances or relating to the imposition of any material new or modified condition, warranty, exclusion or qualification or the material alteration of the Insurances; and
- (b) any credit arrangements made between the Lessee or any other Transaction Company and any of the persons referred to in paragraphs 13.17.1 to 13.17.3 relating wholly or partly to the effecting or maintenance of the Insurances.

13.18 Provision of information

The Lessee shall procure that there shall be provided promptly any information reasonably required for the purpose of the Lessor obtaining or preparing any report from a reputable international independent marine insurance broker or adviser appointed by the Lessor as to the adequacy of the Insurances effected or proposed to be effected, and the Lessee shall, promptly upon demand, indemnify the Lessor in respect of reasonable fees incurred by or for the account of the Lessor in connection with one such report prepared immediately prior to Delivery and at annual intervals thereafter, but only following either any material change to the terms of any of the Insurances or a change in the identity of the approved brokers, the approved protection and indemnity and/or war risks association or the approved insurance companies and/or underwriters.

The Lessee shall also, on the Lessor's request (not more frequently than annually and, in case of a policy period of more than 12 months, not more than once in each policy period), provide copies of all policy documents and certificates of entry relating to the Insurances which are in the possession of the Lessee, its agents or managers or the approved brokers.

13.19 Approval process

At all times the Lessor's approval must be obtained in relation to placement and renewal of Insurances, particularly with respect to requirements as to amounts and terms of insurance and identity of brokers and insurers. The Lessor will act promptly and will not act unreasonably in relation to giving its approval in relation to these matters, and will give its approval to any insurer which has (and maintains) a credit rating of not less than A- with Standard & Poor's (or equivalent rating with another first class rating agency).

13.20 Insurance review

From time to time during any period of insurance cover the Lessor may review the terms of and identity of brokers, insurance companies and underwriters and war risks or protection and indemnity associations through which the Ship is insured under this clause 13. Such review shall be made in consultation with the Lessee and shall be undertaken at least three (3) months prior to the date for renewal of such insurance cover. After consultation, the Lessee shall implement such modifications as the Lessor may reasonably request in order to seek to ensure that such insurances at all times cover all risks which may customarily and generally be covered in transactions similar to that covered by this Agreement and that the terms of such insurances and the identity of brokers, underwriters, insurance companies and associations will continue to be approved by the Lessor, as provided for in clause 13.19.

13.21 Innocent Owner's Insurance/Contingent Liability Insurance

Nothing contained in this clause 13 shall affect the Lessor's right to take out innocent owner's or contingent liability insurance in relation to the insurances of the Ship for its own account, and the Lessor shall be so entitled.

13.22 Wreck Removal

In the event of the Ship becoming a wreck or obstruction to navigation, the Lessee (in addition to any other obligation it may have under clause 7) shall indemnify and hold harmless the Lessor against all costs, expenses, payments, charges, losses, demands, any liabilities, claims, actions, proceedings (whether civil or criminal) penalties, fines, damages, judgments, orders or other sanctions which may be incurred by, or made or asserted against the Lessee by reason that the Ship shall have become a wreck or obstruction to navigation (including, without limitation) in respect of the removal or destruction of the wreck or obstruction under statutory powers but only to the extent that such has not been recovered from the Ship's insurers.

14 Loss, Damage, Requisition and Salvage

14.1 Risk

Throughout the Lease Period and until such time as the Ship is delivered to a purchaser the Lessee shall bear the full risk of:

14.1.1 any Total Loss of or any other damage to the Ship howsoever arising; and

14.1.2 subject to clause 6.1 any other occurrence of whatever kind which deprives the Lessee of the use, possession or enjoyment of the Ship.

14.2 Payments on Total Loss or Compulsory Acquisition

If the Ship becomes a Total Loss after the Delivery Date, on the Total Loss Payment Date the Lessee will pay to the Lessor the amounts pursuant to and determined in accordance with clause 18.4. Any Total Loss Proceeds or any Requisition Compensation actually and unconditionally received by the Lessor following a Total Loss or Compulsory Acquisition will be applied in accordance with clause 14.3.

14.3 Application of Total Loss Proceeds

All Net Total Loss Proceeds and Requisition Compensation received by the Lessor shall be retained in full by the Lessor and shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to nought point nought one per cent. (0.01%) of the Net Total Loss Proceeds;

SECOND: in payment to the Lessor of amounts equal to all or any part of the Termination Amount as at the date of the receipt by the Lessor of the Net Total Loss Proceeds which have not, on or before the date of application of the Net Total Loss Proceeds, been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

14.4 Payments to Lessee

Any payment to the Lessee under "FOURTH" of clause 14.3 shall be made reasonably promptly but in any event within five (5) Business Days following the date of actual and unconditional receipt by the Lessor of the Net Total Loss Proceeds and the determination by the Lessor of the application thereof in accordance with clause 14.3.

14.5 Continuation of Lease Period

Notwithstanding that the Ship has become a Total Loss, the Lessee shall continue to pay Rental under this Agreement until all sums due by the Lessee to the Lessor under clause 14.2 have been paid in full. The Lease Period will end on the date on which all sums due under clause 14.2 have been paid provided however that if the Net Total Loss Proceeds are insufficient to satisfy the amounts to be retained by the Lessor pursuant to the applications in "FIRST", "SECOND" and "THIRD" set out in clause 14.3, the provisions of clause 5.3 shall apply.

14.6 Damage claims

Moneys, other than Total Loss Proceeds, received by the Lessor in respect of claims for repairable damage to the Ship shall be applied in the manner described in clause 13.4.2(b).

14.7 Sale of Ship after Total Loss

If the insurers of the Ship have:

14.7.1 satisfied or admitted in full their obligations under the Insurances; and

14.7.2 waived any rights they have in the Ship,

the Lessor shall as soon as practicable after the Total Loss Payment Date use all reasonable endeavours to sell the Ship and such sale shall, save for the foregoing obligation as to timing, be concluded in accordance with the provisions of clause 2.9.

14.8 Abandonment

14.8.1 If no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee has the sole right to determine whether or not a case has arisen for the giving of notice of abandonment to abandon the Ship to the insurers and/or claim a constructive Total Loss.

14.8.2 The Lessor authorises the Lessee to give such a notice if it so determines.

14.8.3 The Lessor will upon the request and at the cost of the Lessee promptly execute all such documents as may be required to enable the Lessee to abandon the Ship to the insurers and/or to claim a constructive Total Loss. The Lessor will give to the Lessee all

reasonable assistance in processing such a claim Provided that any costs reasonably incurred by the Lessor pursuant to this clause 14.8.3 shall be reimbursed by the Lessee to the Lessor promptly following the Lessor's demand.

14.9 Salvage and towage

All salvage and towage and all proceeds from derelicts will be for the benefit of the Lessee, subject to the prior right of the Lessor to retain from those proceeds any sums due and payable to it under this Agreement, and the cost of repairing any damage occasioned in the course of salvage or towage shall be borne by the Lessee.

14.10 Requisition for hire of the Ship

If the Ship is requisitioned for hire by any governmental or other competent authority during the Lease Period then, if and only for so long as such requisition for hire does not constitute a Compulsory Acquisition:

- 14.10.1 the leasing of the Ship under this Agreement shall continue (subject always to the provisions of clauses 17 and 18) for the remainder of the Lease Period and the Lessee shall remain fully responsible for the due compliance with all its obligations under this Agreement other than such obligations which the Lessee is unable to comply with by virtue of such requisition;
- 14.10.2 if no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee shall be entitled during the Lease Period as between the Lessor and the Lessee to all requisition hire paid to the Lessor or to the Lessee by such governmental or other competent authority or by any person acting by the authority of the same on account of such requisition, but subject always to any right of set-off which the Lessor may have in respect of amounts due and unpaid under the terms of this Agreement and the other Lease Documents;
- 14.10.3 as soon as practicable after the end of any requisition for hire, and whether that requisition shall end during or after the expiry or termination of the Lease Period, the Lessee shall cause the Ship to be put into the condition required by this Agreement;
- 14.10.4 the Lessor shall be entitled to all compensation payable by the relevant governmental or other competent authority, or by any person acting by the authority of the same, in respect of any change in the structure, state or condition of the Ship arising during the period of requisition for hire (and such compensation shall be paid to the Lessee by way of rebate of Rental unless a Termination Event or Mandatory Prepayment Event shall have occurred and be continuing in which event the Lessor shall be entitled to apply such compensation in or towards discharge of any and all amounts which are then owing to the Lessor under any of the Lease Documents or any of the other Transaction Documents); and
- 14.10.5 should the Ship be under requisition for hire at the end of the Lease Period:
 - (a) the leasing of the Ship under this Agreement shall nevertheless be terminated at the end of the Lease Period (unless otherwise agreed between the Lessor and the Lessee) but without prejudice to the accrued rights of the parties including, without prejudice to the generality of the foregoing, the obligations of the Lessee under clause 15 (as modified by paragraph (b) below), and the Lessor shall (for so long as it remains the owner of the Ship) be entitled to receive and retain any requisition hire payable in respect of the period from the expiry or termination of the Lease

Period it being agreed however that, subject to the Lessee having paid to the Lessor in full all amounts due by it under the Transaction Documents and under the Sister Ship Transaction Documents and to the Lessor first having retained out of such requisition hire such amount as it certifies as representing its continuing costs of owning and managing the Ship (including Lessor's Management Time at the Lessor's Management Time Cost Rate), the Lessor shall upon the eventual sale of the Ship pay to the Lessee by way of rebate of Rental any remaining surplus amount of such requisition hire; and

- (b) without prejudice to clause 14.10.3 the Lessee shall, if it is prevented by reason of the requisition for hire from re-delivering the Ship under clause 15, be relieved from its obligations so to do, but shall consult with the Lessor as to the most convenient method of enabling the Lessor to obtain redelivery of the Ship when the Ship is released from such requisition.

The Lessor shall be under no obligation to provide to the Lessee, or to any other person, any replacement for the Ship or any part thereof should the Ship or any part thereof be lost, damaged, the subject of Compulsory Acquisition, seized, or requisitioned for hire or use, nor shall the Lessor have any liability or responsibility whatsoever in respect thereof (unless and to the extent that the same results from any Lessor Breach).

15 Redelivery

15.1 Redelivery procedure

- 15.1.1 As soon as reasonably practicable following the termination of the leasing of the Ship under this Agreement (other than pursuant to clause 14.5), or upon the ending of the Lease Period by effluxion of time, the Lessee at its own expense shall redeliver the Ship to the Lessor safely afloat in accordance with this clause 15 (but subject to the rights of the Time Charterer) and in any event before the fifth anniversary of Delivery.
- 15.1.2 Upon the ending of the Lease Period by effluxion of time or upon the termination of the leasing of the Ship under this Agreement (other than a termination pursuant to clause 14.5 or any termination where the Lessee is not acting as sales agent of the Lessor) the Lessee, at its own expense, shall deliver the Ship safely afloat to a purchaser of the Ship who satisfies the requirements of clause 2.7 at such location (including without limitation, at sea) as shall be mutually agreed between the Lessee (as agent of the Lessor) and the purchaser upon completion of the sale of the Ship in accordance with clause 2.7 (and such delivery by the Lessee shall be deemed to have satisfied the obligation of the Lessee to redeliver the Ship to the Lessor) and subject to the rights of the Time Charterer.
- 15.1.3 Upon the termination of the leasing of the Ship under this Agreement where the Lessee is not acting as sales agent of the Lessor, the Lessee, at its own expense, shall redeliver the Ship safely afloat to the Lessor at a safe port worldwide to be designated by the Lessor acting reasonably and bearing in mind the location and trading pattern of the Ship as at the time of any required redelivery.

15.2 Redelivery condition

The Lessee shall ensure that on any redelivery of the Ship to the Lessor in accordance with clause 15.1.3 above and on any deemed redelivery to the Lessor in accordance with clause 15.1.2 above where the purchaser of the Ship so requires:

- 15.2.1 the Ship shall be in class free of conditions not complied with in accordance with their terms and overdue recommendations affecting the Ship's class;

- 15.2.2 the Ship shall be in no worse structure, state and condition as at Delivery (fair wear and tear alone excepted) and have installed the machinery and equipment installed thereon at Delivery or replacements or substitutions therefor made in accordance with the terms of this Agreement;
- 15.2.3 the last consignment of containers carried on board the Ship shall have been unloaded;
- 15.2.4 the Ship shall be free of Security Interests other than any Lessor's Security Interest; and
- 15.2.5 the Ship shall be free of any charter or other contract of employment or affreightment other than the Time Charter in circumstances where the Time Charterer's rights under the QEL are subsisting.

The Lessee shall further ensure that, prior to re-delivery, all arrears of wages of the Master and crew of the Ship are fully paid.

15.3 Redelivery survey

- 15.3.1 In case only of redelivery of the Ship consequent upon termination of the Lease Period where the Lessee is not acting as sales agent or upon the expiry of the Lessee's sales agency rights pursuant to clauses 2.8.2 or 2.8.3, at or about the time of redelivery, a survey shall be made to determine the state and condition of the Ship, unless the Lessor agrees that no such survey is required or the Ship is to be sold.
- 15.3.2 The Lessee and the Lessor shall each appoint surveyors to be present at such survey and the surveyors present shall determine the state and condition of the Ship and shall identify the repairs or work necessary to place the Ship at the date of redelivery in the class and the structure, state and condition referred to in clause 15.2.
- 15.3.3 The surveyors referred to in clause 15.3.2 shall both be acting as experts, not arbitrators and, in case of disagreement, the matter shall be resolved pursuant to clause 29.
- 15.3.4 All proper costs occasioned by any such survey including the costs of the said surveyors appointed by the Lessee and the Lessor and, if appointed, the cost of the senior surveyor of the Ship's Classification Society shall be payable by the Lessee.

15.4 Consumable stores

All consumable stores, unused lubricating oils and bunkers on board the Ship at the time of redelivery shall be purchased by the Lessor from the Lessee and sold by the Lessor to the purchaser of the Ship. The price payable by the Lessor to the Lessee pursuant to this clause 15.4 will be the same as the price received at the same time by the Lessor from the purchaser of the Ship for those items.

15.5 Continuing performance of obligations

From the end of the Lease Period until the Ship has been sold in accordance with clause 2, the Lessee shall, at no cost to the Lessor, but subject to the Lessor permitting the Lessee continued possession of the Ship, continue to perform all its obligations under this Agreement other than its obligations to pay Rental and, in particular, it shall continue to perform its undertakings under clauses 9 to 14.

15.6 Ship's Software Licences on Redelivery

The Lessor shall be entitled to require that the Lessee grant or procure the grant (to the extent reasonably achievable) in favour of the Lessor or, as the Lessor may stipulate, a purchaser for or subsequent charterer of the Ship a licence to use all Ship's Software which may be necessary or desirable to be used for the maintenance and operation of the Ship, provided that this requirement shall not apply to (i) obsolete software which has been replaced by alternative or updated software or (ii) other software which the Lessee may satisfy the Lessor (acting reasonably) was not in use regularly during the last voyage or engagement of the Ship prior to redelivery and which is no longer required or desirable for the safe or efficient operation of the Ship.

16 Standby Lender Review and Standby Loan Transaction**16.1 Review**

- 16.1.1 During the Standby Lender Review Period, the Lessor shall procure that the Standby Lender carries out a review of (i) the creditworthiness of the Lessee and the Guarantor and, (ii) the security value of the Ship as at such time in order for the Standby Lender to determine in its sole and absolute discretion whether it is prepared to enter into the Standby Loan Transaction upon the expiry of the Lease Period.
- 16.1.2 Such Standby Lender Review shall be carried out by the Standby Lender:
- (a) in good faith;
 - (b) in accordance with its then current procedure for reviewing the creditworthiness of its customers of similar standing as the Lessee and the Guarantor; and
 - (c) applying its then current general credit criteria and the same criteria in the same manner as the Lessor would apply to the assessment of the creditworthiness of its customers of similar standing as the Lessee and the Guarantor.
- 16.1.3 Following the Standby Lender Review, the Standby Lender shall determine in its sole and absolute discretion whether or not it is able to enter into the Standby Loan Transaction and the Lessor shall notify the Lessee as soon as possible after the Standby Lender has conducted its review and reached its conclusions (and in any event such notification to be given by the Review Notification Date).
- 16.1.4 The Lessee acknowledges that neither the Lessor nor the Standby Lender shall be obliged to reveal any details of the credit procedure or the criteria applied (as referred to in clauses 16.1.2(b) and (c) above) or the reasons for the decision made by the Standby Lender under this clause 16.1 but if the Lessor notifies the Lessee that the Standby Lender Review has not been satisfactory, the Lessor agrees to enclose with such notification a certificate signed by a director of the Lessor to the effect that the Standby Lender Review has been carried out by the Standby Lender in accordance with clause 16.1.2.

16.2 Standby Loan Transaction

In the event that the Lessor notifies the Lessee pursuant to clause 16.1.3 that the Standby Lender is willing to enter into the Standby Loan Transaction, and the Lessee notifies the Lessor in writing within fourteen (14) Business Days of the Review Notification Date that it wishes to enter into the Standby Loan Transaction (each of which notifications must be given in respect of the Ship and all of the Sister Ships, but not some only), and subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction for the Ship on the Lease Period End Date.

17 Termination, Mandatory Prepayment and Further Novation Events

17.1 Termination Events

The Lessor and the Lessee agree that it is a fundamental term and condition of this Agreement that none of the following events shall occur during the Construction Period or the Lease Period and that the occurrence of any of the following events shall constitute a repudiatory breach of this Agreement and shall be a Termination Event for the purpose of this Agreement, whether it occurs during the Construction Period or the Lease Period:

- 17.1.1 any instalment of Rental or any other sum payable to the Lessor under this Agreement or under any of the other Lease Documents is not paid when due in accordance with the terms of the applicable document (and in the case of a sum payable on a due date, remains unpaid for three (3) Business Days after the due date for payment thereof and in the case of a sum payable on demand, remains unpaid for five (5) Business Days after the date of service by the Lessor of a written demand for payment thereof);
- 17.1.2 any of the Insurances required to be placed and maintained in clause 13 are placed or renewed on terms which do not comply with the provisions of clause 13;
- 17.1.3 at any time, any of the Insurances required to be maintained under clause 13 either lapse before the time of scheduled renewal without being renewed within three (3) days of so lapsing in accordance with the requirements of clause 13 or are cancelled or rendered invalid, void or unenforceable or any sums recovered under any of such Insurances are or become repayable in whole or in part;
- 17.1.4 the Guarantor fails to comply with its obligations under clause 5.3 of its Guarantee;
- 17.1.5 any Transaction Company fails to comply with any other term or condition of this Agreement or any other Transaction Document and:
 - (a) that failure would or may be likely, in the reasonable opinion of the Lessor, to have a material adverse effect on the rights of the Lessor under the Lease Documents or the ability of the relevant Transaction Company to perform any of its obligations under the Transaction Documents; and
 - (b) if such failure is remediable then, within thirty (30) days (or such longer period as the Lessor may specify or agree) after receipt by the Lessee of a written notification from the Lessor of that failure, the relevant Transaction Company shall have failed to remedy that failure;
- 17.1.6 any representation or warranty made by any Transaction Company in any of the Transaction Documents is or proves to have been incorrect in any material respect when made and, in case such incorrectness is remediable, within thirty (30) days after receipt by

the Lessee of a written notification from the Lessor of such failure (or such longer period as the Lessor may specify or agree) the relevant Transaction Company shall have failed to remedy it;

- 17.1.7 any of the following occurs in relation to any Financial Indebtedness of any of the Guarantor, the Lessee or (at any time prior to Delivery) the Replacement Purchaser which is owed to any Lessor Group Member (herein, “**BOS Financial Indebtedness**”), and would have, or is reasonably likely to have, a material adverse effect on the Lessee’s ability to perform under this Agreement and/or the Guarantor’s ability to perform under the Guarantee:
- (a) any BOS Financial Indebtedness of any such person is accelerated following an event of default and not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Security Interest securing any BOS Financial Indebtedness of any such person becomes enforceable;
- 17.1.8 any of the following occurs in relation to (i) any Financial Indebtedness where the principal amount then outstanding or capable of becoming due thereunder (or for which the Guarantor is otherwise liable) exceeds in aggregate \$25,000,000 in the case of a Guarantor or (ii) any Financial Indebtedness of the Lessee or (at any time prior to Delivery) the Replacement Purchaser:
- (a) any Financial Indebtedness of any such person is not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Financial Indebtedness of any such person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (c) a lease, hire purchase agreement or charter creating any Financial Indebtedness of any such person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any event of default, howsoever described; or
 - (d) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of any such person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (e) any Security Interest securing any Financial Indebtedness of any such person becomes enforceable;
- 17.1.9 any of the following occurs in relation to the Lessee or any Transaction Company (other than, following Delivery, the Replacement Purchaser):
- (a) it becomes unable to pay its debts as they fall due within the meaning of section 123(1)(e) of the Insolvency Act 1986;

- (b) a winding-up or administration order is made, provided however that, in case only of an order for winding-up, the occurrence of such event shall not constitute a Termination Event if such winding-up has commenced as part of a process of a fully-solvent reorganisation, previously approved by the Lessor, which shall not affect either the timing or amount of any amount payable under this Agreement or any other Transaction Document to the Lessor or the ability of the relevant Transaction Company to perform all its obligations, or the Lessor's ability to exercise its rights, under this Agreement or any of the other Transaction Documents;
- (c) an administrative or other receiver, trustee or liquidator is appointed over all or a part of the assets of the relevant Transaction Company; or
- (d) a petition for the winding-up of the relevant Transaction Company is presented or an application is made for an administration order in relation to the relevant Transaction Company (pursuant to Section 9 of the Insolvency Act 1986) if such petition or application is not withdrawn, discharged or dismissed within thirty (30) days or is not otherwise being contested in good faith by appropriate proceedings;
- (e) the relevant Transaction Company makes, proposes or otherwise threatens an arrangement for the benefit of all or any class of its creditors or an arrangement or composition with or for the benefit of all or any class of its creditors or convenes a meeting with all or any class of its creditors with a view to a composition or arrangement for the benefit of its creditors generally; or
- (f) the relevant Transaction Company ceases or suspends or threatens in writing to cease or suspend to carry on its business;

17.1.10 any litigation, arbitration or administrative action or proceeding is commenced against any Transaction Company (other than, following Delivery, the Replacement Purchaser) or any of its property, undertakings or assets before any court, arbitrator or administrative agency or authority which, if adversely determined, would, or would be reasonably likely to have, a material adverse effect on the financial condition or business or operations of the relevant Transaction Company and, in each case, on its ability to perform its obligations under the Transaction Documents unless:

- (a) the relevant Transaction Company demonstrates in writing to the Lessor (who shall act reasonably in considering such matters) to the Lessor's satisfaction, that such litigation, arbitration or administrative action or proceeding is or may reasonably be considered to be vexatious or frivolous or is unlikely to be adversely determined; or
- (b) it is dismissed or irrevocably stayed within sixty (60) days of commencement;

17.1.11 any event or circumstance occurs as referred to in clause 17.1.9 in relation to any Transaction Company (other than, following Delivery, the Replacement Purchaser) in any jurisdiction other than England and Wales;

17.1.12 any Transaction Company (other than, following Delivery, the Replacement Purchaser) ceases or suspends carrying on its business or a part of its business which, in the reasonable opinion of the Lessor, is or may be likely to be material in the context of this Agreement;

- 17.1.13 the Guarantor transfers or disposes of, or threatens in writing to transfer or dispose of, a substantial part of its business (otherwise than in the normal course of business or for full consideration in money or money's worth);
- 17.1.14 the Guarantee shall for any reason not be in full force and effect or shall be declared to be null and void, or (as applicable) the Guarantor shall contest the validity or enforceability of the Guarantee in writing or deny in writing that it has any further liability under the Guarantee;
- 17.1.15 any Transaction Company repudiates in writing any material provision of a Transaction Document (other than the Time Charter) to which it is a party, or gives notice in writing of its intention to do so;
- 17.1.16 without the Lessor's prior written consent, either of the Lessee or (at any time prior to Delivery) the Replacement Purchaser ceases to be owned (whether directly or indirectly) by the Guarantor;
- 17.1.17 any condition precedent stipulated in clauses 3.1 to 3.3 is waived on a temporary basis and is not fulfilled to the satisfaction of the Lessor by the time stipulated in such waiver;
- 17.1.18 the Ship is subject to any form of execution, attachment, arrest, sequestration or distress, except in relation to a Permitted Security Interest created by the Lessor or a Lessor Security Interest and the Lessee fails to procure the release of the Ship within sixty (60) days, or such longer period to which the Lessor may agree unless such event is covered by the Insurances in which case the relevant period is the period covered by such insurances;
- 17.1.19 after Delivery the registration of the Ship is cancelled or terminated otherwise than in accordance with the terms of this Agreement or as a consequence of any act or omission of the Lessee or any other Transaction Company and is not re-instated within fifteen (15) days after the receipt by the Lessee of a written notification from the Lessor regarding remedy of that breach; or
- 17.1.20 a Termination Event occurs and is continuing under any of the Sister Ship Lease Agreements.

17.2 Mandatory Prepayment Events

Each of the following shall be a Mandatory Prepayment Event for the purpose of this Agreement:

- 17.2.1 any of the Transaction Documents (other than the Time Charter) or any provision thereof (i) for any reason is not or ceases to be in full force and effect other than in accordance with its terms or (ii) is declared null and void or (iii) any of the parties to a Transaction Document (other than the Time Charter) shall contest the validity or enforceability of any Transaction Document (other than the Time Charter) or repudiates in writing any Transaction Document (other than the Time Charter) or any of its obligations thereunder or gives notice in writing of its intention to do so;
- 17.2.2 any consent necessary to enable any Transaction Company to comply with any provision of a Transaction Document (other than the Time Charter) is not granted, expires without being renewed or is revoked and that failure (in the sole opinion of the Lessor, acting in good faith) would have a material adverse effect on the rights of the Lessor under the Transaction Documents (other than the Time Charter) or the ability of any Transaction

Company to perform its material obligations under the Transaction Documents (other than the Time Charter) and the Lessee and the Lessor have negotiated in good faith for a period of thirty (30) days to agree an alternative means to continue the transaction contemplated by this Agreement and have been unable to do so;

17.2.3 there shall occur an Environmental Incident in circumstances where the Lessor believes, acting reasonably, that the Lessor is or will be held to be liable to third parties as a result thereof and either (i) such liability will or could, in the reasonable opinion of the Lessor, reasonably be expected to exceed the limit of the Ship's protection and indemnity insurance, or (ii) the Ship's protection and indemnity insurers have disclaimed or notified in writing an intention to disclaim liability as regards the Lessor;

17.2.4 there occurs a Change of Law or other change of circumstances which will result in the Lessor incurring:

- (a) a liability arising out of its ownership of the Ship which it does not have as at the date of this Agreement; or
- (b) an increase in liability arising out of its ownership of the Ship over and above that liability which it has as at the date of this Agreement,

which liability or increase in liability does not entitle the Lessor to increase the Rental pursuant to the Financial Schedule and is material in the context of the Lessor's maximum existing liabilities arising out of its ownership of the Ship from time to time prior to the date of that Change of Law or other change of circumstances and where, in either case, following consultation with the Lessee as to such liability or increased liability and the matters referred to below:

- (i) the Lessor and the Lessee have endeavoured to mitigate or eliminate that liability or increased liability and have failed to do so prior to commencement of the applicable Change of Law; and
- (ii) that liability or increased liability is not covered by insurance or other security which is, in the opinion of the Lessor acting reasonably, satisfactory having regard to the amount of that liability or increased liability; and
- (iii) that liability or potential liability is not removed or terminated by the Lessee moving the Ship to, and if necessary keeping the Ship in, a location or locations where that liability or increased liability would not be incurred or ensuring that the Ship does not enter into any location where that liability or increased liability would be incurred; or

17.2.5 there occurs a Change of Law as a result of which it becomes unlawful for (a) the Lessor to own and/or lease the Ship and/or continue to exercise its rights and/or perform its obligations under any Transaction Document or (b) any Transaction Company to continue to exercise its rights and/or perform its obligations under any Transaction Document (other than the Time Charter).

17.3 Further Novation Events

Each of the following shall be a Further Novation Event for the purpose of this Agreement:

17.3.1 any Termination Event or Mandatory Prepayment Event occurs prior to the Delivery Date;

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- 17.3.2 the Delivery Date does not occur on or before the Commitment Expiry Date;
- 17.3.3 if (a) the Ship is rejected by the Lessor upon the request of the Supervisor or (b) the Novated Building Contract is terminated or rescinded for any reason or becomes capable of immediate termination or rescission in accordance with article VIII thereof or (c) consequent upon a total loss of the Ship as envisaged by article XVII of the Novated Building Contract unless the Lessor is satisfied in its reasonable opinion that the Ship can be rebuilt in accordance with the specification by the Commitment Expiry Date or (d) the Builder becomes entitled to terminate or rescind the Novated Building Contract or the Builder purports to rescind or terminate the Novated Building Contract under article XI thereof;
- 17.3.4 the Lessee fails to pay when due any Contribution Payment due to the Lessor under clause 3.10 of this Agreement;
- 17.3.5 prior to the Delivery Date the Builder makes a claim against the Lessor under the Novated Building Contract (unless the claim arises as a result of Lessor Misconduct) and:
- (a) such claim is not settled in a manner acceptable to the Lessor acting reasonably on the earlier of the Delivery Date and the date falling thirty (30) days after the making of that claim; and
 - (b) the Lessor is not secured to its reasonable satisfaction in respect of any Loss it may suffer as a direct result of that claim;
- 17.3.6 prior to the Delivery Date the Supervisor commences proceedings against the Builder under the Novated Building Contract and the Lessor has not given its consent to such proceedings pursuant to clause 4.9 of the Supervision Agreement;
- 17.3.7 the Supervisor is in breach of any of its obligations to the Lessor pursuant to the Supervision Agreement or the Supervisor is otherwise acting outside the scope of its authority under the Supervision Agreement in a manner materially detrimental to the rights and interests of the Lessor;
- 17.3.8 the Refund Guarantor fails to comply with any of its obligations under the Refund Guarantee; or
- 17.3.9 the conditions precedent to the Lessor's obligation to make payment of any Instalment or to Delivery are not fulfilled or waived and such failure has, or in the reasonable opinion of the Lessor, is reasonably likely to have a material adverse effect upon the Lessor, or its rights and/or obligations and liabilities in respect of the Ship or under this Agreement and the other Transaction Documents.

18 Lessor's Rights on a Termination Event, Mandatory Prepayment Event or Further Novation Event

18.1 Termination rights

On, or at any time after the repudiation of this Agreement by the Lessee, including the occurrence of any Termination Event (and provided that the same is continuing), the Lessor may by notice to the Lessee, (i) if such repudiation or Termination Event occurs after the Delivery Date, accept such repudiation by the Lessee of this Agreement and shall terminate the Lease Period or (ii) if such repudiation or Termination Event occurs prior to

Delivery, may accept its entitlement to terminate its obligation to acquire and lease the Ship to the Lessee pursuant to this Agreement, and immediately, or on such date as the Lessor shall specify, may terminate its obligation to lease the Ship to the Lessee (whereupon the provision of clause 18.3.2 shall apply).

18.2 Mandatory prepayment

On or at any time after the Delivery Date following the occurrence of a Mandatory Prepayment Event (and provided that the same is continuing):

- 18.2.1 the Lessor may notify the Lessee that the Lessor has elected to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.5 but without reference to a notice period; and
- 18.2.2 on the applicable Lease Termination Date, the Lessee will pay to the Lessor the amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4 as at the required date of that payment; and
- 18.2.3 with effect on and from the date of the payment by the Lessee of all amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's obligations pursuant to the Financial Schedule; and
- 18.2.4 notwithstanding anything else to the contrary in this Agreement, the Lease Period will continue until and end on the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 18.6.

18.3 Further Novation

18.3.1 At any time after the occurrence of a Further Novation Event (other than a Termination Event) or at any time after the occurrence of a Mandatory Prepayment Event which occurs before the Delivery Date and in each case whilst such event is continuing:

- (a) the Lessor may by notice to the Lessee elect (prior to the Delivery Date) to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.2 but without reference to a notice period; and
- (b) if the Lessor makes an election under paragraph (a) above, the Lessor shall, as contemplated by clause 2.3, give notice to the Replacement Purchaser under clause 6.1 of the Novation Agreement and to the Refund Guarantor pursuant to the Refund Guarantee.

- 18.3.2 On or at any time following the occurrence of a Termination Event which occurs before the Delivery Date and whilst it is continuing, if the Lessor elects to exercise its rights under clause 18.1 following the occurrence of such Termination Event the Lessor shall, as contemplated by clause 2.3, give a notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

18.4 Payments on the Termination Date after the occurrence of a Termination Event, Mandatory Prepayment Event, Further Novation Event or a Total Loss

18.4.1 In the event that:

- (a) the Lessor has become entitled to treat this Agreement as having been repudiated and the obligation of the Lessor to acquire and lease the Ship to the Lessee or, as the case may be, the Lease Period shall have terminated pursuant to clause 18.1; or

- (b) a Mandatory Prepayment Event shall have occurred after Delivery and the Lessor has issued a notice to the Lessee pursuant to clause 18.2.1; or
- (c) a Mandatory Prepayment Event shall have occurred prior to Delivery or a Further Novation Event shall have occurred and the Lessor has issued a notice to the Lessee pursuant to clause 18.3.1(a); or
- (d) a Total Loss of the Ship shall have occurred after Delivery,

the Lessee will be liable to pay to the Lessor, on the applicable Termination Date or, as the case may be, the Total Loss Payment Date:

- (i) an amount equal to the aggregate of:
 - (A) any amounts of Rental, any Broken Funding Costs and other moneys then due and payable under any of the Lease Documents or any of the other Transaction Documents; and
 - (B) the amount of any Losses in respect of which the Lessee agreed to indemnify the Lessor pursuant to clause 7.4 (but, for the avoidance of doubt, not including any loss of profit) incurred by the Lessor in connection with that termination which are unpaid; and
- (ii) by way of agreed compensation and not as a penalty, the amount of the Termination Amount as at the date of that termination.

18.4.2 The Lessor agrees with the Lessee that in circumstances where the obligation to lease Ship has terminated or, as the case may be, where the Lease Period has terminated and in each case the Lessor has received payment in full of all amounts owing to the Lessor under any of the other Lease Documents in cleared funds and without conditions attached, if the amounts received by the Lessor exceed the total of all the amounts owed to the Lessor, the Lessor shall pay an amount equal to the excess to the Lessee by way of a rebate of Rental.

18.5 Lessor's rights to retake possession

On or at any time after the Termination Date following (i) a termination of the Lease Period pursuant to clause 18.1 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (ii) the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (iii) where the Lessee was appointed as sales agent pursuant to clause 2.8.1 but such appointment is terminated pursuant to clause 2.8.3, following the termination of the Lessee's appointment as sales agent; in each case the Lessor shall (as between the Lessor and the Lessee) be entitled to retake possession of the Ship in accordance with the provisions of clause 15.2. The Lessee agrees that the Lessor, for that purpose only, may put into force and exercise all its rights and entitlements at law and may enter upon any premises belonging to or in the occupation or under the control of the Lessee where the Ship is located.

18.6 Sale of the Ship following the Termination Date

At any time following termination of the Lease Period pursuant to clause 18.1 or following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 and following any other Termination Date in circumstances where the Lessor has become entitled to retake possession of the Ship in accordance with clause 18.5, the Lessor, (provided it is not prevented by law from doing so), shall use reasonable endeavours to sell the Ship. The Lessor will notify the Lessee as soon as reasonably practicable of any proposed sale or auction of the Ship by it and of the terms of that sale.

18.7 Application of payments on sale or further renovation

18.7.1 In the event of a sale of the Ship following a termination pursuant to clause 18.1 after Delivery, the Net Sale Proceeds will be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.2 In the event of a sale of the Ship following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 after Delivery, the Net Sale Proceeds shall be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.3 In the event of the renovation by the Lessor of its rights and obligations under the Novated Building Contract to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement following the occurrence of (i) a Further Novation Event, or (ii) a Mandatory Prepayment Event prior to Delivery or (iii) a Termination Event prior to Delivery, any moneys received from the Replacement Purchaser pursuant to clause 6.3 of the Novation Agreement or from the Refund Guarantor pursuant to the Refund Guarantee (either before or after such renovation) or from the Builder pursuant to the Novated Building Contract (either before or after such renovation) shall be applied by the Lessor in accordance with clause 2.10 as if those moneys were Net Sale Proceeds.

18.8 Continuation of obligations and storage until sale

Following termination of the Lease Period pursuant to clause 18.1 or 18.2 the Lessee will:

18.8.1 continue to comply with its obligations under this Agreement until the earlier of the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 or the date on which the Ship is redelivered to the Lessor in accordance with clause 15; and

18.8.2 pay, or reimburse, to the Lessor on demand all Losses suffered by the Lessor in connection with recovering possession of and in moving, storing, insuring and maintaining the Ship and in carrying out any works or modifications required to cause the Ship to conform with the provisions of clause 15.2 until such time as the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8.

18.9 Failure to perform insurance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 13, the Lessor, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event:

18.9.1 following notification to the Lessee, may effect and thereafter maintain all such Insurances as the Lessor in its sole discretion may think fit in order to procure compliance with such provisions; or

18.9.2 alternatively, at the Lessee's risk, may require the Ship to remain in, or to proceed to and remain in, a port designated by the Lessor until such provisions are fully complied with.

18.10 Failure to perform maintenance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 10, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within fifteen (15) days after receipt of that notification, arrange for the carrying out of such repairs, changes or surveys as are required in order to procure compliance with such provisions.

18.11 Failure to protect Lessor's rights

If the Lessee fails to comply with any of its material obligations pursuant to clause 12.8, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within 15 days after receipt of that notification, take any such measures as may be required for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.12 Failure to Prevent or Release from Arrest

If the Lessee fails to comply with any of the provisions of clause 10.8, the Lessor without being in any way obliged to do so, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, may, pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.13 Costs of Remedying Defaults

Without prejudice to the Lessor's rights under each of clauses 7.1, 7.2, 7.3 and 7.4, all Losses of whatsoever nature (including without limitation, Taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Lessor in connection with the exercise by the Lessor of any of its powers under clauses 18.9, 18.10, 18.11, and/or, as the case may be, 18.12 and interest on all such Losses from the date on which the same were suffered, incurred or paid by the Lessor until the date of receipt or recovery thereof (both before and after any relevant judgment) at the Default Rate shall be repayable by the Lessee to the Lessor on demand.

19 Representations and Warranties

19.1 General

The Lessee represents and warrants to the Lessor as follows:

19.2 Status

The Lessee is duly incorporated and validly existing under the laws of the Marshall Islands.

19.3 Share capital and ownership

The Lessee is a wholly-owned direct Subsidiary of the Guarantor.

19.4 Corporate powers

The Lessee has the corporate capacity, and has taken all corporate action and obtained all consents, if any, necessary for it:

19.4.1 to execute this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party; and

19.4.2 to make all the payments and perform all the obligations contemplated by, and to comply with this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party.

19.5 Consents in force

All the consents referred to in clause 19.4 remain in force and nothing has occurred which makes any of them liable to revocation.

19.6 Legal validity

The Lease Documents and the Transaction Documents to which the Lessee is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration) constitute the Lessee's legal, valid and binding obligations enforceable against the Lessee in accordance with their respective terms.

19.7 No conflicts

The execution by the Lessee of each Lease Document and each Transaction Document to which it is or is to be a party and its compliance with each Lease Document and each Transaction Document to which it is or is to be a party will not involve or lead to a contravention in any material respect of:

19.7.1 any law or regulation; or

19.7.2 the Bye-laws and Articles of Incorporation of the Lessee; or

19.7.3 any contractual or other obligation or restriction which is binding on the Lessee or any of its assets.

19.8 No Relevant Events

No Relevant Event has, to the Lessee's knowledge, occurred and is continuing.

19.9 No litigation

Except as disclosed to the Lessor in writing, and to the best of the Lessee's knowledge and belief, no legal or administrative action involving the Lessee has been commenced or taken which is likely to have a material adverse effect on the ability of the Lessee to perform its obligations under this Agreement.

19.10 Free of Security Interests

Other than Permitted Security Interests, the Novated Building Contract is and, at the Delivery Date, the Ship and the Insurances will be free from all Security Interests.

19.11 Completeness of Transaction Documents

The copy of each Transaction Document delivered to the Lessor before the date of this Agreement is a true and complete copy and, no amendments or additions to any Transaction Document have been agreed nor have the parties to any Transaction Document waived any of their respective rights under the Transaction Documents.

19.12 Compliance with certain undertakings

At the date of this Agreement, the Lessee is in compliance with clause 20.1.

19.13 Taxes paid

The Lessee has paid all Taxes applicable to, or imposed on or in relation to the Lessee and its business.

19.14 Information

To the best knowledge and belief of the Lessee:

19.14.1 all information which has been provided in writing to the Lessor by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement and any other Transaction Document is true and not misleading and does not omit any material fact or consideration taking into account the circumstances in which the information was provided; and

19.14.2 copies of all relevant documents supplied to the Lessor in relation to this Agreement, the other Transaction Documents and transactions contemplated thereby are true and complete copies of the originals of such documents.

19.15 Absence of withholding taxes

All payments to the Lessor by the Lessee under the Lease Documents may be made in full, free of any deduction or withholding in respect of Tax.

19.16 No Stamp Taxes

There are no stamp, documentary, registration or other like duties or Taxes imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents other than in respect of Slavenburg registrations at Companies House in England and Wales.

19.17 Filings

All registrations or filings required in connection with the enforceability of any Transaction Documents against the Lessee have been made or will be made within any applicable required period and (if applicable) the Lessee shall promptly file particulars of any Security Interest it grants or creates under the Transaction Documents in its Register of Mortgages and Charges.

19.18 Pari Passu

The obligations of the Lessee under the Transaction Documents to which it is a party rank pari passu with all other unsecured indebtedness of the Lessee, other than indebtedness mandatorily preferred by law.

19.19 Choice of law

The choice by the Lessee of English law to govern the Lease Documents and its submission to the jurisdiction of the English courts as contemplated in each of the Lease Documents are valid and enforceable.

19.20 Ship's condition at Delivery

In relation only to Delivery, the Ship will then comply with all requirements of this Agreement including as to its ownership, condition, insurance, class and employment.

19.21 No Money Laundering

In relation to the performance and discharge of its respective obligations and liabilities under this Agreement and the other Transaction Documents, the Lessee confirms that it is acting for its own account and that the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities).

19.22 Reservations

The representations and warranties of the Lessee in this clause are subject to:

- 19.22.1 the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court;
- 19.22.2 the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting or limiting the rights of creditors;
- 19.22.3 the time-barring of claims under any applicable limitation acts;
- 19.22.4 the possibility that a court may strike out provisions for a contract as being invalid for reasons of oppression, undue influence or similar reasons; and
- 19.22.5 any other reservations or qualifications of law expressed in any legal opinions obtained by the Lessor in connection with the Lease Documents.

19.23 Inconsistency

To the extent of any inconsistency between warranties and declarations in any other Transaction Documents and those in this Agreement, those in this Agreement shall prevail.

20 General Undertakings

The Lessee undertakes with the Lessor to comply with the following provisions of this clause at all times until the end of the Lease Period except as the Lessor may otherwise permit.

20.1 Status

20.1.1 The Lessee will maintain its separate corporate existence as a corporation under the laws of the Marshall Islands.

20.1.2 The Lessee will not make a tonnage tax election for the purposes of section 82 of and Schedule 22 of the Finance Act 2000.

20.2 Information provided to be accurate

All financial and other information which is provided to the Lessor in writing by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement or any of the other Transaction Documents will be true and not misleading and will not omit any material fact or consideration.

20.3 Provision of financial statements

The Lessee will send, or procure that there be sent, to the Lessor no later than 90 days after the end of the first half of each financial year of each relevant company, in the case of unaudited financial statements, and no later than 180 days after the end of each financial year of each relevant company in the case of audited annual accounts:

20.3.1 unaudited consolidated financial statements in respect of the first half financial year of each Guarantor;

20.3.2 the unaudited annual accounts of the Lessee; and

20.3.3 the consolidated audited annual accounts of the Guarantor and its Subsidiaries.

20.4 Form of financial statements

All accounts (audited and unaudited) delivered under clause 20.3 will:

20.4.1 be prepared in accordance with all applicable laws and generally accepted accounting principles in the principal place of business of the company concerned (or, as the case may be, generally accepted accounting principles in the jurisdiction adopted by a company for the purposes of the preparation of its accounts), consistently applied;

20.4.2 give a true and fair view of the state of affairs of each such company at the date of those accounts and of its profit for the period to which those accounts relate; and

20.4.3 fully disclose or provide for all significant liabilities of each such company.

20.5 Consents

The Lessee will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Lessor of, all consents required:

20.5.1 for the Lessee to perform its obligations under any Transaction Document to which it is a party;

20.5.2 for the validity, enforceability, priority or admissibility in evidence of any such Transaction Document;
and the Lessee will comply with the terms of all such consents.

20.6 Maintenance of Security Interests

The Lessee will:

20.6.1 at its own cost, do and procure that each other Transaction Company will do, all that it reasonably can to ensure that any Transaction Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and

20.6.2 without limiting the generality of clause 20.6.1, at its own cost, promptly register, file, record or enrol any Transaction Document to which it is a party with any court or authority in all relevant jurisdictions, pay any stamp, registration or similar tax in all relevant jurisdictions in respect of any Transaction Document to which it is a party, give any notice or take any other step which, in the opinion of the Lessor, is or has become necessary or desirable for any Transaction Document to which it is a party to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

20.7 Notification of litigation

The Lessee will provide the Lessor with details of any legal or administrative action involving the Lessee, any other Transaction Company (other than, following Delivery, the Replacement Purchaser), the Ship or any Transaction Document to which it is a party promptly after it becomes aware that such action has been instituted or it becomes apparent to the Lessee that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of the Lease Documents.

20.8 Principal place of business

The Lessee will forthwith notify the Lessor if it has a place of business in any jurisdiction which would require a Lease Document to be registered, filed or recorded with any court or authority in that jurisdiction.

20.9 Confirmation of no default

The Lessee, within five (5) Business Days after service by the Lessor of a written request (such notices to be served no more frequently than is reasonable), will serve on the Lessor a notice which is signed by an authorised signatory of the Lessee and which:

20.9.1 states that no Relevant Event has occurred; or

20.9.2 states that no Relevant Event has occurred, except for any specified event or matter, of which all material details are given.

20.10 Notification of default

The Lessee will notify the Lessor as soon as the Lessee becomes aware of:

20.10.1 any adjustment to the Contractual Delivery Date;

20.10.2 the occurrence of any Relevant Event; and

20.10.3 any matter which indicates that any Relevant Event may have occurred, and will keep the Lessor fully up-to-date with all developments.

20.11 Pari passu

The Lessee will ensure that at all times its liabilities under this Agreement and the other Lease Documents to which it is a party rank at least pari passu in all respects with all its other unsecured liabilities from time to time (apart from liabilities mandatorily preferred by law).

20.12 Provision of information

The Lessee will provide or procure that there is provided to the Lessor, reasonably promptly, such information (i) with respect to the compliance by the Lessee with the terms of this Agreement and each of the other Transaction Documents to which the Lessee is party and (ii) with respect to the compliance by each of the other Transaction Companies with the terms of the other Transaction Documents to which they are respectively party, or (iii) with respect to the Ship, as the Lessor from time to time may reasonably request.

20.13 Negative undertakings

The Lessee will not:

20.13.1 carry on any business other than the leasing in and chartering out of the Ship and each Sister Ship and matters reasonably incidental thereto (as contemplated by the Transaction Documents); or

20.13.2 enter into any form of amalgamation, consolidation, merger or de-merger or any form of reconstruction or reorganisation; or

20.13.3 save by, or as permitted by, the Transaction Documents and the Sister Ship Transaction Documents, transfer, lease, charge or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation.

20.14 Title; negative pledge

The Lessee will:

20.14.1 not attempt or hold itself out as having any power to sell, transfer or otherwise dispose of or abandon the Ship or any shares or interest therein;

- 20.14.2 hold the legal title to, and own the entire beneficial interest in all its assets, free from all Security Interests and other interests and rights of every kind, except for those created by or contemplated to be created pursuant to any of the Transaction Documents and Sister Ship Transaction Documents and (in the case of the Ship and Sister Ships only) except for Permitted Security Interests; and
- 20.14.3 save as contemplated by the Transaction Documents and Sister Ship Transaction Documents, not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

20.15 No amendment to any Transaction Document

The Lessee will not agree or purport to agree and will procure that no other Transaction Company will agree or purport to agree to any amendment or supplement to, or variation of, or waive or fail to enforce, any Transaction Document to which the Lessee or, as the case may be, such other Transaction Company is a party, unless the Lessee, or as the case may be, the applicable Transaction Company acting reasonably considers that the amendment, supplement, variation, or waiver will not prevent the fulfilment by the Lessee or the other Transaction Companies of their respective obligations to the Lessor, and will not adversely affect any of the rights, interests, benefits, powers and remedies of the Lessor under the Lease Documents.

21 Assignments, transfers and sale of the Ship

21.1 Assignment and/or transfer by Lessor

The Lessor may assign all (but not part) of its rights and/or transfer all (but not part) of its obligations under this Agreement and the other Lease Documents together with a contemporaneous transfer of its rights, title and interests in the Ship:

21.1.1 without the prior consent of the Lessee where the assignment or transfer is to a Lessor Group Member which is resident in the United Kingdom for the purpose of the charge to corporation tax and which carries on the trade of leasing subject only to:

- (a) the Lessor giving the Lessee not less than thirty (30) days prior written notice of such assignments or transfer;
- (b) the Lessor Parent Support Letter being in full force and effect and, simultaneously with such assignment or transfer, extended or reissued to cover such assignee or transferee; and
- (c) the transferee for the time being remaining a Lessor Group Member; and

21.1.2 to the Replacement Purchaser in the circumstances contemplated by clause 18.3 of this Agreement and clause 7 of the Novation Agreement; and

21.1.3 to any other person after the occurrence of any Termination Event which is continuing; or

21.1.4 to any person other than those contemplated in clause 21.1.1 to 21.1.3 above with the prior written consent of the Lessee,

Provided that:

- (a) any transferee under this clause 21.1 shall assume all of the Lessor's obligations;
- (b) no costs, charges or expenses (including stamp duties payable in respect of any transfer) shall be payable by the Lessee; and
- (c) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessee under this Agreement and the other Transaction Documents to which the Lessor and Lessee are respectively party shall be calculated as if no such assignment or transfer had taken place.

21.2 Transfer by Lessee

Subject to no Relevant Event having occurred and then continuing, the Lessee may transfer all (but not part) of its rights and obligations under this Agreement and the other Transaction Documents:

21.2.1 to any other Guarantor Group Member without the prior written consent of the Lessor; or

21.2.2 to any other person (subject to clause 21.2.3 below) with the prior written consent of the Lessor.

21.2.3 Any intended transfer by the Lessee pursuant to clause 21.2.1 or 21.2.2 shall be subject to the further conditions that:

- (a) the Lessee shall give thirty (30) days prior written notice to the Lessor (or such shorter period as the Lessor may agree (acting reasonably)) of any intended transfer;
- (b) the Lessor shall not be subject to any material additional expense or any liability or increased liability as a result thereof (which is not indemnified against by the Lessee and guaranteed by the Guarantor or secured to the Lessor's satisfaction where the same is in the nature of a liability which is capable of being so indemnified, guaranteed or secured);
- (c) the Lessor is satisfied that, following the proposed transfer, the Guarantee, General Assignment and any other security then held by the Lessor in respect of the Lessee's obligations under this Agreement will remain in full force and effect as security for the obligations of the proposed transferee, or the Lessor is satisfied that such Guarantee, General Assignment and other security will be replaced on terms and in accordance with arrangements satisfactory to the Lessor; and
- (d) the intended transfer will not invalidate or result in any adverse effect on the Lessor's claim to UK Capital Allowances;

21.2.4 Following any transfer pursuant to clause 21.2.1 or 21.2.2:

- (a) the Lessee shall reimburse the Lessor in respect of all Losses, costs, charges or expenses (including stamp duties payable in respect of any transfer) properly incurred by the Lessor in connection with any transfer by the Lessee pursuant to this clause 21.2;

- (b) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessor under this Agreement and the other Transaction Documents shall be calculated as if no such transfer had taken place; and
- (c) in the case of any transfer pursuant to clause 21.2.1 the Guarantor shall guarantee to the Lessor the obligations of the transferee on terms satisfactory to the Lessor.

21.2.5 The Lessor agrees to assist the Lessee, upon the request of the Lessee, to restructure any security granted to the Lessor in respect of the Lessee's obligation to pay the Termination Amount to the Lessor in connection with any transfer of rights and obligations pursuant to this clause 21.2.

21.2.6 All costs and expenses (including legal costs and expenses and the relevant fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which will be charged at the Lessor's Management Time Cost Rate) in connection with any such restructuring shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

21.3 Sale of the Ship

During the Lease Period the Lessor will not sell, transfer, assign or otherwise dispose of the legal title to, or beneficial interest in, the Ship, or agree so to do, except as expressly contemplated by this Agreement or the other Transaction Documents.

22 Increased Costs

22.1 Increased costs

22.1.1 This clause 22 applies, otherwise than where a payment is made in respect of the effect of a Change of Law in accordance with the provisions of the Financial Schedule, if at any time the Lessor notifies the Lessee that it considers that as a result of:

- (a) any Change of Law; or
- (b) the effect of complying with any regulation which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Lessor or any Lessor Group Member has incurred or will incur an "increased cost".

22.2 Meaning of "increased cost"

In this clause 22, "increased cost" means, in relation to the Lessor:

22.2.1 the cost or additional cost referred to in clause 22.1 above; or

22.2.2 an additional or increased cost incurred directly as a result of, or in connection with, the Lessor having entered into, or being a party to, the Transaction Documents or funding, maintaining or performing its obligations under the Transaction Documents; or a reduction

-
- in the amount of any payment to the Lessor or any Lessor Group Member under any of the Transaction Documents or in the effective return which such a payment represents to the Lessor or on its capital; or
- 22.2.3 an additional or increased cost of funding all or maintaining all or any of the Lessor's expenditure under the Novated Building Contract or the Supervision Agreement or (as the case may require) the proportion of that cost attributable to the funding or maintaining of such expenditure; or
- 22.2.4 a liability to make a payment, or interest or the reduction in any amount payable or in the rate of return foregone, which is calculated by reference to any amounts received or receivable by the Lessor under this Agreement or any of the Transaction Documents; or
- 22.2.5 for the avoidance of doubt, any increased costs which relate to the implementation of the matters set out in the Basel II Accord.
- 22.3 Payment of increased costs**
- The Lessee shall pay to the Lessor the amounts which the Lessor from time to time notifies the Lessee that it has determined is necessary to compensate it for the increased cost.
- 22.4 Mitigation and consultation**
- 22.4.1 If circumstances arise which would result in notification under clause 22.1 then, without limiting the rights of the Lessor under clause 22.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or might be considered likely in the Lessor's opinion to:
- (a) have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;
 - (b) involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or
 - (c) involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.
- 23 Funding Problems**
- 23.1 Funding problems**
- If the Lessor notifies the Lessee that LIBOR cannot be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR:
- 23.1.1 the Lessor shall give notice thereof to the Lessee; and
- 23.1.2 the Lessor and the Lessee shall meet to discuss the matter in good faith and, unless within 30 days of the giving of such notice the Lessor and the Lessee arrive, by negotiation in good faith, at an alternative basis reasonably acceptable to the Lessor and the Lessee for continuing the Lessor's funding of its purchase of the Ship and/or continuing the leasing of the Ship under this Agreement and determining LIBOR (and any alternative basis agreed

in writing shall be retroactive to and effective from the commencement of the relevant period and shall continue until LIBOR can be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR), the Lessee shall indemnify the Lessor for its cost of funds from whatever source the Lessor may reasonably select, and for reasonable periods, in any such case following consultation with the Lessee.

24 Illegality, etc

24.1 Illegality

This clause 24 applies if the Lessor notifies the Lessee that it has become, or will with effect from a specified date, become:

24.1.1 unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or

24.1.2 contrary to, or inconsistent with, any regulation,

for the Lessor to continue to lease the Ship to the Lessee under this Agreement.

24.2 Termination

The Lessor is entitled either in its notice to the Lessee pursuant to clause 24.1 or by a subsequent notice, to terminate the Lease Period either immediately or at a future specified date being in any such case not earlier than the date on which it becomes unlawful, prohibited or contrary to, or inconsistent with, any regulation for the Lessor to continue to lease the Ship to the Lessee under this Agreement, but for the avoidance of doubt no Termination Fee shall be payable by the Lessee in such circumstances.

24.3 Manner of termination

A termination under clause 24.2 will be deemed to be a voluntary termination of the Lease Period in accordance with clauses 2.3 or 2.6 (notwithstanding that the Lessor shall not have received 30 days' notice) and the provisions of clauses 2.4 to 2.13 shall apply to that termination.

24.4 Mitigation

If circumstances arise which would result in notification under clause 24.1 then, without limiting the rights of the Lessor under clauses 24.2 and 24.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or, in the Lessor's opinion, might be considered likely to:

24.4.1 have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;

24.4.2 involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or

24.4.3 involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.

25 Release from Arrest: Lessor's and Lessee's Vessels

25.1 Release from arrest: Lessor's vessels

Other than the Ship or the Sister Ships or any other vessel owned by the Lessor and leased to a company which is owned by the Guarantor, if any vessel which is for the time being owned (in whole or in part) by or leased to any Lessor Group Member shall at any time have a writ or equivalent claim or pleading in admiralty filed against it or be arrested, attached or levied upon pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, and which arises out of the use or operation of the Ship or the Sister Ships or any other vessel owned in whole or in part by or leased or chartered to the Lessee or to any Transaction Company or other Guarantor Group Member or to any other company owned by the Guarantor with any other company, or otherwise by reason of the act or omission of any of the Lessee or any Transaction Company or other Guarantor Group Member, except where that lien or claim arises as a result of any Lessor Misconduct or the equivalent in relation to a Lessor Group Member (but excluding for this purpose any act or omission relating to the operation of the Ship or the Sister Ships or any other vessel owned by any Lessor Group Member and leased or chartered to the Lessee or any Transaction Company or any other Guarantor Group Member for which the Lessee or such Transaction Company or other Guarantor Group Member is responsible pursuant to this Agreement or the relevant leasing or chartering contracts):

25.1.1 the Lessee forthwith upon receiving notice thereof at its expense shall procure the release of such vessel from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty by providing bail or procuring the provision of security or otherwise as the circumstances may require; and

25.1.2 the Lessee shall be responsible for discharging each and every liability in connection with any such process, claim, lien or other action.

Without prejudice to the generality of the other indemnities contained in this Agreement or any of the other Transaction Documents, should any such other vessel owned (in whole or in part) by or leased or chartered to any Lessor Group Member and leased or chartered by it (otherwise than to the Lessee or any other Transaction Company or Guarantor Group Member) be arrested, detained, attached or levied upon or be the subject of or have a writ or equivalent claim or pleading in admiralty filed against it in such circumstances, the Lessee shall indemnify the Lessor against all Losses imposed on, suffered or incurred or expended by the Lessor and/or such Lessor Group Member in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty, together with any costs and expenses (including the provision of any guarantee or bond) or other outgoings which may be suffered or paid by the Lessor and/or any Lessor Group Member in releasing such vessel from any such arrest, seizure, custody, detention, attachment or distress.

25.2 Release from arrest: Lessee's vessels

If:

25.2.1 the Ship or the Sister Ships or any other vessel owned or operated by any Guarantor Group Member or any company owned by the Guarantor, at any time has a writ or equivalent claim or pleading in admiralty filed against it or is arrested, attached or levied upon

pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature in each such case arising out of the use or operation of any other vessel for the time being owned by any Lessor Group Member and leased or chartered by it otherwise than to the Lessee or any Transaction Company or to any other Guarantor Group Member or to any company owned by the Guarantor; and

- 25.2.2 should the charterers of such other vessel (being in that situation under obligations to the Lessor or the Lessor Group Member equivalent to those assumed by the Lessee under clause 25.1) fail to fulfil those obligations,
- Provided that the Lessee shall first have given prior notice thereof to the Lessor and, to the extent practicable, consulted with the Lessor or such Lessor Group Member as far in advance as is reasonable in all the circumstances, the Lessee shall:
- (a) be entitled to act as agent for the Lessor or the Lessor Group Member to procure release of the Ship or the Sister Ships or such other vessel (as the case may require) from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
 - (b) be entitled to be indemnified by the Lessor or the Lessor Group Member against claims made on the Lessee by the charterers of such other vessel in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty and all losses and expenses reasonably and properly so incurred by it.

26 Confidentiality

26.1 Confidentiality

At all times during the Lease Period, each of the Lessor and the Lessee shall keep confidential and shall not, without the prior written consent of the other:

- 26.1.1 issue any press release or make any other public announcement or statement in relation to the transactions evidenced by this Agreement and the other Transaction Documents; or
- 26.1.2 disclose to any other person (i) the financial details of this Agreement or any other Transaction Document or the transactions contemplated by this Agreement or any other Transaction Document or any other agreement entered into after the date of this Agreement by the Lessor or the Lessee in connection with this Agreement or any other Transaction Document or (ii) any information provided pursuant to any of the Transaction Documents; or
- 26.1.3 release copies of drafts of this Agreement or any other Transaction Document which disclose or reveal the identity of the parties (or any of them),
- the information contemplated by clauses 26.1.1 to 26.1.3 above being “ **Confidential Information** ”
- Provided that the parties shall be entitled, without any such consent, to disclose such Confidential Information:
- (a) if the same is already known to the receiving person at the time of disclosure as shown by the receiving person’s files and records immediately prior to that disclosure or is developed by the receiving person independently of such disclosure; or

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- (b) in connection with any proceedings arising out of or in connection with this Agreement or any of the other Transaction Documents; or
 - (c) if required to do so by an order of a court of competent jurisdiction whether in pursuance of any procedure for discovery of documents or otherwise; or
 - (d) if it is reasonably believed by such party to be disclosable pursuant to any applicable law, stock exchange regulations or by a governmental order, decree, regulation or rule; or
 - (e) to any fiscal, monetary, tax, governmental or other competent authority; or
 - (f) to the auditors, legal or professional or insurance advisors, underwriters or brokers of the Lessee or the Lessor who (A) shall have a need to have such knowledge of the same in connection with carrying out work related to the transaction contemplated by this Agreement and the other Transaction Documents and (B) shall be advised of the confidential nature of any such information supplied to them and shall be instructed to maintain the confidentiality of any information supplied to them; or
 - (g) in any manner contemplated by any of the Transaction Documents; or
 - (h) if the same is in the public domain or shall become publicly known otherwise than as a result of a breach by such party or by the receiving person or any other person to whom disclosure is made of this clause 26.1; or
 - (i) if the same is acquired independently from a third party without breach of that third party's obligations of confidentiality; or
 - (j) in the case of the Lessee, to any director, officer, employee, agent or representative of any Guarantor Group Member, the Time Charterer or the Approved Manager and its Affiliates, and, in the case of the Lessor, any director, officer, employee, agent or representative of any Lessor Group Member provided that in each case the Lessee or the Lessor shall procure that the party to whom such disclosure is made shall comply with the requirements of this clause,

provided that if the Confidential Information is provided by a party on the basis that it is to be kept confidential, but the party providing the information discloses it to another person on a non-confidential basis, then the receiving parties shall no longer be obliged to treat such information as confidential.

26.1.4 The Lessor and the Lessee shall be responsible for ensuring that where Confidential Information is disclosed to persons under clause 26.1.3 such persons shall keep the information confidential and shall not disclose or divulge the same to any unauthorised person.

27 Notices

27.1 General

Unless otherwise specifically provided, any notice under or in connection with this Agreement shall be given by letter or fax; and references in this Agreement to notices in writing and notices signed by particular persons shall be construed accordingly.

27.2 Addresses for communications

A notice shall be sent:

to the Lessee:

Seaspan Finance I Co. Ltd
Unit 2
7th Floor Bupa Centre
141 Connaught Road West
Hong Kong F4 0000
China

Fax No: +852 2450 1689

Attn: Gerry Wang

with a copy to:

Seaspan Management Services Limited
c/o 2600-200 Granville Street
Vancouver, BC
Canada V6C 1S4

Fax No: +604 648 9351 / +604 676 2296

Attn: Gerry Wang

to the Lessor:

Peony Leasing Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Fax No: +44 20 7012 9455

Attn: Head of Structured Marine Finance

or to such other address as the relevant party may notify the other.

27.3 Effective date of notices

Subject to clauses 27.4 and 27.5:

27.3.1 a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is received;

27.3.2 a notice which is sent by fax shall be deemed to be served, and shall take effect, upon the confirmed despatch by the sender.

27.4 Service outside business hours

However, if under clause 27.3 a notice would be deemed to be served:

27.4.1 on a day which is not a business day in the place of receipt; or

27.4.2 on such a business day, but after 5 p.m. local time,

the notice shall be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

27.5 English language

Any notice under or in connection with this Agreement shall be in English.

27.6 Meaning of “notice”

In this clause “ **notice** ” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

28 Supplemental

28.1 Rights cumulative, non-exclusive

The rights and remedies which this Agreement and the other Transaction Documents give to the Lessor are:

28.1.1 cumulative;

28.1.2 may be exercised as often as appears expedient; and

28.1.3 shall not, unless this Agreement or any Transaction Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

28.2 Severability of provisions

If any provision of this Agreement or any Transaction Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of this Agreement or that Transaction Document or of the provisions of any other Transaction Document.

28.3 Variations, waivers etc.

A document shall only be effective to vary, waive, suspend or limit any provision of this Agreement or any Transaction Document, or the Lessor’s or the Lessee’s rights or remedies under such a provision or the general law, if the document is signed, or specifically agreed to in writing by the Lessor and the Lessee.

28.4 Counterparts

This Agreement and any Transaction Document may be executed in any number of counterparts and one such counterpart executed by each of the parties thereto and, provided that all parties sign, each executed counterpart duly executed and delivered shall be deemed an original but taken together they shall constitute one instrument.

28.5 Set-off

The Lessee authorises the Lessor without prejudice to any of the Lessor's rights of set-off at law, in equity or otherwise, at any time after the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event and whilst it is continuing to set-off or withhold from any sum or sums expressed in the Lease Documents to be payable to the Lessee by the Lessor any amount due and payable but unpaid to the Lessor from the Lessee under the Lease Documents. The Lessor shall not be obliged to exercise any right given to it by this clause 28.5. The Lessor shall notify the Lessee upon the exercise or purported exercise by the Lessor of any right of set-off or withholding.

28.6 Further Assurance

As soon as practicable after any such request by the Lessor and at its own expense, the Lessee shall execute, sign, perfect and do any and every such further assurances, document, act or thing as is, in the reasonable opinion of the Lessor:

28.6.1 necessary to carry out the transactions contemplated by this Agreement and the other Transaction Documents; or

28.6.2 necessary to protect or enforce any of the Lessor's rights under this Agreement or the other Transaction Documents or title of the Lessor in the Ship.

28.7 Time of the essence

Subject to any periods of grace provided for by or referred to in this Agreement and the other Transaction Documents, time shall be of the essence as regards performance by the Lessee of its obligations under this Agreement and the other Transaction Documents.

28.8 Entire Agreement

As at the date of this Agreement, the Transaction Documents constitute the entire agreement between the parties in relation to the leasing of the Ship by the Lessor to the Lessee and supersedes all previous proposals, agreements and other written or oral communications in relation thereto.

28.9 Third party rights

With the exception of Indemnified Persons, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed. However, notwithstanding any term of this Agreement to the contrary, no variation of this Agreement, and no release or compromise of any liability hereunder and no termination by the Lessor of the leasing of the Ship or of its obligation hereunder to lease the Ship shall require consent or approval of any third party.

29 Law and Jurisdiction

29.1 English law

This Agreement shall be governed by, and construed in accordance with, English law.

29.2 Exclusive English jurisdiction

Subject to clause 29.3, the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and the Lessee irrevocably designates, appoints and empowers WFW Legal Services Limited of 15 Appold Street, London EC2A 2HB to receive for it and on its behalf service of process issued out of the English courts in connection with any such dispute.

29.3 Choice of forum

Clause 29.2 is for the exclusive benefit of the Lessor which reserves the rights:

29.3.1 to commence proceedings in relation to any matter which arises out of or in connection with this Agreement in the court of any country other than England which has jurisdiction in respect of that matter; or

29.3.2 to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

29.4 Lessee rights unaffected

Nothing in this clause 29 shall exclude or limit any right which the Lessor may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

29.5 Meaning of “proceedings”

In this clause 29, “**proceedings**” means proceedings of any kind, including an application for a provisional or protective measure.

THIS AGREEMENT has been executed by the parties to it on the date stated at the beginning of this Agreement.

Schedule 1
Financial Schedule

(see attached)

Schedule 2
Description of Ship

The Ship to be constructed by the Builder under the Novated Building Contract with Builder's Hull No. 1852 to the following approximate principal specifications as at the date of this Agreement and subject to alteration pursuant to any amendment to the Novated Building Contract in accordance with the terms and conditions of this Agreement and the other Lease Documents.

Length overall	268.5m
Length between perpendiculars	254.3m
Breadth (moulded)	35.0m
Depth (moulded) to upper deck	19.5m
Draught (design), moulded	11.0m
Classification Society	Det norske Veritas
Class	DNC, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V(3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport

Schedule 3
Part A - Form of Lessor Parent Support Letter (Lessee)

[On Bank of Scotland plc notepaper]

To: [Lessee]

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
UK Finance Lease for Samsung Hull no. [—] (the “Ship”)

We refer to the Lease of even date herewith between the Subsidiary and yourselves (the “**Lessee**”) relating to the Ship (the “**Lease**”). Terms defined in the Lease shall have the same meanings when used in this letter.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Lessee under the Transaction Documents.

In consideration of the Lessee agreeing to lease the Ship from the Subsidiary we confirm that throughout the term of the Transaction Documents we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Lessee arising from the Transaction Documents.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Lessee under the Transaction Documents, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Lessee and, if the Lessee so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Transaction Documents are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Lessee and so as to ensure that the Lessee shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Transaction Documents to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Without prejudice to or limitation of our other statements and undertakings in this letter, and our contractual obligations and liabilities in respect of the foregoing, nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Transaction Documents.

This letter is intended to create legal relations between us and will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

The Letter is confidential and shall not be disclosed to any party save as permitted by clause 26 of the Lease.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Part B - Form of Lessee Parent Support Letter (Builder)

[On Bank of Scotland plc notepaper]

To: Samsung Heavy Industries Co. Ltd.,
34th Floor, Samsung Life Insurance Seocho Tower
1321-15 Seoul
South Korea

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
Samsung Hull no. [—] (the “Ship”)

We refer to the Novation Agreement to be entered into on or about the date hereof between (among others) the Subsidiary and yourselves (the “**Builder**”) pursuant to which the Subsidiary will become the new buyer of the Ship under a Shipbuilding Contract dated [—] 2007 originally between Seaspan Corporation and the Builder. Such novated Shipbuilding Contract is herein referred to as the “**Contract**”.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Builder under the Contract.

We further confirm that throughout the term of the Contract we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Builder arising from the Contract.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Builder under the Contract, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Builder and, if the Builder so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Contract are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Builder and so as to ensure that the Builder shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Contract to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Contract.

This letter will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Schedule 4
Lessee's Condition Precedent Documents

Part A

Lessor's Conditions Precedent to the First Instalment

The following are the documents and actions referred to in clause 3.1.1 as conditions precedent to the obligations of the Lessor under this Agreement and the payment of the First Instalment pursuant to the Novated Building Contract and the Novation Agreement:

- 1 An original of this Agreement, the Novation Agreement, the Supervision Agreement, the Refund Guarantee, the Guarantee, the QEL, the General Assignment, the Indexation Relief Letter, the Tax Consultation Letter and the Non Discrimination Letter and each other Transaction Document to which the Lessor is or is then to be a party (and each notice or document required to be delivered by each such Transaction Document), each duly signed by all parties thereto.
- 2 Copies of the certificate of incorporation and constitutional documents of the Lessee, the Guarantor and the Supervisor.
- 3 Copies of resolutions of the directors and, if necessary for the purposes of obtaining the opinions referred to in paragraph 12 in form and substance satisfactory to the Lessor, the shareholders of the Lessee, the Guarantor and the Supervisor or equivalent documents authorising the execution of each of the Transaction Documents to which any of them is or is to be a party and authorising named persons to give all notices under this Agreement and each Transaction Document.
- 4 The original of any power of attorney under which any Transaction Document is executed on behalf of the Lessee, the Guarantor and the Supervisor.
- 5 Copies of any governmental or other third-party consents, licences, approvals, registrations and filings (“**Consents**”) necessary for any matter contemplated by the Lease Documents and for the legality, validity, enforceability, and admissibility in evidence and effectiveness thereof having been obtained or effected and remain in full force and effect, including, but not limited to, such Consents required to make any payment under any Transaction Document or evidence that no such Consents are required.
- 6 Certified true copies of the Building Contract, the Time Charter and all of the other Transaction Documents to which the Lessor is not a party which have been executed at such time and all documents to be delivered pursuant to each of such documents each duly signed by all parties.
- 7 Evidence reasonably acceptable to the Lessor of the amounts of all payments already made by the Original Purchaser under the Building Contract to the Builder together with details relating to each payment including what the payment was for and the date on which payment was made, and an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement.

-
- 8 Documentary evidence that the novation of the Building Contract contemplated in the Novation Agreement has or, simultaneously with the Lessor's obligations referred to in clause 3.1.1 becoming effective, shall become effective.
 - 9 Receipt by the Lessor of any fees, costs and expenses payable by the Lessee which are due for payment on or prior to the date for the payment of the First Instalment and which are not rentalised in the Financial Schedule.
 - 10 Documentary evidence that the agents for service of process in England appointed by the Lessee, the Guarantor, the Supervisor and the Time Charterer (as applicable) in relation to all Transaction Documents have accepted such appointment.
 - 11 Opinions from:
 - (a) Kim & Chang as special Korean legal counsel in relation to the Builder and the Refund Guarantor and the execution of the Novation Agreement by the Builder and the Refund Guarantee by the Refund Guarantor, and as to matters of Korean law;
 - (b) Cozen O'Connor, as special Marshall Islands legal counsel in relation to the Lessee, the Guarantor, this Agreement, the Novation Agreement, the Guarantee, and as to matters of Marshall Islands law,
 - (c) Conyers, Dill & Pearman, as special Bermudan legal counsel in relation to the Supervisor, the Supervision Agreement and as to matters of Bermudan law;
 - (d) Halpern Law Office, as special Japanese legal counsel in relation to the Time Charterer, the QEL and as to matters of Japanese law; and
 - (e) The Lessor's insurance advisers, Marsh, in respect of the insurance provisions of this Agreement and insurance arrangements with respect to the Ship and the Sister Ships generally,
each in form and substance satisfactory to the Lessor.
 - 12 If the Lessor reasonably requires, in respect of any of the documents referred to above which may be provided in a language other than English, a certified English translation prepared by a translator approved by the Lessor.
 - 13 The Lessee has confirmed that the conditions precedent to its obligations set out in Schedule 5 have been satisfied or waived by the Lessee.
 - 14 Completion of all relevant money laundering compliance checks by the Lessor in respect of the Lessee, the Replacement Purchaser, the Guarantor and any other relevant company, in accordance with the Lessor Group's current procedural requirements.

Part B

Lessor's Conditions Precedent to each Instalment

The Lessor shall have received each of the following, in form and substance satisfactory to the Lessor:

- 1 evidence that the relevant Instalment has fallen due for payment under the terms of the Novated Building Contract and the Novation Agreement, which evidence shall be constituted by notice from the Builder to the Supervisor (and copied to the Lessor) in accordance with clause 7.2 of the Novation Agreement;
- 2 evidence as to the amount of the relevant Instalment and the account to which it is to be paid, which evidence shall be constituted by an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement;
- 3 if the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, the other Lease Amounts and the amount of the Instalments previously paid, cause the Maximum Commitment to be exceeded, the Lessor shall have received the required amount to be paid by the Lessee to the Lessor as a Contribution Payment under clause 3.10 within the time permitted under clause 3.10;
- 4 confirmation from a duly authorised officer of each of the Lessee, the Replacement Purchaser, the Guarantor and the Supervisor that there has been no change in the constitutive documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended and in full force and effect; and
- 5 receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clause 3.2 of this Agreement have been satisfied.

Part C

Lessor's Conditions Precedent to the Final Instalment

The following are the documents referred to in clause 3.3.1:

- 1 An Intended Delivery Notice in accordance with the terms of this Agreement;
- 2 The commercial invoice of the Builder addressed to the Lessor in respect of the Final Instalment payable under the Novated Building Contract;
- 3 Drafts of the Builder's Certificate and the Protocol of Delivery and Acceptance together with drafts of certain of the other documents referred to in article VII of the Novated Building Contract and evidence that, at Delivery, originals of all these documents (where applicable, signed for the Builder) will be delivered to, or to the order of, the Lessor;
- 4 Evidence that the obligations of the Lessee under clauses 10.10, 13.2 and 13.3 of this Agreement will be complied with, as from Delivery;
- 5 Confirmation from the Supervisor that the Ship has been constructed in compliance with the terms of the Novated Building Contract and any minor works identified by the Supervisor in the Intended Delivery Notice which are to be rectified by the Builder after the Delivery Date; and
- 6 If the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, and the other Lease Amounts and the amount of the Instalments previously paid cause the Maximum Commitment to be exceeded, receipt by the Lessor of the required amount to be paid as a Contribution Payment under clause 3.10 within the period of time permitted by clause 3.10.

Part D

Lessor's conditions precedent to Delivery

The following are the documents referred to in clause 3.3.2:

- 1 Duly executed originals of the documents specified in Part C paragraph 3 of this Schedule;
- 2 Evidence that the Ship is duly registered under a flag referred to in clause 12.3 in the name of the Lessor;
- 3 Evidence that the Ship has been granted the classification referred to in clause 10.3.2 free of overdue conditions affecting the Ship's class unless waived;
- 4 Copies of any Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate and all other documents required at that time for the Ship pursuant to the ISM Code and ISPS Code;
- 5 Evidence that the obligations of the Lessee in relation to Insurances under clauses 13.2 and 13.3 of this Agreement have been complied with;
- 6 If so requested by the Lessor, an insurance report, paid for by the Lessee, from an independent adviser selected by the Lessor (subject to prior agreement on their fee) confirming that the Ship's Insurances comply with the requirements of clause 13;
- 7 Copies of any consents which are required to be obtained and maintained in respect of the Ship and its operation;
- 8 The certificate of delivery and acceptance in the form of schedule 7 to this Agreement duly signed by the Lessee, and a copy of the protocol of delivery and acceptance in the form required by the Time Charter signed by the Time Charterer;
- 9 Confirmation from a duly authorised officer of each of the Lessee, the Supervisor and the Guarantor that there has been no change in the constitutional or organisational documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended in full force and effect and that all the Transaction Documents to which they are a party remain in full force and effect;
- 10 Receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clauses 3.2 and 3.3 of the Lease Agreement have been satisfied;
- 11 Confirmatory opinions each confirming that the opinions expressed in the legal opinions issued pursuant to paragraph 14 of Part A of Schedule 4 need not be altered or modified in any way or, as the case may be, supplemental opinions in respect of any matters in respect of which such confirmations cannot be given in form and content acceptable to the Lessor; and

-
- 12 An opinion from counsel selected by the Lessor in the proposed flag state for the Ship, in relation to the registration of the Ship, in form and content acceptable to the Lessor.

General Note

- 1 All copies of documents to be provided under any part of this Schedule 4 must be certified to be true, complete and up-to-date as at the date of certification, and must be certified by an authorised signatory of the person providing such copies.
- 2 In the event that any of the representations and warranties on the part of any of the Lessee, the Replacement Purchaser, the Supervisor, the Time Charterer and/or the Guarantor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 5
Lessee's Pre-Delivery Condition Precedent Documents

The following are the documents referred to in clause 3.4:

- 1 An original of each Transaction Document to which the Lessor or the Lessor Parent is a party duly executed by the Lessor or, as the case may be, the Lessor Parent;
- 2 Copies of resolutions of the directors of the Lessor authorising execution of each of the Transaction Documents to which it is a party by the persons signing them;
- 3 Certified copies of any power of attorney under which any Transaction Document is executed on behalf of the Lessor; and
- 4 Evidence of the due execution by the Bank of the Lessor Parent Support Letter given in favour of the Lessee in a form satisfactory to the Lessee (acting reasonably).

Schedule 6
Form of Instalment Request

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated: [—]

Dear Sirs

Lease Agreement (the “Lease Agreement”) dated [—] 2007 relating to Samsung Hull No. [—]

We refer to the Lease Agreement and give you notice that the expected date for the [—] Instalment of the Purchase Price is [—] .

We further notify you that the payments due on that date [is/are] as follows:

[—]

We confirm that no Relevant Event has occurred which is continuing.

Words and expressions defined in the Lease Agreement shall have the same meanings when used in this Instalment Request.

For and on behalf of
[Lessee]

Schedule 7
Form of Certificate of Delivery and Acceptance

Pursuant to a lease agreement (the “**Lease**”) dated [—] 2007 made between (i) [—] Limited (the “**Lessor**”) and (ii) [—] (the “**Lessee**”) in respect of the m.v. “ [—] ” (the “**Ship**”), registered under the laws and flag of [—] with Official Number [—] and on the basis of the confirmation given by the Lessee in this Certificate, the Ship was delivered by the Lessor to the Lessee, and accepted by the Lessee from the Lessor, at [—] hours [GMT]/[BST] on [—] at [—] under, and in accordance with the terms and conditions of, the Lease.

The Lessee confirms that as at the date of this Certificate:

- (a) no Relevant Event has occurred and is continuing; and
- (b) the representations and warranties set out in clause 19 of the Lease are true and correct as if each was made with reference to the facts and circumstances existing at the date of this Certificate.

Dated: [—]

For and on behalf of
[Lessee]

Schedule 8
Form of Intended Delivery Notice

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated : [—]

Dear Sirs

m.v. “ [—] ” - Lease Agreement dated [—] 2007 (the “Lease”)

We refer to the Lease. Words and expressions defined in the Lease shall have the same meaning when used in this notice.

The Supervisor hereby advises you that the anticipated date of Delivery is [—] and confirms that the Ship is built in accordance with the Novated Building Contract [subject only to []]*.

The Lessee hereby requests the Lessor to take delivery of the Ship on that date, to make all necessary arrangements to fund the Final Instalment of the Purchase Price and to lease the Ship to the Lessee pursuant to the Lease (subject to any revised or replacement notice which may be served on the Lessor if the anticipated date of Delivery is postponed). The Lessee confirms that:

- (a) no Relevant Event has occurred and is continuing, either now or at the anticipated Delivery Date;
- (b) each of the representations and warranties contained in clause 19 of the Lease is true and correct by reference to the facts and circumstances now existing, and will be true and correct by reference to the facts and circumstances existing on the anticipated Delivery Date**.

Yours faithfully

for and on behalf of
[—], as Lessee

for and on behalf of
[—] as Supervisor

* [any qualifications disclosed to and agreed by the Lessor to be inserted] .

** In the event that any of the representations and warranties on the part of the Lessee or the Supervisor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 9
Form of Notice of Assignment of Builder Warranties

To: [Samsung]

Dated: []

m.v. “ [—] ”

[—] Limited (the “ **Lessor** ”), of which the principal mailing address is currently c/o Bank of Scotland Structured Asset Finance Limited, PO Box 39900, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB, the Lessor of the vessel currently under construction with yourselves (the “ **Builder** ”) having Builder’s Hull No. [—] (the “ **Ship** ”) **GIVES NOTICE** that by an assignment dated [] 2007 made by the Lessor in favour of [—] (the “ **Assignee** ”) we have assigned to the Assignee absolutely the full benefit of all guarantees, warranties and indemnities of every kind (the “ **Warranties** ”) to which we are entitled now or at any later time to, in or in connection with a Building Contract dated [—] (the “ **Building Contract** ”) made between the Builder and Seaspan Corporation, in respect of the construction and sale of the Ship as novated from Seaspan Corporation to the Lessor by a Novation Agreement dated [] 2007 (the “ **Novation Agreement** ”) and made between (i) the Builder, (ii) Seaspan Corporation, (iii) the Lessor and (iv) [—] (the Building Contract, as novated and amended by the Novation Agreement, the “ **Novated Building Contract** ”).

The Assignee is entitled, as from the Delivery Date, to exercise and enforce all rights in respect of the Warranties including without limitation the right to receive damages and other sums in connection with the Novated Building Contract (but subject always to any express provisions in the Novation Agreement) and the Lessor shall, unless the Lessor notifies the Builder in writing to the contrary, have no further responsibility or liability in respect of such matters.

The Lessor instructs the Builder to comply with the instructions contained in this notice until otherwise notified by both the Lessor and Assignee. Until such time the instructions contained herein are irrevocable.

This notice is governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice by delivering a copy endorsed as set out below to the Lessor and the Assignee.

For an on behalf of
[Lessor]

To: [—] Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London EC2M 3YB

Attention: Head of Structured Marine Finance

cc: [Lessee]

m.v. “[—]”

We hereby acknowledge receipt of the notice set out above and hereby confirm:

- 1 our agreement to the assignment referred to therein; and
- 2 that we have not received any other notice of assignment in respect of the same matter.

For and on behalf of
[Samsung]

Dated :

Schedule 10
Standby Loan Transaction Characteristics

Borrower:	a company in the Guarantor Group
Guarantor:	the Guarantor will guarantee the obligations of the Borrower in the same form as the Guarantee (but subject to such amendments to the financial covenants therein as may be determined during the Lessor Standby Lender Review)
Lender:	Bank of Scotland plc
Amount:	an amount equal to the Final Rental under the Lease Agreement
Currency:	US Dollars
Maturity Date:	the loan shall be fully repaid by the seventh (7th) anniversary of the Lease Period End Date
Interest:	US\$[1/3] month LIBOR plus Margin, payable [monthly/quarterly]
Margin:	110 bps
Repayments:	the repayments will be [monthly/quarterly] and calculated so as to amortise to a final principal repayment on the Maturity Date of an amount equal to 30% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)
Security:	in addition to the Guarantee referred to above, the Borrower shall grant to the Lender a mortgage over the Ship, an assignment over the earnings, insurances and requisition compensation, and such other Security as may be required by the Lessor, all in a form satisfactory to it
Documentation:	to be prepared by the Lender's legal counsel, based on the appropriate Loan Market Association form but adapted to reflect the provisions of the Lease Agreement (particularly in the case of representations and warranties, operational covenants, undertakings and indemnities, and events of default)
Costs:	for the account of the Borrower

The following additional provisions shall apply to any Standby Loan Transaction entered into pursuant clause 2.14:

Amount: an amount equal to the relevant Termination Sum under the Lease Agreement plus, in the case of any termination under clause 2.2.1(a), all further amounts to be advanced under the Standby Loan Agreement during the Construction Period in respect of the Contract Price

Repayment: the repayments will be calculated so as to amortise initially to an amount as at the original Lease Period End Date equal to 80% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)

**Standby Lender
Review:**

the Standby Lender Review referred to in clause 16 of the Lease Agreement shall continue to apply (mutatis mutandis) and, in the event of an adverse determination by the Lender, the Lender shall be entitled to require a repayment of the standby loan on the original Lease Period End Date

Schedule 11

Specimen Profit and Loss Account for Lessor

(referred to in clause 6.8)

**[LESSOR NAME]
PROFIT AND LOSS ACCOUNT
FOR THE [YEAR] [[—] MONTHS] ENDED [date]**

	[period]	[period]	
	Note	\$000	\$000
INCOME FROM FINANCE LEASES		[—]	[—]
Administrative expenses		([—])	([—])
OPERATING PROFIT		[—]	[—]
Interest payable and similar charges		([—])	([—])
PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION		[—]	[—]
Tax on profit on ordinary activities		([—])	([—])
PROFIT FOR THE FINANCIAL PERIOD		[—]	[—]

Specimen Balance Sheet for Lessor
(referred to in clause 6.4)

[LESSOR NAME]
BALANCE SHEED AS AT [date]

	<u>Note</u>	<u>200[—]</u> <u>\$000</u>	<u>200[—]</u> <u>\$000</u>
CURRENT ASSETS			
Debtors amounts falling due:			
within one year		[—]	[—]
after one year		<u>[—]</u>	<u>[—]</u>
Total Debtors		[—]	[—]
CREDITIORS: amounts falling due within one year		<u>([—]) </u>	<u>([—]) </u>
NET CURRENT ASSETS		[—]	[—]
CREDITORS: amounts falling due after more than one year			
PROVISIONS FOR LIABILITIES AND CHARGES		<u>([—]) </u>	<u>([—]) </u>
NET ASSETS		<u>[—]</u>	<u>[—]</u>
CAPITAL AND RESERVES			
Called up equity share capital		[—]	[—]
Profit and loss account		<u>[—]</u>	<u>[—]</u>
EQUITY SHAREHOLDERS' FUNDS		<u>[—]</u>	<u>[—]</u>

LESSOR

SIGNED by)
)
for and on behalf of)
PEONY LEASING LIMITED)
in the presence of:)

/s/ Keith Roderick Glasscoe
Keith Roderick Glasscoe

Jus Lyall
Norton Rose LLP SE1
Associate

LESSEE

SIGNED by)
)
for and on behalf of)
SEASPAN FINANCE I CO. LTD.)
in the presence of:)

/s/ Hanno Erwes
Hanno Erwes
Attorney-In-Fact

Dated December 27, 2007

PEONY LEASING LIMITED (1)
as Lessor

and

SEASPAN FINANCE I CO. LTD. (2)
as Lessee

LEASE AGREEMENT
in respect of one 4520 TEU container carrier
to be built at Samsung Heavy Industries
Co.,
Ltd
with Hull No. 1853

 **NORTON ROSE**

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THIS AGREEMENT is made on December 27, 2007,

BETWEEN

- (1) **PEONY LEASING LIMITED**, a company incorporated in England and Wales with company number 4442275 and whose registered office is at PO Box 39900, Level 7, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB (the “**Lessor**”); and
- (2) **SEASPAN FINANCE I CO. LTD.**, a corporation incorporated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the “**Lessee**”).

BACKGROUND

This Agreement sets out the terms and conditions on which the Lessor will acquire and lease to the Lessee, and the Lessee will take on lease, the Ship.

IT IS AGREED as follows:

1 Interpretation

1.1 Definitions

Subject to clause 1.6, in this Agreement:

“**Adjustment Date**” has the meaning given to that term in the Financial Schedule;

“**Adjustment Period**” has the meaning given to that term in the Financial Schedule;

“**Agreed Form**” in relation to any document, means that document in form, substance and terms approved in writing by the Lessor and the Lessee and any other Transaction Company which is a signatory thereto or otherwise in accordance with any such other approval procedure detailed in any relevant provision of this Agreement and any Lease Document;

“**Approved Flag State**” means each of the states described in clause 12.3.1 together with any other state or country approved by the Lessor pursuant to clause 12.5.2;

“**Approved Manager**” means Seaspan Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM11, Bermuda, or such other company as the Lessor may from time to time approve (such approval not to be unreasonably withheld or delayed, and such approval to be given in the case of any first class ship manager/operator nominated by the Lessee);

“**Arrangement Fee**” has the meaning given to such term in the Financial Schedule;

“**Assumptions**” has the meaning given to such term in the Financial Schedule;

“**Auditors**” means KPMG or such other firm of appropriately qualified accountants as may be the Lessor’s auditors from time to time;

“**Bank**” means Bank of Scotland plc a company incorporated in Scotland with company number SC 327000 and having its registered office at The Mound, Edinburgh, EH1 1YZ;

“ **Broken Funding Benefits** ” has the meaning given to such term in the Financial Schedule;

“ **Broken Funding Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Builder** ” means Samsung Heavy Industries Co., Ltd., a company incorporated in Korea with its principal place of business at 34th Floor, Samsung Life Insurance Seocho Tower 1321-15, Seocho-Dong, Seocho-Gu, Korea;

“ **Building Contract** ” means the contract dated 29 November 2007 for construction of the Ship signed by the Guarantor (as “Buyer”) and the Builder;

“ **Business Day** ” means a day (other than a Saturday or Sunday) on which banks are open for business in London, New York, Hong Kong, Vancouver and (during the Construction Period only) Seoul;

“ **Buyer’s Supplies Reimbursement Amount** ” means the amount payable by the Lessor to the Supervisor pursuant to clause 4.5(a) of the Supervision Agreement;

“ **CAA** ” means the Capital Allowances Act 2001;

“ **Capital Commitment Fee Letter** ” means the letter so called issued or to be issued in respect of the capital commitment fee relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Certificate of Delivery and Acceptance** ” means the certificate in the form of schedule 7 to be executed by the Lessee upon the delivery of the Ship in accordance with clause 3.11;

“ **Certificate of Financial Responsibility** ” has the meaning attributed to it in clause 9.3(d);

“ **Change of Law** ” means, in each case after the date of this Agreement:

- (a) the implementation, introduction, abolition, withdrawal or variation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by the Bank of England, the European Union or any central bank or tax, fiscal, revenue, monetary, governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (b) any change in any interpretation, or the introduction or making of any new or further interpretation, or any new or different interpretation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by any court, tribunal, governmental, local, international, national or other competent authority or agency or the Bank of England, the European Union or any central bank or tax, fiscal, revenue or monetary authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (c) compliance with any new or different request or direction from the Bank of England, the European Union or any central bank, tax, fiscal, regulatory monetary, revenue,

governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary);

“ **Classification Society** ” means Det Norske Veritas, the American Bureau of Shipping, Germanischer Lloyd or the Lloyds Register of Shipping or, with the prior written approval of the Lessor, any other classification society which is a member of IACS;

“ **Commitment Expiry Date** ” means 28 February 2012 or such later date as the Lessor may agree;

“ **Commercially Burdensome** ” has the meaning given to such term in clause 2.2.2;

“ **Compulsory Acquisition** ” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Ship by any Government Entity or other competent authority, whether de jure or de facto but shall exclude requisition for use or hire not involving a requisition for title;

“ **Construction Period** ” means the period commencing on the Effective Date and ending on the earlier of (i) the Delivery Date or (ii) the date on which any further novation referred to in clause 2.3 occurs;

“ **Contract Price** ” means eighty two million eight hundred and eleven thousand Dollars (US\$82,811,000) as the same may be adjusted from time to time in accordance with the provisions of the Novated Building Contract;

“ **Contribution Payment** ” means a payment by the Lessee to the Lessor in accordance with clause 3.10 by way of capital contribution to the Lessor’s Total Expenditure of an amount in Dollars equal to the aggregate amount by which the aggregate of Lessor’s Total Expenditure already paid by the Lessor and the amount next due in respect of the Lessor’s Total Expenditure would otherwise exceed the Maximum Commitment on the date on which such next payment in respect of Lessor’s Total Expenditure is to be incurred;

“ **Contribution Payment Request** ” means a notice given by the Lessor to the Lessee under clause 3.10.2 of this Agreement;

“ **Corporation Tax** ” has the meaning given to such term in the Financial Schedule;

“ **Default Rate** ” means the rate of interest determined by the Lessor, and certified by it to the Lessee, to be the aggregate of:

(a) two per cent (2%) per annum; and

(b) LIBOR;

“ **Delivery** ” means the time at which the Lessor delivers the Ship to the Lessee pursuant to clause 3, and “ **Delivered** ” shall be construed accordingly;

“ **Delivery Date** ” means the date on which Delivery occurs (anticipated to be 28 February 2011);

“ **Dollar Equivalent** ” has the meaning given to such term in the Financial Schedule;

“ **Dollars** ” and “ **\$** ” means the lawful currency from time to time of the United States of America and in respect of all payments to be made under this Agreement, means immediately available, freely transferable funds;

“ **Economically Burdensome** ” has the meaning given to such term in the Financial Schedule;

“ **Effective Date** ” means the date on which the conditions specified in clause 3.1.1 and, if payment of an Instalment is being made simultaneously with or immediately after the novation of the Building Contract, clause 3.2 are satisfied and the novation of the Building Contract takes effect in accordance with clause 3 of the Novation Agreement;

“ **Environmental Approval** ” means any permit, licence, certificate, filing, consent, authorisation, or any other approval required at any time by any Environmental Law;

“ **Environmental Claim** ” means any claim by any person which arises out of or in connection with an Environmental Incident or an alleged Environmental Incident or any breach of, or non-compliance with, or which otherwise relates to any Environmental Law or Environmental Approval and, for the purposes of this definition, “ **claim** ” includes any threatened claim which may reasonably be considered as likely to develop into an actual claim;

“ **Environmental Incident** ” means:

- (a) any release, discharge or emission of Environmentally Sensitive Material from the Ship other than any of the foregoing which the Lessee, acting reasonably, considers not to be material in the context of this Agreement and which is not reasonably likely to give rise to an Environmental Claim; or
- (b) any incident in which Environmentally Sensitive Material is released, discharged or emitted from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or is reasonably likely to be arrested, attached, detained or enjoined and/or the Ship and/or the Lessee or any Manager and/or any sub-lessee, time charterer, operator or other manager is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, discharged or emitted otherwise than from the Ship and in connection with which the Ship is actually and/or is reasonably likely to be arrested and/or where the Lessee or any Manager and/or any operator, time charterer, or other manager of the Ship is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action;

“ **Environmental Law** ” means any or all laws applicable or relating to pollution or contamination or protection of the environment, to the generation, manufacture, processing, distribution, use or misuse, treatment, storage, disposal, carriage or holding of Environmentally Sensitive Material or to actual or threatened emissions, releases, spillages or discharges of Environmentally Sensitive Material;

“ **Environmentally Sensitive Material** ” means liquefied natural gas, oil, oil products and any other element or substance whether natural or artificial and whether consisting of gas, liquid, solid or vapour (including any chemical, gas or other hazardous or noxious substance) which is or is capable of becoming polluting, toxic, hazardous, harmful or damaging to mankind or the environment or any living organism;

“ **Excluded Event** ” means any of:

- (a) a Change of Law or a change in GAAP; or
- (b) any action or inaction effected or required under or pursuant to any provision of this Agreement or the other Transaction Documents; or
- (c) anything requested or consented to by the Lessee or any Guarantor Group Member; or
- (d) any failure by the Lessee or any Guarantor Group Member to supply information reasonably requested by the Lessor or required to be given under the Transaction Documents; or
- (e) any act or omission of any party to the Transaction Documents or their affiliates (other than the Lessor or any Lessor Group Member);

“ **Financial Indebtedness** ” means, in relation to a person (the “debtor”), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a lease or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

but excludes any liability under a fully non-recourse project finance facility;

“ **Financial Schedule** ” means the financial schedule set out in Schedule 1;

“ **Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Further Novation Event** ” means any of the events or circumstances described in clause 17.3;

“ **Further Novation Notice** ” means a notice which the Lessor (as new purchaser) may issue to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement or, as the case may be, a notice which the Builder may issue to the Lessor and the Replacement Purchaser pursuant to clause 6.2 of the Novation Agreement;

“ **General Assignment** ” means the assignment dated on or about the date hereof pursuant to which the Guarantor and the Lessee (as assignors) assign to the Lessor (as assignee) the benefit of (i) the Time Charter and any other earnings of the Ship, (ii) the Insurances, and (iii) any Requisition Compensation;

“ **Government Entity** ” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant;

“ **Guarantee** ” means the guarantee issued or to be issued by the Guarantor in favour of the Lessor in respect of the obligations of, the Lessee, the Manager, the Supervisor and the Replacement Purchaser under the Transaction Documents;

“ **Guarantor** ” means Seaspan Corporation, a company incorporated in the Republic of the Marshall Islands with its principal office at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F4 000, People’s Republic of China;

“ **Guarantor Group** ” means each of the Guarantor and any company which is a Subsidiary of the Guarantor from time to time;

“ **Guarantor Group Member** ” means as at the date hereof and from time to time any member of the Guarantor Group;

“ **HMRC** ” means H.M. Revenue & Customs;

“ **Holding Company** ” in relation (i) to a company incorporated in England and Wales, has the meaning given in Section 736 Companies Act 1985 and (ii) in relation to a company or other person incorporated or formed outside England and Wales means a company or other person of which such company is the Subsidiary;

“ **IACS** ” means the International Association of Classification Societies;

“ **ICTA** ” means the Income and Corporation Taxes Act 1988;

“ **Indemnified Person** ” means the Lessor, the Bank, any other Lessor Group Member and their respective officers, directors, secondees, agents and employees;

“ **Indexation Relief Letter** ” means the letter so called issued or to be issued in respect of indexation relief relating to this Agreement addressed by the Lessor to the Lessee;

“ **Instalment** ” means each instalment of the Purchase Price, being:

- (a) the instalment of the Contract Price payable on the date upon which the Novation Agreement becomes effective, referred to as the “First Instalment” in article II.4(a) of the Novated Building Contract, in an amount of \$17,702,200 (the “ **First Instalment** ”);

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- (b) the instalment of the Contract Price payable on any date between 19 December 2007 and 31 December 2007, referred to as the “Second Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$56,827,700, together with such additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the date of the Second Instalment (the “**Second Instalment**”); and
- (c) the instalment of the Contract Price referred to as the “Delivery Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$8,281,100, together with such other additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the Delivery Date (the “**Final Instalment**”),

or such other dates (up to the Commitment Expiry Date) or amounts (subject to the Maximum Commitment) to be agreed by the Lessor and the Lessee or, as the case may be, the Lessor and the Supervisor;

“**Instalment Date**” means the date for the payment of each Instalment and the expressions “**First Instalment Date**”, “**Second Instalment Date**”, and “**Final Instalment Date**” shall be construed accordingly (the Instalment Date relating to the date for the payment of the Final Instalment being the Delivery Date);

“**Instalment Request**” means a notice to be sent by the Lessee to the Lessor requesting the payment of an instalment in the form of Schedule 6;

“**Insurances**” means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are from time to time in place or taken out or entered into or which are required to be put in place or taken out or entered into in respect of the Ship or otherwise in relation to it pursuant to clause 13; and
- (b) all benefits, rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and claims of whatsoever nature,

provided however that this shall not include any policies and contracts of insurance which are or may be effected by the Lessor as referred to in clause 13.21 or by the Lessor pursuant to clause 18.9 following the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event;

“**Intended Delivery Notice**” means a notice addressed by the Lessee and the Supervisor to the Lessor, substantially in the form of Schedule 8;

“**Irrecoverable VAT**” has the meaning given to such term in the Financial Schedule;

“**ISM Code**” means the International Safety Management Code (including the guidelines on its implementation) adopted by the International Maritime Organisation Assembly as Resolutions A. 741(18) and A. 788(19) and incorporated into SOLAS as the same may be

amended or supplemented from time to time and all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or may in the future be issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code;

“ **ISPS Code** ” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation Assembly as the same may have been or may be amended or supplemented from time to time;

“ **Lease Amounts** ” means the amounts payable by the Lessor pursuant to clause 3.7 of this Agreement;

“ **Lease Documents** ” means this Agreement, the Certificate of Delivery and Acceptance, the Novated Building Contract, the Refund Guarantee, the QEL, the Guarantee, the Indexation Relief Letter, the Novation Agreement, the Supervision Agreement, the Tax Consultation Letter, the Non Discrimination Letter, the General Assignment, the Pooling Benefits Letter, the Capital Commitment Fee Letter, the Pre-Tax Loss Letter, the Technical Note Letter and any other document, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of any of the foregoing and to which the Lessor is a party and any other documents, notice, letter or instrument designated as a Lease Document by the Lessor and the Lessee;

“ **Lease Period** ” means the period during which the Lessee is entitled under the terms of this Agreement to possession and use of the Ship commencing on the Delivery Date and ending on the earlier of:

- (a) the Lease Period End Date; and
- (b) the date of termination of the leasing of the Ship under this Agreement;

“ **Lease Period End Date** ” means the date falling four years and three hundred and sixty days after the Delivery Date;

“ **Lease Rental Date** ” has the meaning given to such term in the Financial Schedule;

“ **Lease Termination Date** ” means the date on which the leasing of the Ship by the Lessor to the Lessee terminates under this Agreement, being:

- (a) the Lease Period End Date; or
- (b) where the leasing of the Ship ends following the occurrence of a Total Loss, the Total Loss Payment Date; or
- (c) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) by virtue of the fact that the leasing of the Ship pursuant to this Agreement has become Economically Burdensome, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(a), being a date not less than five (5) Business Days after service of that notice; or
- (d) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) for any reason other than that specified in paragraph (c) above, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(b) being a date no less than thirty (30) days after service of that notice; or

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- (e) where the leasing of the Ship ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (f) where the leasing of the Ship ends pursuant to clause 18.2, by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (g) where the leasing of the Ship ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee by the Lessor pursuant to clause 24.1;

“ **Lessor** ” includes the successors and permitted assigns and transferees of the Lessor;

“ **Lessor Breach** ” means any breach by the Lessor or any Lessor Group Member and their respective agents, assigns, directors, officers, secondees and servants (each a “ **Lessor Party** ”) of its obligations, warranties or representations to the Lessee under the Transaction Documents to which the relevant Lessor Party is a party, but excluding any breach resulting from any act or omission of:

- (a) the Lessee, any Transaction Company or any person which derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of a Lessor Party;
- (b) a Lessor Party, that arises as a result of the failure of the Lease or any Transaction Company to duly and punctually perform all its obligations under any Transaction Document; or
- (c) a Lessor Party, that arises as a result of a breach of any of the express representations or express warranties of the Lessee or any Transaction Company;

“ **Lessor Group Member** ” means any member of the Lessor’s Group other than the Lessor;

“ **Lessor Misconduct** ” means any act or omission of the Lessor or any Indemnified Person, (excluding any act or omission of the Lessee or any Transaction Company, or any Person who derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of the Lessor or any Indemnified Person) which constitutes:

- (a) wilful misconduct;
- (b) reckless misconduct with:
 - (i) the intent to cause damage; or
 - (ii) actual knowledge that damage would probably result;

“ **Lessor Parent Support Letters** ” means the letters issued or, as the context may require, to be issued by the Bank:

- (a) in favour of the Lessee in the form set out in Schedule 3A; and
- (b) in favour of the Builder in the form set out in Schedule 3B,

and, in the singular, means either of them; and

“ **Lessor’s Group** ” means the Lessor and its ultimate Holding Company and any company which is a Subsidiary of such Holding Company from time to time;

“ **Lessor’s Legal Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Lessor’s Management Time** ” means the amount of time which any director or employee of the Lessor or any Lessor Group Member (other than those employees whose functions are of an administrative or clerical nature) spends or anticipates in good faith will be spent in connection with the taking of any actions, the consideration of any requests and/or the entering into of any discussions by the Lessor in accordance with this Agreement and the other Transaction Documents as shall be notified to the Lessee by the Lessor (provided however that this shall not include time spent on routine transactional management or on administrative or clerical matters);

“ **Lessor’s Management Time Cost Rate** ” means £300 per hour plus RPI, or as otherwise notified by the Lessor to the Lessee from time to time, acting reasonably;

“ **Lessor’s Security Interest** ” means any Security Interest on the Ship, its earnings, the Insurances or any Requisition Compensation which arises as a result of:

- (a) any claim against or affecting the Lessor that is not related to, or does not arise directly or indirectly as a result of, the transactions contemplated by this Agreement or any of the other Transaction Documents; or
- (b) any act or omission of the Lessor which is unrelated to or does not arise directly or indirectly as a result of the transactions contemplated by this Agreement and the other Transaction Documents; or
- (c) any Taxes imposed upon the Lessor other than those in respect of which the Lessor or any other Indemnified Person is required to be indemnified against by the Lessee or by any other person under this Agreement or under any of the other Transaction Documents;

“ **Lessor’s Total Expenditure** ” means:

- (a) for the purposes of paragraph (a) of the definition of Maximum Commitment, all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and, in respect of amounts payable in any other currency, means the Dollar Equivalent of such amounts; and
- (b) for the purposes of paragraph (b) of the definition of Maximum Commitment, the aggregate of all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and each of the Sister Ships (as such expressions are defined in, as the case may be, this Agreement or the relevant Sister Ship Lease Agreement);

“ **Lessor’s Underwriting Fee** ” has the meaning given to that term in the Financial Schedule;

“ **LIBOR** ” has the meaning given in the Financial Schedule;

“ **Losses** ” means any and all losses, costs, charges, expenses, fees, interest, commissions, payments, demands, claims, actions, proceedings, liabilities, penalties, fines, judgments, damages, orders, liens, salvage and general average or other sanctions other than Taxes, and except also those excluded by clause 7.5, and the expression “Loss” shall be construed accordingly;

“ **Major Casualty** ” means a casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$5,000,000 or the equivalent in another currency;

“ **Manager** ” means the Approved Manager or any Replacement Manager;

“ **Mandatory Prepayment Event** ” means any of the events or circumstances described in clause 17.2;

“ **Maximum Commitment** ” means each of:

- (a) \$85,811,000 in respect of the Lessor’s Total Expenditure on the Ship; and
- (b) \$400,000,000 in aggregate in respect of the Lessor’s Total Expenditure on the Ship and each of the Sister Ships,

in each case exclusive of any United Kingdom Value Added Tax payable under the law in force in the United Kingdom at the date of this Agreement, Provided however that:

- (i) during the period between the date of this Agreement and 31 December 2007, the Maximum Commitment under paragraph (b) above shall be limited to an aggregate of \$226,000,000; and
- (ii) if any Sister Ship Lease Agreement terminates (the “ **Terminated Lease** ”) pursuant to clauses 2.2 or 2.5 thereof prior to the date on which Delivery shall have occurred under this Agreement and all of the other Sister Ship Agreements (as “ **Delivery** ” is defined therein), for the purposes of paragraph (b) of the definition of Lessor’s Total Expenditure there shall be disregarded all amounts paid by the Lessor under the Terminated Lease by way of Purchase Price and Lease Amounts (as defined therein);

“ **Net Sale Proceeds** ” means in relation to a sale of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the amount of the consideration actually and unconditionally received by the Lessor from a purchaser of the Ship upon such sale and any non-refundable deposit paid to or for the account of the Lessor by a person acquiring or proposing to acquire the Ship under a contract or offer to purchase the Ship or other agreement to acquire the Ship which has been withdrawn, terminated or cancelled or has lapsed;

after deducting:

- (i) any VAT for which the Lessor is required to account in respect of such sale; and
- (ii) the Lessor’s costs and out-of-pocket expenses, excluding Recoverable VAT on such expenses, properly incurred in connection with such sale (including but not limited to brokers’ commissions, legal fees, registration fees and stamp duties) or properly incurred in recovering possession of or in moving, insuring, maintaining, laying up or dry-docking the Ship and in carrying out any repairs, works or modifications required to restore the Ship to the condition required by this Agreement or required pursuant to any sale and purchase agreement in respect of the Ship;

“ **Net Total Loss Proceeds** ” means, in relation to a Total Loss of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the Total Loss Proceeds actually and unconditionally received by the Lessor after deducting the Lessor’s costs and out-of-pocket expenses (excluding Recoverable VAT on such expenses) reasonably incurred by the Lessor in connection with the collection of such proceeds;

“ **Non Discrimination Letter** ” means the letter agreement so called issued or to be issued in relation to this Agreement addressed by the Lessor to the Lessee;

“ **Notice Response Date** ” shall have the meaning attributed thereto in clause 16.2;

“ **Novated Building Contract** ” means the Building Contract as novated and amended by the Novation Agreement;

“ **Novation Agreement** ” means the novation agreement entered or to be entered into in respect of the Building Contract and made between (i) the Builder, (ii) the Lessor, (iii) the Guarantor (as “Original Purchaser”) and (iv) the Lessee (as “Replacement Purchaser”);

“ **Permitted Security Interests** ” means:

- (a) Security Interests created by the Transaction Documents;
- (b) Lessor’s Security Interests;
- (c) liens for unpaid crew’s wages;
- (d) liens for salvage;
- (e) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (f) liens for master’s disbursements incurred in the ordinary course of trading;
- (g) other liens arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship and which secure amounts not exceeding five million Dollars (\$5,000,000) where the Lessee is contesting the claim giving rise to such lien in good faith by appropriate steps and for the payment of which adequate reserves have been made in case the Lessee finally has to pay such claim so long as any such proceedings shall not, and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;
- (h) any Security Interest created in favour of a claimant or defendant in any action of the court or tribunal before whom such action is brought as security for costs and expenses where the Lessee is prosecuting or defending such action in good faith by appropriate steps or which are subject to a pending appeal and for which there shall have been granted a stay of execution pending such appeal and for the payment of which adequate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of, the Ship or any interest in the Ship; and

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- (i) Security Interests arising by operation of law in respect of Taxes which are not overdue for payment or Taxes which are overdue for payment but which are being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;

“ **Pooling Benefits Letter** ” means the letter so called issued or to be issued in respect of any pooling benefits relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Pre-Delivery Termination Date** ” means the date on which the Lessor’s obligation to acquire the Ship pursuant to the Novated Building Contract and lease the Ship to the Lessee terminates, being:

- (a) where the obligation of the Lessor to acquire the Ship and lease the Ship to the Lessee ends by virtue of the fact that the transaction has become Economically Burdensome or the Lessee has determined that the transaction has become Commercially Burdensome, the date specified in the notice served on the Lessor by the Lessee pursuant to clause 2.2.1;
- (b) if the Ship becomes a Total Loss, the earlier of the date on which the Supervisor (acting on behalf of the Lessor and in accordance with the Supervision Agreement) agrees with the Builder that the damage shall not be repaired and that the Novated Building Contract shall be deemed to be rescinded and all amounts paid by the Lessor thereunder (together with interest thereon) be refunded by the Builder or, where no agreement is reached by the Builder and the Supervisor, the date falling six (6) months after the occurrence of the Total Loss;
- (c) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice;
- (d) where a Further Novation Event occurs, the date stipulated in the notice served on the Replacement Purchaser by the Lessor pursuant to clause 18.3.1; and
- (e) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee pursuant to clause 24.1;

“ **Pre-Tax Loss Letter** ” means the letter so called issued or to be issued in respect of any pre-tax loss relating to this Agreement addressed by the Lessor to the Lessee;

“ **Purchase Price** ” means the price for the Ship payable by the Lessor under the Novation Agreement and the Novated Building Contract, which price shall be reduced by any amounts payable by the Builder to the Lessor under article III.2 (*Adjustment of Contract Price - Speed*), article III.3 (*Adjustment of Contract Price - Fuel Consumption*), article III.4 (*Adjustment of Contract Price - Deadweight*), article III.5 (*Adjustment of Contract Price - Container Capacity*) of the Novated Building Contract, but shall not be reduced by any amounts payable by the Builder to the Lessor under article III.1 (*Adjustment of Contract Price - Delivery*) of the Novated Building Contract;

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- “ **QEL** ” means the quiet enjoyment letter in respect of the Ship between the Lessor and the Time Charterer;
- “ **Recoverable VAT** ” means any amounts paid or payable by or on behalf of the Lessor in respect of Value Added Tax which is not Irrecoverable VAT;
- “ **Refund Guarantee** ” means the refund guarantee issued or, as the context may require, to be issued by the Refund Guarantor in favour of the Lessor pursuant to the Novation Agreement;
- “ **Refund Guarantor** ” means National Agricultural Cooperative Federation, a company organised and existing in Korea, with its principal place of business at West Gate P.O.BOX 50, Seoul, Korea;
- “ **Relevant Event** ” means any Termination Event, Mandatory Prepayment Event or Further Novation Event, or any event which only with the passage of time, the giving of any notice or the fulfilment of any other condition (or a combination thereof) would constitute a Termination Event, Mandatory Prepayment Event or Further Novation Event;
- “ **Rental** ” has the meaning given to such term in the Financial Schedule;
- “ **Replacement Manager** ” means any company which the Lessor may approve from time to time as the manager of the Ship pursuant to clause 10.11;
- “ **Requisition Compensation** ” means all sums of money or other compensation from time to time payable in respect of the Compulsory Acquisition of the Ship;
- “ **Review Notification Date** ” means the date falling four (4) months after the commencement of the Standby Lender Review Period;
- “ **Revised Cash Flow** ” has the meaning given to that term in the Financial Schedule;
- “ **Saving on Funding Costs** ” has the meaning given to that term in the Financial Schedule;
- “ **Security Interest** ” means:
- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
 - (b) the rights of the claimant under an action in rem in which the ship concerned has been arrested or a writ has been issued or similar step taken; and
 - (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which person (B) would have been had person (B) held a security interest over an asset of person (A), but this paragraph (c) does not apply to a right of set-off or combination of accounts arising by operation of law or conferred by the standard terms of business of a bank or financial institution and which has not been exercised;

“ **Ship** ” means the vessel currently under construction with the Builder pursuant to the Novated Building Contract and having Builder’s Hull Number 1853 to be sold by the Builder to the Lessor pursuant to the Novated Building Contract and to be registered in the name of the Lessor as and from the Delivery Date and includes any share or interest therein, as the same is more particularly described in Schedule 2 and includes its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, and everything belonging or appurtenant to it whether on board or ashore (including, for the avoidance of doubt, any depot spares and other spare parts and other such items purchased by the Lessor under the Novated Building Contract) together with any and all substitutions, replacements and renewals of any of them and any and all substitutions therefor and replacements and renewals thereof and any additions thereto from time to time made in accordance with the provisions of this Agreement and any of the foregoing which, having been removed from it, remain the property of the Lessor pursuant to this Agreement and any additions thereto which have not been removed and have become the Lessor’s property in accordance with clause 11.4;

“ **Ship’s Software** ” means all computer software which is required for the operation of the Ship, including, but not limited to, navigation software;

“ **Sister Ship** ” and “ **Sister Ships** ” mean any or all (as the case requires) of the vessels currently under construction with the Builder identified as Hull numbers 1851, 1852, 1854, and 1855;

“ **Sister Ship Lease Agreements** ” means the lease agreements entered into on, or at any time after, the date of this Agreement in respect of each of the Sister Ships between the Lessor and the Lessee;

“ **Sister Ship Time Charters** ” means the time charters defined in each of the Sister Ship Lease Agreements as the “Time Charter”;

“ **Sister Ship Transaction Documents** ” means the documents defined as “ **Transaction Documents** ” in each of the Sister Ship Lease Agreements;

“ **SOLAS** ” means International Convention for the Safety of Life at Sea, 1974, with Protocol 1978 and Amendments of 1981, 1983, 1988, 1991, 1992, 1994, 1996, 1998, 2000, 2002, 2003 and 2004 as the same may be further amended or supplemented, consolidated or replaced from time to time;

“ **Standby Lender** ” means the Bank or such other company in the Lessor’s Group as shall be nominated by the Lessor for such purpose;

“ **Standby Lender Review** ” means the review which the Standby Lender is entitled to undertake pursuant to clause 16.1;

“ **Standby Lender Review Period** ” means the period commencing on the date falling six (6) months prior to the Lease Period End Date applicable to whichever of the Ship and the Sister Ships is the first vessel to be Delivered (as defined in this Agreement or, as the case may be, the relevant Sister Ship Agreement), and expiring on the Review Notification Date;

“ **Standby Loan Transaction** ” means a transaction with the characteristics described in Schedule 10;

“ **Subsidiary** ” means:

- (a) in respect of a person incorporated or formed outside England and Wales, any company or entity directly or indirectly controlled by such person, and for this purpose “control” means either the ownership of more than fifty (50) per cent. of the voting share capital (or equivalent rights of ownership) of such company or entity or the power to direct its policies and management whether by contract or otherwise; and
- (b) in respect of a person incorporated in England and Wales, a subsidiary within the meaning of Section 736 Companies Act 1985;

“ **Supervision Agreement** ” means the supervision agreement entered or to be entered into in respect of the construction of the Ship and made between (i) the Supervisor and (ii) the Lessor;

“ **Supervision Costs** ” means the amount payable by the Lessor to the Supervisor under clause 4.5(b) of the Supervision Agreement;

“ **Supervisor** ” means the Approved Manager, in its capacity as the “Supervisor” pursuant to the Supervision Agreement;

“ **Tax** ” includes all present and future taxes, levies (whether by deduction, withholding or otherwise), imposts, duties, or charges of a similar nature (or any amount payable on account of or as security for any of the foregoing), including, but not limited to, income tax, corporation tax, VAT, stamp duty, customs and other impost or export duty or excise duty, imposed by any statutory, governmental, national, international, state or local taxing or fiscal authority, body or agency or department whatsoever or any central bank, monetary agency or European Union institution, whether in the United Kingdom or elsewhere together with interest thereon and any additions, fines, surcharges, penalties in respect thereof or relating thereto and “ **Taxes** ” and “ **Taxation** ” shall be construed accordingly;

“ **Tax Consultation Letter** ” means the letter issued or to be issued in relation to this Agreement regulating the conduct of matters between the Lessor and HMRC or any other tax authority in respect of the transactions represented by the Transaction Documents addressed by the Lessor to the Lessee;

“ **Tax Written Down Value** ” has the meaning given to such term in the Financial Schedule;

“ **Technical Note Letter** ” means the letter agreement of that name issued or to be issued in relation to this Agreement addressed from the Lessor to the Lessee;

“ **Termination Amount** ” means the aggregate of the Termination Sum and the Termination Fee (if any);

“ **Termination Date** ” means, as the context may require, the Pre-Delivery Termination Date or the Lease Termination Date;

“ **Termination Event** ” means any of the events or circumstances described in clause 17.1;

“ **Termination Fee** ” has the meaning given in the Financial Schedule;

“ Termination Payment Date ” means:

- (a) in the case of a voluntary termination pursuant to clause 2.2, the Pre-Delivery Termination Date;
- (b) in the case of a voluntary termination pursuant to clause 2.5, the Lease Termination Date;
- (c) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.1, the Pre-Delivery Termination Date;
- (d) in the case of any termination of the leasing of the Ship pursuant to clause 18.1, the Lease Termination Date;
- (e) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.2, the Pre-Delivery Termination Date;
- (f) in the case of any termination of the leasing of the Ship pursuant to clause 18.2, the Lease Termination Date; and
- (g) in the case of the occurrence of a Further Novation Event, the Pre-Delivery Termination Date; and
- (h) in the case of a Total Loss, the Total Loss Payment Date;

“ Termination Sum ” has the meaning given to such term in the Financial Schedule;

“ Time Charter ” means the time charter agreement in respect of the Ship dated on or about the date hereof and entered into between the Guarantor and the Time Charterer;

“ Time Charterer ” means Kawasaki Kisen Kaisha, Ltd., a company incorporated in Japan;

“ Total Loss ” means:

- (a) an actual, constructive, compromised or arranged total loss of the Ship; or
- (b) any Compulsory Acquisition of the Ship; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to the Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Ship be released and restored to the Lessee or the Lessor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof; or
- (d) the expiry of one (1) year (or such longer period as the Lessor and the Lessee may agree) after the Ship shall have been requisitioned for hire or use by a Government Entity or other competent authority, whether de jure or de facto;

“ Total Loss Date ” means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;

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- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earlier of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Lessor with all of the relevant insurers of the Ship at the relevant time in which the said insurers agree to treat the Ship as a total loss; and
 - (c) in the case of a Compulsory Acquisition the date on which the requisition for title or other Compulsory Acquisition occurs; and
 - (d) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, the date upon which the relevant hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation constitutes a Total Loss (as stipulated by paragraphs (c) and (d) of the definition of “Total Loss”);

“ **Total Loss Payment Date** ” means, following the occurrence of a Total Loss, the earliest of the following dates to occur:

- (a) the date falling 120 days after the Total Loss Date or such later date as the Lessor may agree; or
- (b) the date on which the Lessor receives the Total Loss Proceeds or any Requisition Compensation;

“ **Total Loss Proceeds** ” means the proceeds of any policy or contract of insurance arising in respect of a Total Loss actually and unconditionally received by the Lessor following a Total Loss of the Ship;

“ **Total Vessel Cost** ” has the meaning given to such term in the Financial Schedule;

“ **Transaction Companies** ” means the Lessee, the Guarantor, the Supervisor (but only for so long as it owes any obligations to the Lessor under the Supervision Agreement), and the Replacement Purchaser (but only for so long as it owes any obligations to the Lessor under the Novation Agreement) and, in the singular, means any one of them;

“ **Transaction Documents** ” means the Lease Documents, the Time Charter, the Lessor Parent Support Letters and any other document, agreement, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of, as a pre-condition of, or otherwise in connection with any of the foregoing and any other document, agreement, acknowledgement, notice, letter or instrument designated as a Transaction Document by the Lessor and the Lessee;

“ **United Kingdom** ” or “ **UK** ” means United Kingdom of Great Britain and Northern Ireland;

“ **US Transportation Tax** ” means the 4% Tax imposed by the US on a foreign corporation’s US source gross transportation income for any tax year or any similar or equivalent Tax replacing or introduced in addition to the same;

“ **Value Added Tax** ” or “ **VAT** ” means:

- (a) value added tax of the United Kingdom as provided for in the VATA including legislation (delegated or otherwise) supplementary thereto, and any similar or substituted tax, or any tax imposed, levied or assessed in the United Kingdom on added value or turnover; and
- (b) any similar tax imposed, levied or assessed in any jurisdiction outside the United Kingdom; and

“ **VATA** ” means the Value Added Tax Act 1994;

1.2 Construction of certain terms

In this Agreement:

“ **consent** ” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

“ **excess risks** ” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies or the ordinary collision clause in respect of the Ship in consequence of her insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“ **law** ” includes any form of delegated legislation, any order or decree, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

“ **person** ” includes any company or unincorporated legal entity, any state, political sub-division of a state and local or municipal authority and any international organisation and reference to any person shall include its successors, permitted assignees and permitted transferees in accordance with their respective interests;

“ **policy** ” in relation to any insurance includes a slip, cover note, certificate of entry or other documents evidencing the contract of insurance or its terms;

“ **protection and indemnity risks** ” means the usual risks covered by a full owner’s entry in a protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies;

“ **regulation** ” includes, without limitation, any regulation, rule, official directive, request or guideline (either having the force of law or compliance with which is customary in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and

“ **war risks** ” includes the risk of mines, all risks covered by the English Institute War and Strikes Clauses or any equivalent provision and all insurable risks excluded under the war and terrorism risks exclusion clauses or equivalent under the rules of the protection and indemnity club or association with whom the protection and indemnity risks cover is placed from time to time.

1.3 Meaning of “month”

A period of one or more “ **months** ” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (the “ **numerically corresponding day** ”), but:

- 1.3.1 on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
 - 1.3.2 on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;
- and “ **month** ” and “ **monthly** ” shall be construed accordingly.

1.4 General interpretation

In this Agreement:

- 1.4.1 references in clause 1.1 to a document being in the form of a particular Schedule include references to that form with any modifications to that form which the Lessor and the Lessee agree in writing;
- 1.4.2 references to, or to a provision of, a Transaction Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise with the consent of the Lessor;
- 1.4.3 references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- 1.4.4 words denoting the singular number shall include the plural and vice versa;
- 1.4.5 references to clauses and Schedules are, unless otherwise stated, references to clauses of and schedules to this Agreement;
- 1.4.6 clauses 1.1 to 1.4 apply unless the contrary intention appears; and
- 1.4.7 in relation to an entity which is not a corporation, reference to “incorporated” and cognate expressions shall be deemed to be references to its formation and establishment under applicable law.

1.5 Headings

The clause headings shall not affect the interpretation of this Agreement.

1.6 Conflicts

If any conflict arises or exists between the provisions of this Agreement and any of the other Lease Documents, the provisions of this Agreement shall prevail.

2 Lease

2.1 Lease Period

Subject to and upon the terms and conditions of this Agreement, the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, and will be entitled to the full possession and use of, the Ship for a period commencing on the Delivery Date and ending on the Lease Period End Date.

2.2 Voluntary termination prior to Delivery

2.2.1 If at any time prior to Delivery:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome; or
- (b) the Lessee has determined that the transaction contemplated by the Transaction Documents has become Commercially Burdensome (as evidenced by a certificate issued by a director or officer of the Lessee),

the Lessee shall be entitled to terminate the agreement by the Lessor to acquire the Ship pursuant to the Novated Building Contract and to lease the Ship to the Lessee pursuant to this Agreement and the agreement by the Lessee to lease the Ship from the Lessor, by giving written notice to the Lessor in accordance with the provisions set out in clauses 2.2.3 and 2.2.4 below.

2.2.2 The transaction contemplated by the Transaction Documents shall be regarded as being “ **Commercially Burdensome** ” when the Lessee determines that it is no longer compatible with the commercial strategy of the Lessee and as a consequence the Lessee has good commercial reasons for wishing to terminate the transaction, provided however that the Lessee shall not be deemed to have a good commercial reason for terminating the transaction if primarily motivated by, or the termination is for the purposes of, the Lessee entering into any alternative financing arrangement with respect to the Ship with any other financier.

2.2.3 Any notice given by the Lessee pursuant to this clause 2.2 shall be irrevocable and shall state whether it is given pursuant to clause 2.2.1(a) or clause 2.2.1(b) and, in the case of a notice given pursuant to clause 2.2.1(b) above, shall attach a certificate from a director or officer of the Lessee certifying that the transaction contemplated by the Transaction Documents is Commercially Burdensome, which shall be conclusive as to the opinion of the Lessee.

2.2.4 The Lessee shall give at least:

- (a) five (5) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(a); and

- (b) thirty (30) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(b);

2.2.5 If a Mandatory Prepayment Event shall occur prior to Delivery or a Further Novation Event shall occur in each case which is continuing, the Lessor may exercise its rights under clause 18.2 or, as the case may be, clause 18.3 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.2, whereupon the provisions of clause 2.2.6 and 2.3 shall apply.

2.2.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount equal to the Termination Amount as at that date as determined in accordance with clause 18.4, together with all other moneys then due and payable but unpaid by the Lessee to the Lessor under the Lease Documents.

2.3 Further novation on voluntary termination before Delivery

If (a) the Lessee gives notice pursuant to clause 2.2 or (b) the Lessee is deemed to have given notice pursuant to clause 2.2 in accordance with the provisions of clause 18.3 to terminate the agreement to lease the Ship under this Agreement during the Construction Period or (c) the Lessor gives notice pursuant to clause 18.1 to terminate the agreement to lease the Ship during the Construction Period (and (in the case of clause 2.3(a)) the Lessor has received payment of all amounts owing to the Lessor by the Lessee under clause 18.4 in cleared funds in accordance with the payment instructions therefor and without conditions attached) the Lessor shall promptly give a Further Novation Notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

2.4 Continuation of Construction Period

Notwithstanding anything to the contrary contained in this Agreement, if the Lessee gives notice or is deemed to have given notice to terminate the agreement to lease the Ship under this Agreement during the Construction Period pursuant to clause 2.2, the Construction Period will continue until and end on the date on which the further novation referred to in clause 2.3 occurs.

2.5 Voluntary termination after Delivery

2.5.1 At any time after Delivery the Lessee is entitled to terminate the leasing of the Ship by the Lessor to the Lessee under this Agreement by giving written notice to the Lessor.

2.5.2 If:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome, the Lessee shall give at least five (5) Business Days notice of the proposed Lease Termination Date; and
- (b) in all other circumstances, the Lessee shall give at least thirty (30) days notice of the proposed Lease Termination Date.

2.5.3 Any notice given by the Lessee pursuant to clause 2.5.1 and 2.5.2 shall, subject to clause 2.5.7:

- (a) be irrevocable;

(b) state whether it is given pursuant to clause 2.5.2(a) or 2.5.2(b); and

(c) be given in respect of an imminently proposed sale.

2.5.4 If a Mandatory Prepayment Event shall occur which is continuing, the Lessor may exercise its rights under clause 18.2 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.5, whereupon the provisions of clause 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.5 If the Lessor issues a notice to the Lessee pursuant to clause 24 to terminate the Lease Period, such termination shall be treated as constituting a voluntary termination in accordance with this clause 2.5 whereupon the provisions of clauses 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount as determined in accordance with the provisions of clause 18.4.

2.5.7 Notwithstanding the service by the Lessee of a notice terminating the leasing of the Ship in accordance with clauses 2.5.1 and 2.5.2, if, after the service of such notice, the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee in each case as at the proposed Lease Termination Date, the leasing of the Ship shall continue as if such notice had not been issued.

2.5.8 If the Lessee is treated as having given a notice terminating the leasing of the Ship pursuant to clause 2.5.4 or 2.5.5 and the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee as at the applicable Lease Termination Date, the leasing of the Ship shall nevertheless terminate on the Lease Termination Date.

2.6 Continuation of Lease Period

Notwithstanding anything to the contrary in this Agreement, from the Lease Termination Date until the earlier of (i) the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 and (ii) the date on which the Ship is redelivered to the Lessor pursuant to clause 15 the Lessee shall continue in possession of the Ship as the Lessor's agent under a bailment terminable by the Lessor at will with no right of quiet enjoyment as between the Lessor and the Lessee (but otherwise without prejudice to its rights under clause 2.8 and to receive rebates of Rental under this Agreement); and as a term of its appointment as the Lessor's agent it shall continue to perform all its obligations under this Agreement as if the Lease Period were still continuing.

2.7 Terms and Conditions of sale

Any sale of the Ship pursuant to clause 2.8 (but not, for the avoidance of doubt, pursuant to clause 2.9) will be on the following terms and conditions and shall otherwise be completed in accordance with the provisions set out below:

2.7.1 the sale will be at a cash price payable by the purchaser to the Lessor in full on completion of that sale in Dollars or such other currency as the Lessor may agree (such agreement not to be unreasonably withheld or delayed);

2.7.2 the sale will be on the best terms (including price) which, in the opinion of a reputable firm of independent ship valuers and surveyors experienced in the container carrier sector, are reasonably obtainable on the open market on an “as is, where is” basis taking into account where continuing, the Time Charter and any charter of the Ship at that time which shall have been notified to the Lessor and approved by the Lessor pursuant to clause 10.17 and which is intended to continue (and is capable of continuing) after the date of sale and the termination of the bailment to the Lessee under this Agreement;

2.7.3 the sale may be to any person other than:

- (a) the Time Charterer, the Lessee or any other person to whom the Ship has at any time been leased or sub-leased; or
- (b) any person who is purchasing in trust for any of the parties referred to in (a); or
- (c) any other person to whom, by virtue of a Change of Law occurring after the date of this Agreement, a sale is certified by the Lessor (the “ **Lessor’s Certificate** ”) as being reasonably likely to result in the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship provided however that if the Lessee does not agree with the Lessor’s Certificate it shall be entitled to require the Lessor to obtain promptly a written opinion from leading tax counsel (“ **Counsel** ”) (in accordance with the provisions of clause 2.7.3(g)) stating whether or not the Lessor’s Certificate is correct;
- (d) if Counsel is of the opinion that the Lessor’s Certificate is incorrect, then the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, without the provision of any further security to the Lessor;
- (e) if Counsel is of the opinion that the Lessor’s Certificate is correct, the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) and (b) above, conditional upon the Lessee having first provided to the Lessor additional security of such appropriate amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any cost or expense on the End Date (as defined in the Financial Schedule);
- (f) if the Lessee notifies the Lessor in writing that it does not require the Lessor to obtain an opinion from Counsel, it shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, provided that it shall have first provided to the Lessor additional security of such amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim

capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any such cost or expense on the End Date (as defined in the Financial Schedule);

- (g) the Lessee shall be entitled to require the Lessor to obtain the opinion of Counsel chosen for the foregoing purpose by agreement between the Lessor and the Lessee (or in the absence of agreement by the Chairman of the Bar Council whom the Lessor and the Lessee shall instruct for that purpose). A consultation with Counsel shall be arranged expeditiously after the Lessor receives notification from the Lessee that it requires Counsel's opinion on the Lessor's Certificate. Counsel shall be instructed on the basis of instructions prepared by the Lessor's legal advisers in consultation with the Lessee and its legal advisers (with the intent that the Lessee and its legal advisers shall have a reasonable opportunity to consider and contribute to such instructions). The Lessee and its legal advisers shall be entitled to attend any consultation with Counsel save that the Lessee and its professional advisers shall withdraw from such consultation at the request of the Lessor for so long as, in the reasonable opinion of the Lessor, matters which are confidential or of a sensitive nature having regard to the business of the Lessor, or which relate to the confidential affairs of a third party, are to be discussed during such consultation. The cost of Counsel's opinion shall be for the account of the Lessee save where Counsel is of the opinion that the Lessor's Certificate is incorrect, in which case it shall be for the account of the Lessor;

- 2.7.4 the terms of the sale will include a warranty on the part of the Lessor that the Lessor will pass such title to the Ship as the Lessor has acquired pursuant to the Novated Building Contract free of Lessor's Security Interests, but otherwise shall be without any representation, recourse or warranty whatsoever to or on the part of the Lessor;
- 2.7.5 the Lessee, for its own account, may give any warranties reasonably required by the purchaser of the Ship in accordance with market practice for the sale of vessels of a similar type, design and age as the Ship;
- 2.7.6 the terms of the sale will include, subject to the consent of the Builder pursuant to the Novated Building Contract, an assignment by the Lessee of any unexpired portion of any assignable warranties and indemnities referred to in clause 6.5;
- 2.7.7 the sale will be on an "as is, where is and with all faults" basis and governed by the laws of England;
- 2.7.8 if the proposed sale provides for delivery of the Ship by the Lessor, such obligation is conditional on the Ship first being redelivered to the Lessor;
- 2.7.9 the sale will be for delivery on, or if for any reason a sale is not possible on that date as soon as reasonably practicable after, the termination date specified in the notice served by the Lessee pursuant to clause 2.5;
- 2.7.10 the sale will exclude, so far as permitted by the laws of England and any other laws governing or applicable to the sale of the Ship, all liability of the Lessor, in contract or tort, in relation to the Ship to the same extent as such liabilities are excluded by clause 6 except for the warranty given by the Lessor referred to in clause 2.7.4; and

2.7.11 if the Ship is at the date of entry into any contract for the sale of the Ship subject to any requisition for hire or (where continuing) the Time Charter or any other chartering of the Ship which shall have been notified to, and approved by the Lessor pursuant to clause 10.17 and which is continuing as at such date notwithstanding the termination of the bailment to the Lessee the sale will be subject to such requisition or any such other chartering of the Ship.

2.8 Sales agency

2.8.1 In respect of any sale of the Ship to be conducted:

- (a) following a termination of the leasing of the Ship pursuant to clause 2.5.2(a) or 2.5.2(b) (Voluntary Termination after Delivery) or any deemed voluntary termination of the leasing of the Ship pursuant to clause 24.3; or
- (b) on the Lease Period End Date; or
- (c) following any termination of the Lease Period pursuant to clause 18.1 (Termination Rights); or
- (d) following any termination of the Lease Period pursuant to clause 18.2 (Mandatory Prepayment);

the Lessor irrevocably appoints the Lessee to act as the agent of the Lessor for the purpose of negotiating the sale of the Ship on the terms set out in clause 2.7 subject to and upon the limitations set out in clauses 2.8.4 to 2.8.8 and the Lessor agrees that, until termination of such agency pursuant to clause 2.8.3 or 2.8.4, the Lessee shall continue to be empowered to negotiate a sale of the Ship, which shall then be concluded in the manner described in clauses 2.8.6 and 2.8.7.

2.8.2 The appointment of the Lessee as the sales agent of the Lessor shall commence on:

- (a) the date on which the Lessee notifies the Lessor that it wishes to terminate the leasing of the Ship in accordance with clause 2.2 or 2.5.2; and
- (b) on the date on which the Lessee is deemed to have exercised its rights of voluntary termination in accordance with clauses 2.5.4 or 2.5.5 following the issue by the Lessor of a notice pursuant to any of clauses 18.2 or 24; and
- (c) in the case of a termination of the leasing by the Lessor pursuant to clause 18.1, on the date on which the Lessor serves notice on the Lessee pursuant to clause 18.1; and
- (d) in any other circumstance, on the fourth anniversary of the Delivery Date,

and shall terminate on the earlier of (i) the date on which the Net Sale Proceeds are actually and unconditionally received and applied in accordance with clause 2.10 or (ii) the date on which the Lessor terminates the appointment of the Lessee pursuant to clause 2.8.3 below or (iii) in any event, and without any action being required by the Lessor, the fifth anniversary of the Delivery Date.

2.8.3 The Lessor shall be entitled to terminate the sales agency under clause 2.8.1 or, as the case may be, clause 2.8.2 by means of written notification to the Lessee:

- (a) at any time after notice is given under clause 18.1 or clause 18.2 and in each such case where the Lessee shall have failed to pay to the Lessor the Termination Amount and any other sums then due to the Lessor which are payable by the Lessee pursuant to clause 18.4 and such failure continues unremedied for a period of five (5) Business Days, unless the notice pursuant to 18.1 is given in respect of the occurrence of any of the events referred to in clauses 17.1.9 or 17.1.11 in relation to any of the Lessee or the Guarantor in which case the Lessor shall be entitled to terminate the sales agency with immediate effect; and

- (b) subject to paragraph (c) below, the date falling six (6) months after the applicable Lease Termination Date, if no sale of the Ship has been completed by that time; and
- (c) the date falling one day before the fifth anniversary of the Delivery Date, if no sale of the Ship has been completed by that time;

whereupon in the case where the Lessee's sales agency rights have been terminated in accordance with the provisions of this clause 2.8.3, the Lessor shall be entitled to repossess the Ship in accordance with clause 18.5 and the provisions of clause 2.9 shall apply.

- 2.8.4 The appointment of the Lessee as the Lessor's sales agent shall be on the basis that the Lessee is the Lessor's sole and exclusive agent from the date on which it is appointed until 45 days prior to the fifth anniversary of the Delivery Date at which point the Lessee shall continue as agent on a non-exclusive basis and the provisions of clause 2.8.10 shall apply.
- 2.8.5 The appointment of the Lessee as sales agent will constitute a full discharge by the Lessor of its obligations under clause 18.6 to use reasonable endeavours to sell the Ship for the period while such appointment is continuing.
- 2.8.6 The Lessee's authority is limited to the extent that the Lessee is not authorised to sell the Ship or to approve or execute on behalf of the Lessor any document relating to the sale of the Ship for which the Lessor's specific written authority will be required, which authority will not be unreasonably withheld or delayed where:
 - (a) the sale complies with the provisions of clause 2.7; and
 - (b) the sale price of the Ship exceeds the Tax Written Down Value.
- 2.8.7 Subject to clause 2.8.6 the Lessor agrees that, at the cost and expense of the Lessee, on reasonable notice it will complete the sale of the Ship and it shall execute any agreement, protocol of delivery and acceptance and/or bill of sale for, and any other documentation reasonably requested by the Lessee in respect of, the sale of the Ship which complies with the provisions of clause 2.7.
- 2.8.8 The Lessee will supply the Lessor with details of any offer received and keep the Lessor fully informed of the status of any negotiations for the sale of the Ship.
- 2.8.9 The Lessee is entitled to delegate its rights and duties under this clause 2.8 to any Guarantor Group Member without the approval of the Lessor or to such other person as the Lessor may approve, such approval not to be unreasonably withheld or delayed in relation to a first-class independent shipbroker and, in each case, on the basis that no further delegation shall be permitted without the Lessor's prior written approval.

2.8.10 In the event that by the date falling 45 days prior to the fifth anniversary of the Delivery Date (the “**Non-Exclusive Date**”), no arrangements have been concluded for the sale of the Ship on or before the Lease Period End Date and, in the opinion of the Lessor, no such arrangements are likely to be concluded, and subject to the sales agency not having terminated earlier under clause 2.8.3 prior to the Non-Exclusive Date, the Lessee will, if so required by the Lessor or the Lessee may, on notice to the Lessor, arrange a public auction of the Ship as soon as reasonably practicable after the Non-Exclusive Date and in any event by no later than the fifth anniversary of the Delivery Date (the “**Auction Sale Date**”). For the avoidance of doubt, notwithstanding that the Lessee is arranging an auction in accordance with this clause 2.8.10 the Lessee may nevertheless continue as the Lessor’s sales representative to endeavour to arrange for a private treaty sale of the Ship provided the same is completed by the Auction Sale Date and complies with the terms of clauses 2.7 and 2.8. The Lessor and the Lessee or any nominees or designee of either of them may bid at such auction and any sale resulting therefrom shall constitute a sale of the Ship if it otherwise complies with the other provisions of this Agreement

2.9 Sale of the Ship following any termination of the Lessee’s sales agency rights

If the Lessee’s right to act as sales agent is terminated pursuant to clause 2.8.2 or 2.8.3, the Lessor (as between the Lessor and the Lessee) shall have the sole right to determine the means, timing and the terms of the sale of the Ship (including by public auction) and clause 2.7 shall not apply to any such sale.

2.10 Application of Net Sale Proceeds

Upon the Ship being delivered to and accepted by a purchaser of the Ship, the leasing of the Ship under this Agreement shall terminate and the Net Sale Proceeds shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to 0.01% of the Net Sale Proceeds;

SECOND: in or towards payment to the Lessor of amounts equal to all or any part of the Termination Amount which, as at the date of the receipt by the Lessor of the Net Sale Proceeds, has not been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

2.11 Shortfalls

If the Net Sale Proceeds fall short of the aggregate of the amounts payable by the Lessee and described in FIRST, SECOND and THIRD of clause 2.10 the Lessee, on the date of receipt by the Lessor of the Net Sale Proceeds, shall pay to the Lessor an amount equal to the amount of that shortfall by way of additional Rental.

2.12 Payments to Lessee

Any payment to the Lessee under clause 2.10 in accordance with the paragraph entitled “FOURTH” shall be made reasonably promptly but in any event within five (5) Business Days after the date of actual and unconditional receipt by the Lessor of the Net Sale Proceeds.

2.13 Termination of obligation to pay Rental

With effect on and from the date of the Ship being delivered to and accepted by a purchaser following a sale of the Ship or the redelivery of the Ship pursuant to clause 15.1, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's accrued and contingent obligations pursuant to this Agreement including, without limitation, paragraph 5 of the Financial Schedule.

2.14 Standby Loan

In the event that the Lessee has given a notice of termination pursuant to clauses 2.2.1(a) or 2.5.2(a), and has also given a corresponding notice under clauses 2.2.1(a) or 2.5.2(a) of each of the Sister Ship Agreements specifying the same Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date), the Lessee shall be entitled to require that the Lessor procures that the Standby Lender enters into a Standby Loan Transaction in respect of the Ship and all of the Sister Ships (but not some only) and, subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction on such Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date) or as soon as reasonably practicable thereafter.

3 Conditions Precedent generally and to payment of Instalments and Delivery**3.1 Pre-delivery conditions to be fulfilled by Lessee**

3.1.1 All of the obligations of the Lessor under this Agreement and the obligations of the Lessor under the Novation Agreement and the Supervision Agreement including to pay the First Instalment are subject to the receipt by the Lessor of the documents described in Part A of Schedule 4 and the documents described in paragraph 5 of Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the First Instalment Date and in any event on or before 31 December 2007 or such other date to be agreed between the Lessee and Lessor.

3.1.2 The Lessor's obligation under this Agreement to pay the Second Instalment is subject in addition to receipt by the Lessor of the documents described in Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the Second Instalment Date.

3.2 Further Conditions to be fulfilled by Lessee in respect of each Instalment

The obligations of the Lessor to pay any Instalment and, in the case of the Final Instalment, to lease the Ship to the Lessee under this Agreement are further subject to the further conditions that:

3.2.1 the Lessor shall have received an Instalment Request not later than 11:00 a.m. (London time) on the third Business Day (in the case of the First and Second Instalments) prior to the relevant proposed date for payment of that Instalment by the Lessor pursuant to the Novation Agreement or, as applicable, the Novated Building Contract and the sixth Business Day (in the case of the Final Instalment) prior to the Delivery Date (or in any such case, such shorter period as the Lessor and the Lessee shall agree); and

- 3.2.2 as at the Effective Date and each Instalment Date (including the Delivery Date):
- (a) no Relevant Event has occurred which is continuing; and
 - (b) each of the representations and warranties contained in clause 19 of this Agreement and in clause 4 of the Guarantee is then true and correct by reference to the facts and circumstances then existing.

3.3 Delivery conditions and covenants to be fulfilled by Lessee

- 3.3.1 The obligation of the Lessor to pay the Final Instalment pursuant to article II of the Novated Building Contract and the Supervision Costs on the Delivery Date is subject to the receipt by the Lessor of the documents described in Part C of Schedule 4 in form and substance satisfactory to the Lessor not less than four (4) Business Days before the Delivery Date (or such shorter period as the Lessor and the Lessee shall agree).
- 3.3.2 The Lessee undertakes to provide to the Lessor such of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor as are available no less than two (2) Business Days before the Delivery Date. The Lessee undertakes to provide to the Lessor the remainder of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor on or before the Delivery Date, save for such of them as may only be available upon Delivery (which for the avoidance of doubt the Lessee acknowledges should be limited to the protocol of delivery and acceptance to be delivered pursuant to the Novated Building Contract and the documents listed at item 8 of Part D of Schedule 4).
- 3.3.3 The Lessee shall keep the Lessor fully advised of the anticipated date of delivery of the Ship.

3.4 Pre-delivery conditions to be fulfilled by Lessor

The obligations of the Lessee under this Agreement are subject to the receipt by the Lessee of the documents described in Schedule 5 in form and substance satisfactory to the Lessee not less than two (2) Business Days prior to the date specified in clause 3.1 unless waived by the Lessee in writing to the extent not so satisfied.

3.5 Further Conditions to be fulfilled by Lessor

During the Construction Period the Lessor shall comply with the terms of the Novation Agreement, the Supervision Agreement and the Novated Building Contract and, subject to no Relevant Event having occurred and the Lessee not having exercised its rights under clause 2.2, the Lessor shall not:

- 3.5.1 terminate, cancel, rescind or treat as repudiated the Novation Agreement and/or the Supervision Agreement, and/or the Novated Building Contract; or
- 3.5.2 effect, grant or agree any amendment, variation, waiver or release in respect of the obligations of the Builder under the Novated Building Contract or assign or transfer its rights or obligations under the Novated Building Contract other than in accordance with the terms of the Novation Agreement or the Supervision Agreement.

3.6 Waivers

The requirements of clauses 3.1, 3.2 and 3.3 which are for the benefit of the Lessor alone, may be waived by the Lessor in whole or in part and with or without conditions and, if the Lessor agrees to give such a waiver on terms that any condition may be fulfilled after the due date for its fulfilment, the Lessee (unless the Lessor shall have expressly agreed otherwise in writing) shall procure that such condition is fulfilled within thirty (30) days after that due date (or such greater period as the Lessor may specify in writing), and the Lessor shall be entitled to treat any failure by the Lessee to procure the fulfilment of any such condition as a Termination Event.

3.7 Payment of Purchase Price etc.

Subject to satisfaction of the relevant conditions referred to in clauses 3.1, 3.2 and 3.3 and to the satisfaction of the conditions set out in clause 3.11, in each case at the time then due or agreed to be due, the Lessor agrees:

3.7.1 to pay the First Instalment of the Contract Price pursuant to the Novation Agreement and each other Instalment of the Contract Price pursuant to the Novated Building Contract (in each case in the amount and at the time described therein);

3.7.2 to pay when due to the Supervisor the Supervision Costs and the Buyer's Supplies Reimbursement Amount payable pursuant to clause 4.5 of the Supervision Agreement;

3.7.3 to pay on the First Instalment Date:

(a) the Arrangement Fee; and

(b) the Lessor's Legal Costs and the costs of the Lessor's insurance advisers,

each in an amount as agreed and in accordance with the payment details specified in the invoices received by the Lessor from the arranger and from the Lessor's legal and insurance advisers on or before the First Instalment Date; and

3.7.4 to pay the Lessor's Underwriting Fee on the First Instalment Date.

3.8 No set-off

The Lessor is not entitled to set-off or withhold from the Contract Price any amounts due or expressed to be due from the Lessee or any other Guarantor Group Member.

3.9 Alterations to payment amounts

Each of (a) the Instalments of the Contract Price payable pursuant to the Novation Agreement (in the case of the First Instalment) and the Novated Building Contract (in the case of the other Instalments) shall be in the amounts set out in, or calculated in accordance with, the Novation Agreement and/or (as the case may be) the Novated Building Contract and (b) the Supervision Costs and Buyer's Supplies Reimbursement Amount payable in accordance with the Supervision Agreement shall be in the amount set out in, or calculated in accordance with, the Supervision Agreement, in each such case as amended and supplemented from time to time in accordance with any relevant provisions of the Transaction Documents.

3.10 Contributions

- 3.10.1 The Lessor shall notify the Lessee if at any time the aggregate of the Lessor's Total Expenditure has reached or, taking account of the next payment or payments in respect of the Lessors' Total Expenditure, will reach the Maximum Commitment and in circumstances where the aggregate of the Lessor's Total Expenditure and the Lessor's projected expenditure exceeds or is likely to exceed the Maximum Commitment (a " **Commitment Shortfall** ") the Lessor shall notify the Lessee promptly and in any event not later than two (2) Business Days before required, that a Contribution Payment will be required.
- 3.10.2 Any notice from the Lessor requiring a Contribution Payment shall specify the amount of the Contribution Payment due from the Lessee and the scheduled date for payment thereof, being no later than one (1) Business Day prior to the date on which the Lessor is to make payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, before the date on which the Lessor is required to procure the issuing of a payment undertaking from the Bank in accordance with article II.5(c) of the Novated Building Contract, and will be accompanied by documentation evidencing the amount of the Contribution Payment, to the best of the Lessor's then estimation. Each such notice shall constitute a " **Contribution Payment Request** ".
- 3.10.3 If and so often as the Lessee receives a Contribution Payment Request under clause 3.10.2, the Lessee shall pay to the Lessor an amount equal to the Contribution Payment requested by the Lessor in the applicable Contribution Payment Request to the Lessor's account as specified in the Contribution Payment Request, to be received not less than one (1) Business Day prior to the date on which the Lessor is to make the payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, not less than one (1) Business Day before the date on which the Lessor is required to procure the issue of a payment undertaking from the Bank in respect of the Final Instalment in accordance with article II.5(c) of the Novated Building Contract.

3.11 Certificate of Delivery and Acceptance

On Delivery the Lessee will deliver to the Lessor the Certificate of Delivery and Acceptance duly executed by the Lessee, which shall be conclusive proof that the Lessee has unconditionally accepted the Ship for leasing under this Agreement without any reservations whatsoever.

3.12 Condition of Ship; Lessee's risk and responsibility

The Lessee acknowledges that:

- 3.12.1 the condition of the Ship (or any part of it) on delivery to the Lessee under this Agreement will, as between the Lessor and the Lessee be the sole risk and responsibility of the Lessee and that the Lessor has agreed to purchase the Ship pursuant to the Novated Building Contract for the sole purpose of leasing the Ship to the Lessee pursuant to this Agreement;
- 3.12.2 the Lessee will not be entitled for any reason whatsoever to refuse to accept delivery of the Ship under this Agreement once the Lessor acquires title to, and receives possession, of the Ship pursuant to the Novated Building Contract; and

3.12.3 the Lessor will not be liable for any loss of profit resulting directly or indirectly from any defect or alleged defect in the Ship or failure or alleged failure of the Ship to comply with the Novated Building Contract.

3.13 Delays in delivery

The Lessor will not be responsible for any loss or expense, or any loss of profit, arising from any delay in the delivery of, or failure to deliver, the Ship to the Lessee under this Agreement except where such delay or failure is caused by the negligence or wilful default of the Lessor or any Lessor Breach.

4 Rental

4.1 Construction Period Rentals

The Lessee shall not be required to pay any instalments of Rental during the Construction Period.

4.2 Lease Period Rental

On each Lease Rental Date falling in the Lease Period the Lessee shall pay to the Lessor in respect of the Lease Period an instalment of Rental calculated in accordance with paragraph 2.1 of the Financial Schedule. Each such instalment of Rental shall be subject to adjustment in accordance with the Financial Schedule.

4.3 Adjustments of Rental

The Lessee, on the dates determined in accordance with the Financial Schedule, shall pay to the Lessor by way of additional Rental all amounts from time to time arising from recalculation of Rental made pursuant to and due to the Lessor in accordance with the Financial Schedule. The Lessor shall pay to the Lessee all amounts from time to time arising from recalculation of Rental made pursuant to the Financial Schedule and due to the Lessee, and expressed to be payable by way of rebate of Rental, in accordance with the Financial Schedule. The Lessor shall make any such payments to such account as the Lessee may notify in writing to the Lessor from time to time.

4.4 Lessor's Capital Commitment Fee

The Lessee shall pay to the Lessor a capital commitment fee, on the basis and in the manner agreed between the Lessor and the Lessee in writing.

4.5 Survival of Financial Schedule

The provisions of the Financial Schedule shall survive any termination or expiry of the Lease Period and any breach or repudiation, or alleged breach or repudiation, by the Lessee or the Lessor of this Agreement.

4.6 Unconditional payment obligations

The Lessee's obligation to pay Rental in accordance with this clause 4 (unless and until Rental ceases to be payable in accordance with the provisions of clause 2.13 or clause 14.5 or clause 18.1) and any other payments payable by the Lessee to the Lessor under the Lease Documents is absolute and shall apply irrespective of any contingency whatsoever including but not limited to:

4.6.1 any set-off, counterclaim, recoupment, defence or other right which either party to this Agreement may have against the other;

- 4.6.2 any unavailability of the Ship for any reason, including but not limited to, any lack or invalidity of title or any other defect in the title, seaworthiness, condition, design, operation, merchantability or fitness for use or purpose of the Ship or the ineligibility of the Ship for any particular use or trade or for registration or documentation under the laws of any relevant jurisdiction or the Total Loss of or any damage to the Ship;
- 4.6.3 any failure or delay on the part of either party to this Agreement, whether with or without fault on its part, in performing or complying with any of the terms, conditions or other provisions of this Agreement and the other Transaction Documents;
- 4.6.4 any insolvency, bankruptcy, reorganisation, arrangement, readjustment of debt, dissolution, administration, liquidation or similar proceedings by or against the Lessor or the Lessee;
- 4.6.5 any lack of due authorisation of, invalidity, unenforceability or other defect in any of the Transaction Documents; or
- 4.6.6 any other cause which but for this provision would or might have the effect of terminating or in any way affecting any obligation of the Lessee hereunder;

it being the declared intention of the parties that the provisions of this clause 4.6 and the obligations of the Lessee to pay Rentals and make other payments in accordance with this Agreement and the other Transaction Documents shall survive any frustration of this Agreement or any other Lease Document and that, save as expressly and specifically provided in this Agreement, no moneys payable or paid hereunder by the Lessee to the Lessor shall in any event or circumstances be repayable to the Lessee.

4.7 No waiver

Clause 4.6 does not constitute a waiver by the Lessee of any right of the Lessee to claim damages or specific performance or any other injunctive relief against the Lessor arising out of a Lessor Breach.

5 Payments

5.1 Manner of payment

All payments of Rental and other amounts payable by the Lessee under this Agreement and any other Transaction Document shall be made:

- 5.1.1 without prior demand (unless expressly stated to be payable on demand);
- 5.1.2 in full without any right of set-off or counterclaim and free and clear of all deductions or withholdings whatsoever, unless any deductions or withholdings are required by law in which event clause 8.2 shall apply;
- 5.1.3 in Dollars (or, in the case of payments in respect of Losses, in the currency in which the relevant Losses are incurred);

5.1.4 in cleared funds to the account of the Bank of Scotland with Bank of New York, New York SWIFT BIC: IRVTUS3N for credit to account no. 11087USD01 with reference: "Peony Leasing Limited, sort code: 802013, IBAN No. GB59BOFS80201311087101, SWIFT BIC: BOFSGB2SXXX" or to such other account or accounts at such other place or places as the Lessor may from time to time notify to the Lessee in writing at least ten (10) days before the due date for payment.

5.2 Payments on Business Days

When any payment under a Lease Document would otherwise be due on a day which is not a Business Day the due date for payment shall be extended to the next following Business Day unless such Business Day falls in the next calendar month in which case payment shall be made on the immediately preceding Business Day.

5.3 Interest on delayed payments

If the Lessee fails to pay any sum due by the Lessee under this Agreement or any other Lease Document on its due date for payment (including any failure to pay on demand any amount due under this clause 5.3) the Lessee will pay to the Lessor on demand interest on such Rental or other amount from the date of such failure to the date of actual payment (both before and after any relevant judgment or liquidation of the Lessee) at the Default Rate.

5.4 Calculation of Interest

All interest and any other payments under any Lease Document which are of an annual nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

6 Extent of Lessor's Liability

6.1 Quiet Enjoyment

The Lessor undertakes with the Lessee that during the Lease Period it will not interfere with the quiet use, operation, possession and enjoyment of the Ship by the Lessee, otherwise than:

6.1.1 through the acts or omissions of the Lessee or its agents or representatives; or

6.1.2 pursuant to (i) the Lessor's rights under the Transaction Documents (and then subject to any restrictions on the exercise of those rights under the Transaction Documents) or (ii) obligations which may arise under applicable law or regulation or any ruling of any Government Entity or other competent authority or agency which is either binding on the Lessor or any Lessor Group Member or in respect of which compliance by owners of vessels of the same type as the Ship or by banks and other financial institutions or institutions of a similar nature to the Lessor is generally customary.

6.2 Further action

6.2.1 The Lessor further undertakes, if reasonably requested to do so by the Lessee, to take such action as is available to it and which must be performed exclusively by the registered owner and not the operator of the Ship to protect the use, possession and quiet enjoyment of the Ship during the Lease Period by the Lessee from interference by third parties.

6.2.2 All costs properly incurred by the Lessor in respect of any action taken by the Lessor under this clause 6.2 (including any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection therewith which shall be charged at the Lessor's Management Time Cost Rate) will be borne by the Lessee unless such action is required as a result of a failure by the Lessor to comply with its obligations under clause 6.1 and clause 6.2.1 (and which failure does not arise by reason of any breach by the Lessee or any other Transaction Company of its obligations or other failure to comply with or observe the terms of any Transaction Document).

6.3 Lessor's Security Interests

6.3.1 The Lessor:

- (a) warrants that as at the Delivery Date the Ship and the Lessor's interest in the Insurances and any Requisition Compensation will be free of all Lessor's Security Interests; and
- (b) undertakes with the Lessee that it will not create or permit to arise during the Lease Period any such Lessor's Security Interest over the Ship or any part of it or the Lessor's interest in the Insurances and any Requisition Compensation.

6.3.2 If any Lessor's Security Interest arises over the Ship, the Lessor will use its reasonable endeavours to procure the release of any such Lessor's Security Interest of which it is aware, Provided that the Lessor shall not be liable to pay or discharge or remove any such Lessor's Security Interest if such Lessor's Security Interest is being disputed by the Lessor in good faith and adequate reserves for the payment of the applicable amounts have been provided by the Lessor, provided further however that if the Lessee's quiet enjoyment of the Ship is in any way disturbed by reason of the existence or enforcement of any Lessor's Security Interest, the Lessor will promptly take steps to procure the release of any such Lessor's Security Interest and/or the cessation of the disturbance of the Lessee's quiet enjoyment.

6.3.3 If the Lessor fails to procure the release of a Lessor's Security Interest of which it is aware and the existence of which is interfering with the Lessee's quiet enjoyment of the Ship and/or the Ship is arrested, attached, levied upon pursuant to any legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, in each such case arising out of the existence of any Lessor's Security Interest the Lessee shall:

- (a) be entitled to act as the agent for the Lessor to procure the release of that Lessor's Security Interest and/or the release of the Ship from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be reimbursed by the Lessor for all reasonable losses and expenses properly so incurred by the Lessee as a result of the Lessor's breach of clause 6.3.1 or its failure to procure the release of the Lessor's Security Interest or, as the case may be, the Ship, against the production by the Lessee of reasonable supporting evidence for such loss and expenses.

6.4 Limitation on Lessor's liability for quiet enjoyment

The Lessee acknowledges that the undertakings contained in clauses 6.1, 6.2 and 6.3 are the only undertakings by the Lessor to the Lessee in respect of quiet enjoyment and in substitution for, and to the exclusion of, any other covenant for quiet enjoyment which may otherwise have been given or implied by law, all of which are hereby expressly excluded and waived by the Lessee.

6.5 Benefit of Novated Building Contract guarantee and third party warranties

6.5.1 The Lessor assigns and agrees to assign absolutely (without recourse or warranty) to the Lessee the full benefit of all assignable guarantees, warranties and indemnities (whether express or implied) given to the Lessor by the Builder under the Novated Building Contract. Pursuant to the assignment in this clause 6.5 the Lessee shall (after the Delivery Date) be entitled to take such action upon any such warranty or indemnity as assignee of the Lessor against the Builder or any guarantor, manufacturer, repairer or supplier as the Lessee shall see fit, but subject to the Lessee first ensuring that the Lessor is indemnified (and, in the case of any counterclaim by the Builder against the Lessor, secured) to its satisfaction against all Losses thereby incurred or to be incurred.

6.5.2 The Lessor agrees:

- (a) to serve notice on the Builder of the assignment contained in clause 6.5.1 in the form set out in Schedule 9 promptly thereafter; and
- (b) to the extent that any guarantee, warranty or indemnity referred to in clause 6.5.1 is not assignable, if so requested by the Lessee and at the Lessee's cost and expense, the Lessor will use reasonable endeavours to extend to the Lessee the benefit of that guarantee, warranty or indemnity.

6.5.3 Upon the expiry or termination of the Lease Period, the Lessee shall cease to be entitled to any rights under this clause 6.5 and shall (subject to clause 2.7.6) reassign to the Lessor at the expense of the Lessee the benefit of the remainder of any guarantee, warranty or indemnity assigned by the Lessor to the Lessee pursuant to this clause 6.5.

6.6 Limitations on Lessor's Liability

Save in respect of the Lessee's rights under clauses 6.1, 6.2, 6.3 and 6.4, the Lessee acknowledges and agrees that all rights, claims or remedies of the Lessee against the Lessor in relation to the Ship, whether express or implied or arising by operation of law or statute or otherwise (whether in contract or in tort or otherwise), are hereby excluded. In particular, the Lessee acknowledges and agrees that:

6.6.1 the Lessor makes no condition, term, representation or warranty (express or implied) of any kind as to title (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)) seaworthiness, safety, condition, capacity, quality, value, design, construction, durability, operation, performance, description, merchantability, or fitness for use of the Ship or any part thereof or as to the eligibility of the Ship or any part thereof for any particular trade or operation or as to the absence of latent or other defects (whether or not discoverable), or as to the absence of any infringement of any patent, trademark, copyright or intellectual property or other rights in or to the Ship or any part thereof or any other condition, term, representation or warranty whatsoever, express or implied, with respect to the Ship;

- 6.6.2 the Lessee waives all its rights and claims (whether express or implied, statutory or otherwise) in respect of any condition, term, representation, or warranty described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a));
- 6.6.3 to the extent possible under applicable law the Lessee:
- (a) waives all its rights and claims which it may have in tort or otherwise in respect of any of the matters described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
 - (b) agrees that the Lessor will have no greater liability in tort or otherwise than it would have in contract after taking into account the exclusions referred to in this clause 6.6;
- 6.6.4 the Lessee acknowledges that no condition, term, representation or warranty described in clause 6.6.1 has been made by or on behalf of the Lessor in relation to the Ship (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
- 6.6.5 nothing in this clause 6 shall exclude any liability of the Lessor for death or personal injury resulting from negligence falling within Section 1(1) of the Unfair Contract Terms Act 1977.

6.7 Ownership of other vessels

The Lessor and Lessee acknowledge that, during the Lease Period, the Lessor may own vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group. At the Lessee's request, the Lessor will transfer in accordance with clause 21 the Ship and the Sister Ships to another company which does not own any vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group.

6.8 Lessor financial information

The Lessor undertakes that, if requested by the Lessee, it shall deliver to the Lessee within 14 days after the end of June and December in each year during the Lease Period an unaudited balance sheet of the Lessor stating the gross amount of the Lessor's assets, long term liabilities and shareholders funds as at the end of the relevant half year and a profit and loss account showing the items for the relevant half year specified in the pro forma profit and loss account set out in Schedule 11, such amounts to be determined by the Lessor in accordance with the usual procedures and systems of the Lessor's Group and provided in the format set out in Schedule 11. The Lessor shall also provide the Lessee with a copy of its annual audited accounts within 14 days of such accounts being approved by its Board of Directors, and (from time to time) such other information as shall be reasonably requested by the Lessee (and at the Lessee's cost). The Lessee shall keep such information confidential save as otherwise required by law or as necessary for purposes of preparing consolidated accounts of the Lessee and its affiliates.

7 Costs and Indemnity

7.1 Lessor's transaction related expenses

The Lessee shall pay to the Lessor on its written demand, whether or not the Lease Period commences:

- 7.1.1 all expenses of the Lessor (including legal and out-of-pocket expenses) reasonably incurred by the Lessor in connection with the preparation, negotiation and completion of this Agreement and the other Transaction Documents (subject only to any cap on legal expenses which may be separately agreed by the parties) and in relation to the delivery of the Ship, including any costs, charges or expenses (including fees and commissions) of the Lessor in connection with the funding of the Final Instalment, calculated in accordance with clause 7.4.3 below to the extent that such expenses have not been taken into account in accordance with the Financial Schedule in computing the amount of any Rental;

- 7.1.2 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor in connection with any variation of this Agreement and the other Transaction Documents or any waiver or consent required under any of them (but not a variation, waiver or consent requested by the Lessor, unless the Lessor is legally obliged to request and procure such variation, waiver or consent);
- 7.1.3 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor following the occurrence of a Relevant Event in connection with the preservation or enforcement or attempted enforcement of any right conferred upon the Lessor by this Agreement and the other Transaction Documents or in respect of any breach of any representation or warranty or covenant; and
- 7.1.4 any expenses incurred by the Lessor in respect of any Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection with (a) the consideration of any variation, waiver or consent of or under this Agreement and the other Transaction Documents pursuant to clause 7.1.2 and (b) the preservation or enforcement or attempted preservation or enforcement of the Lessor's rights, the arrest or recovery of the Ship or otherwise in respect of any breach pursuant to clause 7.1.3 which for the avoidance of doubt shall be charged at the Lessor's Management Time Cost Rate;
- 7.1.5 all expenses payable under or pursuant to this clause 7.1 shall include any Irrecoverable VAT on such expenses; and
- 7.1.6 all payments under this clause 7.1 shall be made in the currency in which the expenses were incurred by the Lessor.

7.2 Non-payment by Lessee

The Lessee shall indemnify the Lessor on its written demand against any loss, damage, expense or liability which the Lessor or any other Indemnified Person may properly sustain or incur as a direct consequence of any default by the Lessee in payment of an amount which the Lessee has agreed to pay under this Agreement except to the extent that the Financial Schedule provides for the amount to be taken into account in the payment of Rental or to the extent that the Lessor or such other Indemnified Person has already been compensated for any such loss, damage, expense or liability under any other provision of this Agreement.

7.3 Currency indemnity

If any sum payable by the Lessee to the Lessor or any other Indemnified Person under this Agreement or any other Lease Document or under any order or judgment relating to a Lease Document has to be converted from the currency in which the Lease Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- 7.3.1 making or lodging any claim or proof against the Lessee, whether in its liquidation, any arrangement involving it or otherwise; or

7.3.2 obtaining an order or judgment from any court or other tribunal; or

7.3.3 enforcing any such order or judgment,

the Lessee shall indemnify the Lessor and/or the applicable Indemnified Person against the loss arising when the amount of the payment actually received by the Lessor and/or the applicable Indemnified Person is converted at the available rate of exchange from the Payment Currency into the Contractual Currency.

In this clause 7.3 the “available rate of exchange” means the rate which the Bank offers to other prime banks at the opening of business (London time) on the Business Day after it receives the sum concerned to sell the Payment Currency to purchase the Contractual Currency for immediate delivery.

Any amount due from the Lessee under this clause 7.3 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Lease Documents and the term “rate of exchange” includes any premiums and costs of exchange payable in connection with the purchase of the Contractual Currency with the Payment Currency.

7.4 General Indemnity

The Lessee shall indemnify and hold harmless on a full indemnity basis the Lessor and each other Indemnified Person against:

7.4.1 any costs, charges or expenses (other than Taxes, to which clause 8 shall apply) which the Lessee has agreed to pay under this Agreement or the other Lease Documents and which are claimed or assessed against or (prior to the occurrence of a Termination Event which is continuing, after consultation with the Lessee) paid by the Lessor or any other Indemnified Person;

7.4.2 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person arising directly or indirectly in any manner out of, or in any way connected with, the condition, testing, design, manufacture, construction, delivery, non-delivery, purchase, importation, export, registration, classification, certification, navigation, ownership, chartering, sub-chartering, employment, management, manning, victualling, provision of bunkers and lubricating oil, possession, repossession, performance, control, use, operation, maintenance, repair, transportation, dry-docking, replacement, refurbishment, modification, service, overhaul, insurance in accordance with the terms of this Agreement, sale or other disposal, return, redelivery, storage, laying-up, loss of or damage to the Ship or otherwise in connection with the Ship, this Agreement and the other Transaction Documents and regardless of:

- (a) whether or not such Losses are attributable to any defect in the Ship or to the design, construction or use thereof or to any reason whatsoever; and
- (b) when the Loss arises;

and, without prejudice to its generality, this clause 7.4.2 covers any such Losses arising out of an Environmental Claim or an Environmental Incident;

- 7.4.3 all Losses (including, without limitation, Broken Funding Costs and all or any Losses in respect of funds borrowed or mobilised by or on behalf of the Lessor, the liquidation of any deposits taken or made by the Lessor, the substitute investment of such funds with a return lower than the cost of such funds, the loss of use of such funds and the prepayment by the Lessor of such funds to the source from which they were borrowed or mobilised) imposed on, suffered or incurred by the Lessor and/or any other Indemnified Person by reason of:
- (a) an Instalment not being paid on the date referred to in the relevant Instalment Request applicable to such Instalment;
 - (b) Delivery occurring other than on the date specified therefor in the Intended Delivery Notice;
- including in relation to the Final Instalment, the cost to the Lessor in borrowing the Final Instalment for the period commencing with the date on which the Final Instalment is borrowed up to and including the Delivery Date (but only if such sum is not included in the calculation of Rentals under the Financial Schedule) or, if Delivery does not occur, up to and including the date on which the Lessor has received back the Final Instalment, such cost to be calculated at LIBOR determined daily for each day during the period described above plus the Margin Rate (as defined in the Financial Schedule) less if any, any Broken Funding Benefits and the Dollar interest paid on the Final Instalment to the Lessor by the bank holding the Final Instalment;
- 7.4.4 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person which result directly or indirectly from claims which may at any time be made on the ground that any design, article or material of or in the Ship or the operation or use thereof constitutes an infringement of patent or copyright or registered design or other intellectual property right or any other right whatsoever;
- 7.4.5 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in preventing or attempting to prevent the arrest, confiscation, seizure, taking in execution, requisition, impounding, forfeiture or detention of the Ship, or in securing or attempting to secure the release of the Ship;
- 7.4.6 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in connection with the sale or disposal or attempted sale or disposal of the Ship pursuant to the terms and conditions of this Agreement including, without limitation, broker's commissions, redelivery costs (if any), marketing expenses, legal costs, storage, insurance and any other expenses of the Lessor incurred pending the sale or disposal of the Ship or otherwise in connection with the sale or disposal of the Ship;
- 7.4.7 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person resulting from the Ship becoming a wreck or obstruction to navigation, including in respect of the removal or destruction of the wreck or obstruction under statutory or other powers; and

- 7.4.8 all Losses which may be imposed on, incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time as a consequence (direct or indirect) of:
- (a) the breach by any person (other than the Lessor and the Bank) of any of its obligations to the Lessor under any of the Transaction Documents provided that any breach by the Lessor or the Bank of its obligations under any of the Transaction Documents shall not be excluded from the ambit of this clause 7.4.8 to the extent that such breach is itself caused by any act or omission of any Transaction Company or any person referred to in (c) below;
 - (b) any of the warranties and representations on the part of any person (other than the Lessor and the Bank) made or repeated to the Lessor in any Transaction Document being untrue or inaccurate in any material respect when made or repeated;
 - (c) any act or omission by any person acting as sales agent of the Lessor under any of the Transaction Documents (including any permitted delegate of such sales agent), the Supervisor or any of its Authorised Representatives (as defined in the Novated Building Contract), in each case, whether acting within or outside their relevant authority or any wilful or reckless misconduct or misfeasance by the Builder, the Lessee or the Supervisor; or
- 7.4.9 all Losses which may be imposed on, suffered or incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time in respect of any premiums, calls, supplementary calls, contributions or other sums payable by the Lessor or any Lessor Group Member in respect of the Insurances or any liability of the Lessor or any other Lessor Group Member by reason of it being or becoming a joint, additional or co-assured under or in respect of any insurance policy, contract or entry in any protection and indemnity or war risks association effected by the Lessee pursuant to clause 13.

7.5 Exclusions

The indemnities contained in clause 7.4 and clause 7.2 shall not extend to any Loss:

- 7.5.1 to the extent that such Loss is caused by Lessor Misconduct or recklessness (with full knowledge of the probable consequences) on the part of the applicable Indemnified Person (or a third party, not being a Transaction Company acting on behalf of the Lessor or other applicable Indemnified Person) which would otherwise seek to claim the benefit of such indemnities or, in circumstances where such Loss arises in connection with a payment owing to an Indemnified Person, if such payment was made in due time but was not accounted for by such Indemnified Person as a result of an error on their part;
- 7.5.2 to the extent that such Loss is caused by any Lessor Breach;
- 7.5.3 to the extent that such Loss constitutes a cost which is expressly to be borne by the Lessor for its own account under any other provision of this Agreement or any other Lease Documents;
- 7.5.4 in respect of which the Lessor or the applicable Indemnified Person has been expressly and specifically indemnified under any other provision of this Agreement;
- 7.5.5 to the extent that such Loss of the Lessor or the applicable Indemnified Person is or (but for operation of paragraph 4.6 of the Financial Schedule) would be taken into account in accordance with the Financial Schedule, in computing the amount of Rental payable by the Lessee under this Agreement;

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- 7.5.6 to the extent that such Loss arises out of or in connection with a Lessor's Security Interest;
 - 7.5.7 to the extent that such Loss would be a loss of profit derived from or arising out of loss of a business opportunity of the Lessor or the applicable Indemnified Person;
 - 7.5.8 to the extent that the event or circumstance giving rise to the Loss occurs after the end of the Lease Period and is not in any way directly or indirectly attributable to, or which occurs as a consequence of or in connection with, any event, circumstance, action or omission which occurred during the Lease Period;
 - 7.5.9 to the extent that such Loss is part of the normal administrative overheads of the Lessor or the applicable Indemnified Person; and/or
 - 7.5.10 to the extent that such Loss constitutes the Purchase Price or any part thereof (excluding any Contribution Payments required pursuant to clause 3.10.2).

In addition, to the extent that the Lessor or other Indemnified Person shall have actually and unconditionally received reimbursement from insurers for a Loss of the Lessor or any other Indemnified Person which has already been satisfied in full by the Lessee then, subject to clause 8.6, the Lessor shall procure that the Lessee is reimbursed for an amount equal to the amount received from the insurers. In addition, in circumstances where the Lessee has indemnified the Lessor or any other Indemnified Person in full in relation to a Loss which may be recoverable by insurance then, provided no Termination Event has occurred and is continuing, and provided the Lessor or such other Indemnified Person is (if requested by it) secured to its satisfaction (acting in good faith) against any Loss it may incur by virtue of the Lessee exercising such rights of subrogation and subject to the rights of insurers, the Lessee shall be subrogated to the claim of the Lessor or such other Indemnified Person in relation to the Loss.

7.6 Conduct of Claims

In connection with the indemnities in favour of any Indemnified Person under this Agreement, other than in relation to any matter which is an Issue under (and as defined in) the Tax Consultation Letter:

- 7.6.1 the Lessor will as soon as practicable notify the Lessee if a claim is made, or if it becomes aware that a claim may be made against the Lessor or any other Indemnified Person which may give rise to a Loss in respect of which the Lessor or any other Indemnified Person is or may become entitled to an indemnity under clause 7.4;
- 7.6.2 a notification under clause 7.6.1 shall give such details as the Lessor or the other Indemnified Person then has regarding the claim or potential claim and any Loss or potential Loss;
- 7.6.3 if the claim or potential claim may give rise to a Loss in respect of which the liability of the Lessor or such other Indemnified Person is fully insured under the protection and indemnity insurances relating to the Ship, the Lessor will act, and will procure that any other Indemnified Person will act, in accordance with the directions of the protection and indemnity club or association in which the Ship is entered in relation to defending, accepting or settling that claim, preserving nevertheless the rights of the Lessor against the Lessee under this Agreement and the other Lease Documents;

- 7.6.4 subject to clause 7.6.1 the Lessor will not, and will procure that no other Indemnified Person will, settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim unless:
- (a) the Lessor is of the opinion, acting in good faith, that the continuance of the proceedings in respect of such claim and/or the non-payment of any court judgment or administrative penalty will result in criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person; or
 - (b) the Lessor and the Lessee do not agree that there are reasonable grounds for disputing such claim or for a successful appeal against such judgment or penalty (as appropriate), whereupon the Lessee shall have the right (subject always to paragraph (a) above) to seek an opinion from leading counsel as to whether there is more than a sixty-five per cent (65%) chance of successfully disputing such claim or for such an appeal to be successful (and if such leading counsel is of that opinion, any costs reasonably incurred by the Lessee in obtaining such opinion shall be reimbursed by the Lessor and the Lessor will not settle the claim or discharge or pay the applicable judgment) provided however that if leading counsel is of the opinion that there is a less than sixty-five per cent (65%) chance of successfully disputing the action or for such an appeal to be successful, then the Lessor shall be entitled to settle the claim or discharge or pay the court judgment or administrative penalty, as the case may be.

It is agreed that if any insurers have made a partial payment in respect of any claim the Lessor shall have no responsibility to the Lessee if the insurers subsequently settle a claim in exercise of their rights of subrogation. The Lessor shall agree not to settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim, if it is secured to its reasonable satisfaction by the Lessee against the amount of such claim, court judgment or administrative penalty and the Lessor is satisfied (in its absolute discretion) that none of the circumstances envisaged in clause 7.6.5(e) below shall apply or arise if the Lessor does not settle the claim or discharge or pay any judgment or penalty in respect thereof;

- 7.6.5 Without prejudice to the provisions of this clause 7.6, the Lessee shall be entitled (subject to the Lessee complying in all respects with its obligations under this Agreement and the other Transaction Documents to which it is a party) to take (at its own cost) such lawful and proper actions as the Lessee reasonably deems fit to defend, avoid or mitigate any Loss or to take such action in the name of the Lessor or other relevant Indemnified Person, provided that the Lessee's ability to take action in the name of the Lessor or such other Indemnified Person shall be subject to:
- (a) the Lessor or such other Indemnified Person first being indemnified and secured to the satisfaction of the Lessor (or, as the case may be, such Indemnified Person), acting reasonably, against all Losses incurred and from time to time reasonably anticipated to be incurred in connection therewith;
 - (b) the ability of the Lessee to commence court proceedings in the name of the Lessor or such other Indemnified Person, or to instigate a counterclaim in the name of the

Lessor or such other Indemnified Person (but not, for the avoidance of doubt, to defend court proceedings brought by a third party which do not involve a counterclaim) being subject to the prior written consent of the Lessor (which consent the Lessor shall not unreasonably withhold but in relation to which the Lessee acknowledges the wish and interest of the Lessor and the Lessor's Group to preserve their reputation as a financial institution, their business interests and their customer relations);

- (c) if court proceedings have been commenced by a third party against the Lessor or such other Indemnified Person as defendant or if, pursuant to sub-clause (b) above, the Lessor gives its consent to the use of its name or the name of the relevant Indemnified Person in court proceedings (whether by way of claim or counterclaim), the Lessor shall permit the Lessee to have the full conduct of the court proceedings, or to instigate a counterclaim in the name of the Lessor or such other Indemnified Person, but the Lessee shall (i) consult with the Lessor and keep the Lessor fully informed in relation to their conduct and have due regard to the wishes of the Lessor in relation to the conduct of such court proceedings acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputations of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations and (ii) give timely notice to the Lessor of any meetings with counsel or attendances at court, and the Lessor and its advisers shall be entitled to attend any such meetings or court attendances;
- (d) in relation to all other matters contemplated by this clause 7.6, the Lessee shall keep the Lessor fully informed and have due regard to the wishes of the Lessor in relation to the use of the Lessor's name or the name of any other Indemnified Person acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputation of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations; and
- (e) notwithstanding sub-paragraph (c) above, the Lessor at any time may notify the Lessee that the Lessor is of the opinion, acting in good faith, that the continuance of such proceedings by the Lessee in the name of the Lessor or the name of any other Indemnified Person is damaging to the reputation of the Lessor or any Lessor Group Member as financial institutions or contrary to the business interests of any of them or will result in any criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person. A certificate signed by a director of the Lessor shall be conclusive as to the correctness of such opinion. If the Lessor so notifies the Lessee, the Lessee shall forthwith cease to be entitled to conduct the court proceedings in the name of the Lessor or the name of any other Indemnified Person, and the Lessor shall be at liberty to conduct, settle or discontinue such proceedings as it sees fit.

Without prejudice to the generality of this clause 7.6 and in particular sub-paragraph (e), the Lessor shall, at the cost of the Lessee, do such acts as the Lessee may reasonably request with a view to assisting the Lessee in taking actions to defend, mitigate or avoid any liability.

7.7 Pass-through of indemnity benefits

Where in this clause 7 an indemnity is expressed to be for the benefit of any person who is not a party to this Agreement the Lessor shall be entitled to indemnify such person on the same terms (and subject in particular to clause 7.6) mutatis mutandis as the indemnities expressed to be for the benefit of such person in this clause 7 and the Lessee shall indemnify the Lessor and hold the Lessor harmless on a full indemnity basis from and against each amount paid or payable by the Lessor to such person under any such indemnity, provided that to the extent this clause 7 purports to impose any obligations on Indemnified Persons other than the Lessor, the Lessor shall have procured the compliance by each such Indemnified Person with those purported obligations.

7.8 Survival of indemnities

The indemnities contained in this clause 7, and each other indemnity contained in this Agreement in favour of the Lessor and the other Indemnified Parties, (including, but not limited to, those contained in clause 7) shall survive any termination or other ending of the Lease Period and any breach of, or repudiation or alleged repudiation by, the Lessee or the Lessor of this Agreement or any of the other Lease Documents.

8 Taxes

8.1 General

The Lessee shall pay on a timely basis and discharge or cause to be paid on a timely basis and discharged, and indemnify promptly and keep the Lessor and each Lessor Group Member indemnified promptly against all and any Taxes which are imposed on or become payable during or in respect of all or any part of the Construction Period or the Lease Period on or in respect of the Ship or any activity in any way relating thereto or any Rental, or other amounts paid under this Agreement or any of the other Transaction Documents but subject to the remaining provisions of this clause 8.

8.2 Withholding taxes

If at any time any applicable law, regulation or regulatory requirement, or any governmental authority, monetary agency or central bank, requires any deduction or withholding from any payment of Rental or other amount due under any of the Transaction Documents:

8.2.1 the Lessee (unless otherwise agreed under any Transaction Document) shall pay, or shall procure the payment of, the full amount of the deduction or withholding in respect of Taxes to the appropriate authority, agency or bank within the time period for payment permitted by law;

8.2.2 if the payment is to be made by the Lessee, the sum due from the Lessee in respect of that payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lessor or, as the case may be, the applicable Lessor Group Member receives on the due date for such payment a net amount equal to the amount which it would have received had no such deduction or withholding been required to be made and the Lessee will promptly deliver to the Lessor copies of appropriate receipts evidencing any deduction or withholding so made; and

8.2.3 if the payment is to be made by any person other than the Lessee, the Lessee shall pay directly to the Lessor such sum (a “**compensating sum**”) as after taking into account any deduction or withholding which is required to be made in respect of the compensating sum, will enable the Lessor or the applicable Lessor Group Member to receive, on the due date for payment, a net sum equal to the sum which the Lessor or, as the case may be, the appropriate Lessor Group Member would have received in the absence of any obligation to make a deduction or withholding.

8.3 Tonnage Tax

In relation to the UK tonnage tax regime contained in Schedule 22 Finance Act 2000:

- (a) The Lessee will provide on an ongoing basis, upon the written request of the Lessor, such information that is in its possession and control as may be properly required to be furnished by the Lessor to HMRC or any Inspector of Taxes regarding the transactions contemplated by the Transaction Documents, including, without limitation, any joint certificate to be provided by the Lessor and the Lessee to the HMRC pursuant to paragraph 93 of Schedule 22 FA 2000;
- (b) The Lessor will enter into any such joint certificate with the Lessee and the Lessee will enter into any such joint certificate with the Lessor and the Lessor and the Lessee will provide to HMRC any information as may be properly required to be furnished by the Lessor in connection with such certificate or such election regarding the transactions contemplated by the Transaction Documents.

8.4 Grossing-up of indemnity payments

8.4.1 If and to the extent that any amount payable to the Lessor or any Lessor Group Member by or on behalf of the Lessee under this Agreement or any of the other Transaction Documents by way of indemnity proves, by reason of that sum being taxable in the hands of the Lessor or, as the case may be, any Lessor Group Member, to be insufficient for the Lessor to discharge the corresponding liability to a third party or to reimburse the Lessor or such Lessor Group Member for the cost incurred by it in discharging the corresponding liability to a third party, the Lessee shall pay to the Lessor or the applicable Lessor Group Member such additional amount as, after taking into account any Tax suffered by the Lessor in respect of that sum, is required to make up the insufficiency.

8.4.2 There shall be taken into account, in determining whether any amount referred to in clause 8.4.1 is insufficient, the amount of any deduction or other relief, allowance or credit received by the Lessor in respect of the Lessor’s corresponding liability to a third party or the cost incurred by the Lessor in discharging the corresponding liability to a third party to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.3 If and to the extent that any amount (the “**indemnity amount**”) constituting (directly or indirectly) an indemnity by the Lessee to the Lessor, but paid by the Lessee under this Agreement or any of the other Transaction Documents to any person other than the Lessor, shall be treated as taxable in the hands of the Lessor the Lessee shall pay to the Lessor such amount (the “**compensating amount**”) as (after taking into account any Tax suffered by the Lessor in respect of the compensating amount) shall reimburse the Lessor for any Tax suffered by it in respect of the indemnity amount.

8.4.4 There shall be taken into account in determining the amount of any compensating amount under clause 8.4.3 the amount and time of payment of any deduction or other relief, allowance or credit available to the Lessor in respect of the Lessor's corresponding liability or Losses in respect of which the indemnity amount is paid to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.5 To the extent that liability arises under clause 8.4.1 which may lawfully be avoided by the Lessee discharging the Lessor's liability directly, then the parties shall endeavour to settle their respective liabilities in this manner.

8.5 Credits etc.

If following the making of any increased payment or compensating sum or compensating amount by the Lessee pursuant to clauses 8.2 or 8.4 the Lessor receives or is granted a credit against, remission for or repayment of any Tax payable by it which is referable to such deduction or withholding or increased payment made by the Lessee and which has not already been taken into account pursuant to clause 8.4.2 or 8.4.4, the Lessor shall:

8.5.1 give to the Lessee a certificate setting out the basis of the computation of the amount of any credit, remission or repayment referred to in this clause 8.5; and

8.5.2 to the extent that it is satisfied that it can do so without prejudice to the retention of such credit, remission or repayment, promptly reimburse the Lessee with such amount as the Lessor shall determine to be such proportion of such credit, remission or repayment as will leave the Lessor, after such reimbursement, in the same net after Tax position as it would have been in had no such deduction or withholding been required to be made,

Provided that:

- (a) the Lessor shall be the sole judge (acting in good faith) of the amount of any such credit, remission or repayment and of the date on which it is received;
- (b) the order and manner in which the Lessor employs or claims Tax credits and allowances available to it shall be determined by the Lessor in its discretion provided always that the Lessor shall, in determining the order in which it employs or uses Tax Credits or allowances available to it, treat the Lessee in no less favourable a way than it treats its other customers in respect of similar transactions of a similar size;
- (c) the Lessor shall not be obliged to disclose to the Lessee any information regarding the Tax affairs or Tax computations of the Lessor or the Lessor's Group; and
- (d) if, following any reimbursement pursuant to this clause 8.5, the credit, remission or repayment in respect of which reimbursement was made is disallowed in whole or in part by any applicable Tax or other authority, the Lessee will pay to the Lessor the amount required to restore the after-Tax position of the Lessor to that which it would have been had adjustment under this clause 8.5.2 not been necessary.

This clause 8.5 applies also to the extent that any credit, remission or repayment is granted to a Lessor Group Member and the Lessor will procure that such Lessor Group Member complies with the obligations of the Lessor, with appropriate modifications, under this clause 8.5.

8.6 Duties and other taxes

The Lessee shall pay all stamp, documentary, registration and other like duties or Taxes (including any such duties or Taxes payable by the Lessor) imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents and shall indemnify the Lessor against any liability arising by reason of any delay or omission by the Lessee to pay such duties or Taxes.

8.7 Non-deductibility

If any amount paid or to be paid by the Lessor pursuant to this Agreement by way of rebate of Rental or reimbursement or otherwise is not fully allowed or will not be fully allowed as a deductible trading expense in computing for Tax purposes the chargeable profits of the Lessor (to the extent that the Lessor shall determine in good faith that the receipt by the Lessor out of which the obligation to make the relevant rebate reimbursement or other payment arises or arose is or will be brought into charge for computing for Tax purposes the chargeable profits of the Lessor) the Lessor shall be entitled to reduce the payment by such amount or, if the Lessor has not done so, the Lessee will pay to the Lessor such additional amount as will put the Lessor in the same after-Tax position as it would have been in had the payment been allowed as a deductible trading expense.

8.8 Deductibility

If a payment is made by the Lessee or the Lessor has reduced the amount of a rebate or reimbursement made by it pursuant to clause 8.7 and the Lessor in fact obtains a deduction for the whole or part of the rebate or reimbursement the Lessor shall pay to the Lessee such additional amount as the Auditors certify will leave the Lessor in the same after-Tax position had the payment pursuant to clause 8.7 not been necessary.

8.9 No double-counting

Notwithstanding the preceding provisions of this clause 8, if:

8.9.1 either a liability to Tax arises, or would have arisen but for an insufficiency of taxable profits, or a deduction for Tax purposes is not available to the Lessor, or an event giving rise to such a liability or non-deduction occurs (which would not have been, or given rise to, such a liability or non-deduction had all of the Assumptions proved to be correct) by reason of which the Lessee is (or would, but for this clause 8.9, be) liable to make a payment under the provisions of this clause 8; and

8.9.2 in consequence of any of the Assumptions proving not to be correct any amount of Rental payable under this Agreement or the amount of the Termination Sum or both is or are adjusted upwards or would be so adjusted but for the provisions of paragraph 4.6 of the Financial Schedule,

the Lessee shall not be liable to make any payments to the Lessor or otherwise in respect of Taxes under this clause 8.

8.10 Exclusion from tax indemnities

The Lessee is not obliged to indemnify the Lessor or any Lessor Group Member under clause 8.1 against:

8.10.1 any Tax liability to the extent that such liability is imposed by way of deduction or withholding from any payment due from the Lessee under this Agreement or any of the other Transaction Documents to the Lessor or any Lessor Group Member in circumstances where clause 8.2 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause);

- 8.10.2 any United Kingdom Value Added Tax (including any interest, penalties or fines thereon) payable by the Lessor or any Lessor Group Member in respect of the Lessor's acquisition of the Ship (other than to the extent that such Value Added Tax arises as a result of an Excluded Event) or any other Value Added Tax whether or not the Lessee is required to make any payment or increased payment in respect thereof under clause 8.11 and, in respect of a non-United Kingdom Value Added Tax, to the extent that the Lessee is already required under this Agreement to make any payment or increased payment in respect thereof; or
- 8.10.3 Taxes which would not have arisen but for any Lessor Breach or any Lessor Misconduct; or
- 8.10.4 any United Kingdom Tax liability which is suffered by the Lessor or any Lessor Group Member by reason of any payment made by or loss suffered by the Lessor or the applicable Lessor Group Member not being fully deductible in computing the chargeable profits for Tax purposes of the Lessor or the applicable Lessor Group Member whether or not the Lessor or the applicable Lessor Group Member is entitled to receive a compensating amount under clause 8.4 or an amount under clause 8.7; or
- 8.10.5 any Taxes to the extent that they would not have arisen but for the reasonably avoidable delay or failure by the Lessor or any Lessor Group Member in the filing of:
- (a) United Kingdom tax returns or any other documents in the United Kingdom or the payment of United Kingdom Taxes assessed on or payable by the Lessor or the applicable Lessor Group Member, or, as the case may be,
 - (b) tax returns in any jurisdiction other than the United Kingdom or any other documents in any jurisdiction other than the United Kingdom or the payment of Taxes in any jurisdiction other than the United Kingdom assessed on or payable by the Lessor or the applicable Lessor Group Member, provided that this clause 8.10.5(b) shall not apply to any failure or delay by the Lessor or the applicable Lessor Group Member prior to the time at which the Lessee, or as the case may be, the relevant Tax authority to whom such Taxes are due to be paid or with whom such returns or other documents are due to be filed, has notified the Lessor in writing of the requirement to pay such Taxes or file such returns or other documents,

and provided that this clause 8.10.5 shall not apply to any delay or failure by the Lessor or the applicable Lessor Group Member which:

- (i) has been consented to or requested by the Lessee or another Transaction Company in writing; and/or
- (ii) arises as a result of a failure by the Lessee promptly when requested to do so to provide the Lessor or the applicable Lessor Group Member with correct, suitable and adequate information which the Lessee has or might reasonably be expected to have or to obtain so as to enable the Lessor or the applicable Lessor Group Member to file the relevant tax return or pay such Taxes; or

- 8.10.6 any Taxes which would not have been imposed but for, or to the extent increased by reason of, an assignment or transfer by the Lessor of its rights or obligations under this Agreement or the other Transaction Documents; or
- 8.10.7 where the Lessee is liable to compensate the Lessor or any Lessor Group Member in respect of the liability under any other provision of this Agreement and has discharged its obligations in respect thereof; or
- 8.10.8 any Corporation Tax attributable to any Rental or Termination Amount or interest actually receivable hereunder by the Lessor or to any other amounts payable to and unconditionally received by the Lessor under this Agreement or pursuant to or in connection with any of the other Transaction Documents or to any sales or other proceeds (including, without limitation, insurance moneys) actually received and retained by the Lessor in respect of the Ship or the Lessor's rights under the Novated Building Contract; or
- 8.10.9 any Tax liability in respect of documentary or similar Taxes in circumstances where clause 8.6 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause).

8.11 VAT

- 8.11.1 Save where expressly provided to the contrary, all payments made under this Agreement and the other Transaction Documents are calculated without regard to VAT. If any such payment constitutes the whole or any part of the consideration for a taxable or deemed taxable supply, the amount of that payment shall be increased by an amount equal to the amount of VAT which is chargeable in respect of the taxable supply in question against delivery of an appropriate VAT invoice provided that the Lessor shall not be liable to pay an amount in respect of VAT until such time as, and to the extent that it (or any member of its VAT group which is the representative member (or equivalent) of such VAT group for VAT purposes (the “**Representative Member**”)) receives a credit for such VAT as “input tax”, as defined in sub-section (1) of section 24 of VATA, under sections 25 and 26 of VATA (or the equivalent in any jurisdiction other than the United Kingdom), in which case such payment shall be made as soon as practicable after the credit is received.
- 8.11.2 If any amount in respect of VAT paid by the Lessor or the Representative Member pursuant to this Agreement or any of the Transaction Documents at any time shall be Irrecoverable VAT the Lessee shall forthwith on demand by the Lessor indemnify the Lessor and keep the Lessor fully indemnified at all times against such Irrecoverable VAT provided that if the Lessor determines that such Irrecoverable VAT subsequently proves to be recoverable and to the extent that no adjustment has been made in the calculation of such Irrecoverable VAT pursuant to the proviso in the definition of “Irrecoverable VAT”, the Lessor shall pay to the Lessee such amount, if any, as the Lessor shall determine will leave the Lessor in no better and no worse a position than the Lessor would have been in if no payment had been made by the Lessee to the Lessor under this clause 8.11.2.
- 8.11.3 If the Lessor makes any supply for VAT purposes pursuant to or in connection with this Agreement or any of the other Transaction Documents or any transaction or document contemplated herein or therein, the Lessee shall (save to the extent that the Lessor is entitled to be indemnified in respect of that VAT by an increased payment under clause

8.11.1 above) at such time as the Lessor certifies to the Lessee that any amount of VAT payable in respect of that supply has not been paid to the Lessor and having duly accounted for such VAT to HMRC at the correct time and having duly claimed bad debt relief in respect of that VAT the Lessor either has not or has not fully received such relief, pay on demand to the Lessor an amount equal to the aggregate of any VAT which is payable in respect of that supply and has not been the subject of bad debt relief together with interest on an amount equal to any VAT payable in respect of the supply at LIBOR ascertained in respect of the date on which such VAT was accounted for to HMRC for the period from that date until the date of the Lessor's certificate or the date upon which bad debt relief is received, provided that if an amount in respect of bad debt relief is subsequently recovered by the Lessor or the Representative Member which is attributable to VAT in respect of which the Lessee has made a payment under this clause 8.11.3 the Lessor shall, or shall procure that the Representative Member shall, pay an amount equal to such recovery to the Lessee to the extent such payment will not prejudice the retention of such VAT bad debt relief.

8.12 VAT mitigation

- 8.12.1 The Lessor and the Lessee agree to co-operate with a view to minimising any VAT payable by either party under any transaction referred to in clause 8.11 but so that neither party shall be bound to do anything which would not be good business practice and legal or which would involve any adverse consequences to it.
- 8.12.2 If it subsequently transpires that the Lessor recovers, or obtains a credit for, any VAT in respect of which the Lessor has been indemnified under clause 8.11 the Lessor shall refund to the Lessee such amount as the Lessor shall determine to be such proportion of such credit as will leave the Lessor, after such refund, in the same net position as if would have been had no VAT been required to be accounted for.

8.13 Information

- 8.13.1 Subject to clause 8.13.2, the Lessee shall provide such evidence, assistance, information and documentation relating to the Purchase Price, the Ship, the use to which the Ship is being put or such other evidence, information or documentation as may be requested by the Lessor and which is or ought reasonably to be available to the Lessee and which is under its control or power to procure, and which the Lessor may require in order for the Lessor to satisfy a legitimate request for information or documentation received from any Tax authority or in order to agree the Lessor's Tax computations or settle any other Tax matter and the Lessee undertakes to co-operate with the Lessor to enable the same to be provided to the relevant Tax authority.
- 8.13.2 The Lessee and Lessor acknowledge and agree that should either party, or as the case may be, any relevant advisors of either party (“**Advisors**”) determine that it shall be necessary for it, or as the case may be, such Advisors to disclose to any Tax authority such details relating to the transactions contemplated by the Transaction Documents as may be required to be disclosed by such person in accordance with the provisions of Part 7 of Chapter 8 of the Finance Act 2004 or any regulations made pursuant thereto, such person shall be permitted to make such disclosure **SAVE THAT** before making any such disclosure, the Lessor, or, as the case may be, the Lessee shall consult in good faith with the other party as to the requirement to make such disclosure and the terms on which such disclosure shall be made provided that notwithstanding such requirements to consult, any decision as to whether a disclosure is required to be made and the terms of that disclosure shall be made by the person wishing to make the disclosure acting in good faith.

9 Use and Employment

9.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period except as the Lessor may otherwise permit in writing.

9.2 Permitted use

The Lessee shall have the full possession and use of the Ship and the Ship may be employed throughout the world in any lawful trade for which the Ship is suitable subject to (i) the Lessee ensuring that the Ship is insured for the jurisdiction in which it is to operate (in accordance with clause 13) and to (ii) any limitations imposed by insurers and otherwise (iii) subject to and on the terms and conditions of this Agreement.

9.3 Other undertakings concerning use

The Lessee shall, and shall procure that each other Transaction Company shall:

- 9.3.1 avoid the Ship being operated or employed in any manner, trade or business contrary to Environmental Laws and all other laws or regulations, in any such case to the extent that they apply to the Ship, its ownership, operation and management or to the business of the Lessee, or in carrying illicit or prohibited goods or in any manner which would render her liable to condemnation or destruction, seizure, confiscation, penalties, requisition or sanctions or in any manner or trade which would or might reasonably be expected to prejudice the Lessor's ownership of the Ship unless the Lessee, by virtue of the provisions of the Time Charter as at the date hereof, is not entitled to prevent such operation or employment;
- 9.3.2 without prejudice to the generality of clause 9.3.1 above, ensure and/or procure that the Ship is properly used and, in particular, but without limitation, that it shall:
- (a) observe all material recommendations and requirements contained in all handbooks and manuals supplied by or procured from the Builder or the manufacturer or the supplier of components for the Ship relating to the proper use of the Ship; and
 - (b) ensure that the Ship is operated in accordance with the appropriate regulations and recommendations of all competent authorities of the flag state and the jurisdictions in or to which the Ship is employed or trades from time to time pursuant to the terms of this Agreement and of the Classification Society.
- 9.3.3 without prejudice to the generality of clause 9.3.1 above, throughout the Lease Period (and shall procure that any Approved Manager takes all necessary action to):
- (a) procure implementation and maintenance of a safety management system (**SMS**) which complies with the ISM Code, the flag state of the Ship and the Ship's Classification Society, which may from time to time be of mandatory application to the Ship and/or the Lessor and/or the Lessee and/or any other Transaction Company;

- (b) procure the obtaining and maintenance in force at all times of valid certificates evidencing compliance with the requirements of clause 9.3.3(a) above, including, without limitation, a valid Document of Compliance in relation to the Approved Manager and a valid Safety Management Certificate in respect of the Ship as required by the ISM Code;
- (c) provide the Lessor, at its request, with copies of any such Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate upon issuance;
- (d) if and to the extent required pursuant to the ISM Code, keep or procure that there is kept on board the Ship at all times a copy of any such Document of Compliance and the original of any such Safety Management Certificate; and
- (e) ensure that:
 - (i) the Ship has a valid International Ship Security Certificate;
 - (ii) the Ship's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Ship's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place;

9.3.4 without prejudice to the generality of clause 9.3.1 above, in the event of the Ship (and for so long as it is) operating in or into or off-shore from the United States of America or in United States waters, obtain and maintain all Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time and such other documentation as may be required by the US Coast Guard or any other relevant US authority and, if so requested by the Lessor, provide copies of Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time to the Lessor and take all reasonable precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in the flag state or in any jurisdiction in or to which the Ship may be employed or trade from time to time;

9.3.5 not at any time represent or hold out the Lessor as carrying goods or persons on the Ship or being in any way connected or associated with any operation or carriage whether for charter or reward or gratuity or gratuitously which may be undertaken by the Lessee during the Lease Period nor shall the Lessee represent itself as the agent of the Lessor for such purpose;

9.3.6 in the event of hostilities in any part of the world, avoid the Ship entering or trading to any zone which is declared a war zone or excluded area by any government or by the Ship's war risks insurers unless the Lessee has (at its expense) effected special, additional or modified insurance cover necessary to keep the Ship properly insured in accordance with this Agreement notwithstanding such entry into a war zone and, either prior to or promptly after such entry, shall have submitted the same to the Lessor to enable the Lessor to verify that such further insurances do meet such requirements and shall have ensured that all requirements under or pursuant to this Agreement in relation thereto shall have been

complied with and provided further that if the Ship is in a zone when it is declared a war zone or excluded area by the Ship's war risk insurers or any government the Lessee shall forthwith at its own expense effect special, additional or modified insurance as necessary to keep the Ship insured in accordance with this Agreement and shall then notify the Lessor in writing giving details of such insurances.

The requirements of this clause 9.3.6 shall be deemed satisfied if the Ship is held covered under a relevant government programme (by which is meant an insurance or an indemnity programme on terms acceptable to the Lessor, having regard to the insurance requirements set forth in this Agreement, of any member of the European Union and/or the United States of America or any other country approved by the Lessor); and

9.3.7 pay all tolls, dues and other outgoings whatsoever in respect of the Ship and the Insurances and keep proper books of account in respect of the Ship and, as and when the Lessor may so require, make such books available for inspection on behalf of the Lessor.

9.4 Provision of information in respect of the Ship's employment and trade

9.4.1 The Lessee shall procure that the Lessor is advised in writing if the Ship's trading pattern would or may result in a liability being imposed in the United States of America on the Lessor for US Transportation Tax, or any equivalent future Tax notwithstanding that, in such circumstances, it shall in such case be the responsibility of the Lessee to attend to all administrative matters relating thereto and to indemnify the Lessor for any such Tax liability.

9.4.2 At the Lessor's request, the Lessee shall provide the Lessor with such information and copy documents which the Lessor reasonably requests in relation to:

- (a) the Ship, its employment, position and engagements under the Time Charter;
- (b) copies (duly translated into English) of any charters of the Ship notified to and approved by the Lessor in accordance with clause 10.17 including any voyage or engagement which requires the Ship to enter into United States waters or operate in or offshore from the United States of America;
- (c) the amount of hire payable in respect of the bareboat chartering, time chartering or other hiring of the Ship and amount of payments and amounts due to the Ship's master and crew;
- (d) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship and any payments made in respect of the Ship; and
- (e) any towages and salvages,

provided that (in the case of information relating to, and copies of contracts for the chartering or hire of the Ship other than the Time Charter) the Lessee is able to procure that such information is provided or such copies are provided, in each case without breaching any confidentiality covenants on the part of any Guarantor Group Member under such contracts and, if the provision of this information or copies of the applicable charter contracts would, in the opinion of the Lessee (acting reasonably) cause such covenants to be breached, the Lessee delivers to the Lessor an opinion from the Lessee's English counsel setting out the reasons why (in the reasonable opinion of the Lessee's English

counsel) the terms of the proposed charter or sub-charter will not cause the Lessee to be in breach of the covenant in clause 9.2, provided always that if the Lessor is required by its Tax Authority to disclose any such charter or sub-charter the Lessee shall procure in so far as possible that the applicable Guarantor Group Member obtains the consent of its counterparty to such contract for a copy of the contract to be provided to the Lessor's Tax Authority.

9.4.3 The Lessee shall advise the Lessor promptly of any breach of any provisions of this clause 9.4 and shall thereafter keep the Lessor informed of progress of matters in relation thereto.

10 Maintenance and Operation

10.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period until such time as the Ship is sold except as the Lessor may otherwise permit in writing.

10.2 Supply and crewing

Throughout the Lease Period the Lessee shall procure that the Ship is manned, victualled, navigated, operated, supplied, fuelled, maintained and repaired, all at no cost to the Lessor.

10.3 Condition of the Ship

The Lessee shall procure that the Ship and every part thereof is kept in a good and safe condition and state of repair, ordinary wear and tear excepted, and shall ensure that all repairs to or replacements of lost, damaged or worn parts and equipment are effected in such a manner so as not to diminish the value of the Ship and in any event:

10.3.1 consistent with first-class ship ownership and management standards in relation to ships of the Ship's age and type;

10.3.2 so as to maintain the Ship's class, namely "DNV, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V (3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport" with Det norske Veritas (or the equivalent classification with another Classification Society), free of overdue conditions affecting the Ship's class unless waived;

10.3.3 so as to comply with all laws and regulations, including, without limitation, Environmental Laws, and to maintain all certificates, licences and permits applicable to vessels registered in the state of registration for the time being of the Ship being pursuant to clause 12 and to vessels trading to any jurisdiction to which the Ship may trade from time to time in any such case unless waived; and

10.3.4 without prejudice to the foregoing provisions of this clause 10.3, at least to the same standard, on a non-discriminatory basis, as other comparable vessels owned or operated by companies which are Guarantor Group Members.

10.4 Master, officers and crew

The Master, officers and crew of the Ship shall be the servants of the Lessee for all purposes whatsoever. The Lessee shall ensure that the wages and allotments and the

insurance and pension contributions as appropriate of the Master, officers and crew shall be regularly paid and all deductions from their wages in respect of tax liability shall be properly accounted for and the Master shall have no valid claim for disbursements other than those incurred by him in the ordinary course of trading of the Ship.

10.5 Modifications

The Lessee shall procure that no modification is made to the Ship which would:

10.5.1 materially and adversely alter the structure, type or performance characteristics of the Ship unless required by the Classification Society of the Ship from time to time; or

10.5.2 reduce the value of the Ship,

and in any event the Lessee shall require the prior written consent of the Lessor for any modifications which are made to the Ship the cost of which exceeds or will when completed exceed five million Dollars (\$5,000,000).

10.6 Surveys

The Lessee shall procure that the Ship is submitted to such periodical or other surveys as may be required by the Ship's flag state or for classification purposes and shall comply with all conditions affecting the Ship's class of the Classification Society of the Ship from time to time in accordance with their terms unless waived and the Lessee shall supply copies of any survey reports to the Lessor upon request from the Lessor.

10.7 Drydocking

The Lessee shall procure that the Ship is drydocked as often as may be required to ensure that the Ship maintains its classification with its Classification Society and otherwise in accordance with good commercial practice. If the Lessee fails to comply with the requirements of the relevant Classification Society, the Lessor shall have the right to inspect the Ship in accordance with clause 10.14. If so requested by the Lessor, the Lessee shall give the Lessor reasonable prior written notice of any intended drydocking of the Ship.

10.8 Release from arrest

Other than in the circumstances described in clause 6.3.2, the Lessee shall promptly pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given or which may reasonably be expected to give rise to maritime, statutory or possessory liens (other than Permitted Security Interests) on, or claims enforceable against, the Ship or the Insurances or any part thereof. If at any time during the Lease Period any writ or equivalent claim or pleading in admiralty is filed against the Ship or the Insurances or any part thereof, or the Ship or the Insurances or any part thereof is arrested or detained or attached or levied upon pursuant to legal process or purported legal process or in the event of the detention of the Ship in the exercise or the purported exercise of any such lien or claim as aforesaid (other than by reason of a Compulsory Acquisition or by reason of a Lessor's Security Interest), the Lessee shall procure the release of the Ship and the Insurances from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty as soon as reasonably

practicable and in any event within sixty (60) days of receiving notice thereof by providing bail or procuring the provision of security or otherwise as circumstances may require. Subject to the provisions of this Agreement, the Lessor shall cooperate with the Lessee to the extent that the Lessee wishes to make any payment through or requires to take any reasonable steps (other than court proceedings) in the name of the Lessor.

10.9 Manuals and technical records

The Lessee shall procure that:

- 10.9.1 all such records, logs, manuals, technical data and other materials and documents which are required to be maintained in respect of the Ship to comply with any applicable laws or the requirements of the Ship's flag state and Classification Society are maintained;
- 10.9.2 accurate, complete and up-to-date logs and records of all voyages made by the Ship and of all maintenance, repairs, alterations, modifications and additions to the Ship are kept; and
- 10.9.3 following the occurrence of a Termination Event and for as long as it is continuing on reasonable advance notice from the Lessor, the Lessor or its representatives is permitted at any time to examine and take copies of such logs and records and other records.

10.10 Ship's Software

The Lessee shall obtain and maintain and procure that there are obtained and maintained for the benefit of the Lessor, the Lessee, and the Time Charterer and any other person hiring or chartering or operating the Ship from time to time all licences and permits (without liability on the part of the Lessor for the payment of any royalties as may be required from time to time in respect of the Ship's Software) and shall procure that all such licences and permits are granted without any limitation or expiry (or are renewed prior to any such expiry).

10.11 Manager

The Lessee shall procure that no manager of the Ship is appointed which is not an Approved Manager. For the avoidance of doubt this shall not be construed as a prohibition on the appointment of sub-contractors by the Approved Manager, providing that the Approved Manager remains responsible for management of the Ship.

10.12 Safe operation

The Lessee shall take all steps necessary so as to ensure that the Ship should be navigated and operated in a proper, safe and seaman-like manner and in the manner prescribed by any legislation, including Environmental Laws, in force in the state of registration for the time being of the Ship and all other applicable jurisdictions.

10.13 Seaworthiness

Save for periods when the Ship is in dry-dock, the Lessee shall procure that the Ship should at all times be fit to go to sea without serious danger to human life (by reason of the condition, or the unsuitability for its purpose, of either the Ship or its machinery or equipment or any part of the Ship or its machinery or equipment or undermanning or overloading or unsafe or improper loading or any other matter relevant to the safety of the Ship).

10.14 Inspection

The Lessee shall ensure that the Lessor, its surveyors or other persons appointed by it will be permitted to inspect the Ship, upon reasonable notice and without interfering with the Ship's operation. Such inspections shall be without cost to the Lessee unless either such inspection reveals that the requirements of this clause 10 are not then being complied with in all material respects or it is made after the occurrence of a Termination Event that is continuing, in which case it shall be at the cost of the Lessee.

10.15 Ship-related expenses

The Lessee shall procure that, in relation to the operation of the Ship, at no time is the Lessor's credit pledged to pay for any costs of maintenance, repair, operation or use of the Ship or in relation to any of the other matters listed below and the Lessee shall pay or procure that there is paid within any applicable grace or credit period all costs, charges and expenses arising during or in respect of the Lease Period, from the purchase, exportation, importation, registration, ownership, chartering, sub-chartering, possession, control, use, operation, maintenance, repair, replacement, refurbishment, overhaul, insurance, storage, redelivery, dry-docking or disposal of the Ship or any modification to or any change or alteration in the Ship and otherwise howsoever in connection with the Ship, except:

10.15.1 for Taxes, to which clause 8 shall apply;

10.15.2 for the Purchase Price of the Ship pursuant to the Novated Building Contract; or

10.15.3 to the extent that such items are already the subject of indemnification, either under clause 7 or under the Financial Schedule.

While the Lessee's liability to pay ultimately the amount due in respect of any such costs, charges or expenses is not diminished, the Lessee may delay or refrain from paying any such costs, charges or expenses while it is contesting them in good faith by appropriate steps and provided that adequate reserves have been made to meet such liability in case the Lessee's contest ceases or is unsuccessful, for whatever reason and provided that such delay or withholding does not, in the reasonable opinion of the Lessor, carry with it any material risk of arrest, forced sale, loss, confiscation or forfeiture of the Ship or any interest therein.

The Lessee will also not hold out the Lessor as being involved in the operation of the Ship.

If a claim is made against the Lessor for payment of any amounts referred to in this clause 10.15, the Lessee shall produce to the Lessor such evidence as it shall reasonably require of the due payment of any sums referred to in this clause.

10.16 Notification of certain events

The Lessee shall, immediately upon the same coming to its attention and to the best of its then current knowledge, notify the Lessor by fax (confirmed forthwith by letter) of:

10.16.1 any casualty of the Ship which is or is likely to give rise to a loss or cost of five million Dollars (US\$5,000,000) or more;

10.16.2 any occurrence as a result of which the Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;

- 10.16.3 any requirement made by any insurer or Classification Society or by any competent authority which is not complied with within any applicable time period for compliance stipulated by such authority;
- 10.16.4 any arrest or detention of the Ship, any exercise or purported exercise of any lien on the Ship or its Earnings or any requisition of the Ship for hire;
- 10.16.5 any Environmental Claim made against the Lessor of which it is or becomes aware or in connection with the Ship, or any Environmental Incident or Environmental Claim in an amount in excess of one million Dollars (\$1,000,000) made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.6 any claim for breach of the ISM Code or the ISPS Code being made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.7 any other matter, event or incident, actual or threatened, the effect of which will or is reasonably likely to lead to the ISM Code or the ISPS Code not being complied with;
- 10.16.8 any claims made in connection with a bodily injury to a third party involving amounts in excess of an amount of one million Dollars (\$1,000,000) or its equivalent in any other currency;
- 10.16.9 any Security Interest (other than a Permitted Security Interest) arising over the Ship or the Insurances or Requisition Compensation; and
- 10.16.10 any other event in respect of the Ship or the Insurances or Requisition Compensation which the Lessee expects to involve the Lessor in any loss or liability,
- and the Lessee shall keep the Lessor advised in writing on a regular basis and in such detail as the Lessor shall require of the response to any of those events or matters by the Lessee or the applicable Transaction Company or any other person.

10.17 Restrictions on chartering

The Lessee shall not, without the prior written consent of the Lessor acting reasonably (which shall be subject to the Lessor being satisfied with the information or documentation or opinion provided in accordance with clause 9.4.2):

- 10.17.1 let the Ship on demise charter;
- 10.17.2 let the Ship on or enter into any time or consecutive voyage charter in respect of the Ship to the Original Purchaser or any other person who has at any time had a right to acquire the Ship from the Builder;
- 10.17.3 put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed five million Dollars (US\$5,000,000) (or the equivalent in any other currency) unless either:
- (a) that person has first given to the Lessor and in terms satisfactory to it a written undertaking not to exercise any lien on the Ship or its earnings for the cost of such work or for any other reason; or
 - (b) the cost of such work is covered by insurances; or

(c) the Lessee establishes to the reasonable satisfaction of the Lessor that it has sufficient funds to pay for the cost of such work; and

10.17.4 knowingly permit the Time Charterer to enter into any sub-charter of or for the Ship which would breach the terms of the covenant in clause 10.17.2.

11 Equipment

11.1 General

The following provisions of this clause 11 shall apply at all times during the Lease Period and until such time as the Ship is sold.

11.2 Use of Equipment

The Lessee shall have the use of all outfit, equipment, furnishings, furniture and fittings, spare and replacement parts belonging to the Ship, and the same or their substantial equivalent shall be returned to the Lessor on redelivery in good order and condition, ordinary wear and tear excepted, and except for changes and alterations properly made as permitted under this Agreement.

11.3 Renewal of Equipment

The Lessee shall procure that, at no cost to the Lessor, from time to time during the Lease Period such items of equipment forming part of the Ship as shall be damaged, worn or lost are replaced, renewed or substituted in such manner as not to diminish in any material adverse way the value of the Ship. Title to any part replaced, renewed or substituted shall remain with the Lessor until the part which replaced it or the new or substituted item of equipment becomes the property of the Lessor or is replaced, renewed or substituted by an item of equipment which at that time becomes the property of the Lessor. The Lessee shall ensure that title to any such new item of equipment shall be free of all Security Interests and shall vest in the Lessor upon fitting.

11.4 Additional equipment

At any time any necessary additional equipment may be fitted so as to render the Ship available for any purpose for which the Lessee may require to use or operate the Ship, subject always to clause 9.3, or as required by any Classification Society, subject to no permanent structural damage or reduction in value thereby being caused to the Ship by reason of its installation or subsequent removal. Any additional equipment so fitted shall be considered the property of the Lessee who may remove such additional equipment at any time before the expiration of the Lease Period unless (i) it is agreed between the Lessor and the Lessee that any such equipment shall remain on the Ship after redelivery in which event such equipment shall as from redelivery become the property of the Lessor, or (ii) such additional equipment is required by any Classification Society. The cost of fitting or removing any equipment together with the cost of making good any damage caused by such fitting or removal shall be payable in full by the Lessee.

12 Title and Registration

12.1 General

The following provisions of this clause 12 shall apply at all times during the Lease Period until such time as the Ship is sold.

12.2 Title and ownership

The Ship shall belong to the Lessor and title to and ownership of the Ship shall remain vested in the Lessor. The Lessee shall have no right, title or interest in or to or any option or any right to acquire title to or any proprietary interest in or to any part of the Ship except the rights expressly set out in this Agreement.

12.3 Approved Flag States

12.3.1 As at the date of this Agreement (but subject always to clause 12.3.2 and to the following states or countries satisfying and continuing to satisfy the criteria set out in clause 12.5 below), the Lessor agrees that any of Hong Kong, the Marshall Islands, the United Kingdom, Liberia, Bermuda or the Bahamas is acceptable to the Lessor as a state or country in which the Lessor agrees the Ship may be registered.

12.3.2 If the Lessor gives notice to the Lessee that any of the above mentioned states or countries falls within the restrictions or circumstances set out in clause 12.5 below, the applicable state or country shall cease to be an Approved Flag State for the purposes of this Agreement.

12.4 Registration

The Lessee agrees at its expense (and, in relation to clause 12.4.1 below, the Lessor agrees to provide all requisite assistance to the Lessee so as to enable the Lessee) to:

12.4.1 subject to clause 12.3.2 and to the criteria set out in clause 12.5 below, procure that at Delivery the Ship is, and thereafter throughout the Lease Period remains, registered in the name of the Lessor under the laws and flag of an Approved Flag State at the applicable time; and

12.4.2 (subject to clause 12.5 below) procure throughout the Lease Period that the registration of the Ship is maintained under the laws and flag of an other Approved Flag State and shall not knowingly do or suffer to be done anything whereby such registration may be forfeited or imperilled; and

12.4.3 pay, and indemnify the Lessor from and against, all registration and other charges and fees that may from time to time be payable in respect of such registration.

12.5 Reflagging

12.5.1 The Lessor may require the Lessee (at its cost and expense) to re-register the Ship under the laws and flag of any other state or jurisdiction (including, but not limited to, the Approved Flag States referred to in clause 12.3 above) in the event that (a) it becomes unlawful, impossible, impracticable or (in the opinion of the Lessor, acting in good faith) undesirable (including, without limitation, by reason of change of legal or political circumstances) for the Lessor to continue to be registered as the owner of the Ship under

the laws and flag of its then current register or (b) if classification inspections for vessels registered under the laws and flag of the state in which the Ship is registered at the relevant time are no longer undertaken by a classification society which is a member of IACS.

- 12.5.2 The Lessee, upon not less than 15 days written notice to the Lessor (or such shorter period as the Lessor may agree, such agreement not to be unreasonably withheld) and provided that no Relevant Event has occurred and is continuing, may elect to re-register the Ship in a state listed in clause 12.3.1 or any other state or country approved by the Lessor, such approval not to be unreasonably withheld or delayed, subject to:
- (a) the Ship being registered in the name of the Lessor, free from Security Interests other than Permitted Security Interests in the applicable register in such flag state;
 - (b) inspections of the Ship required by the proposed new flag state continuing to be undertaken by a classification society which is a member of IACS;
 - (c) it being possible to obtain a legal opinion satisfactory to the Lessor in its discretion in relation to the laws of such proposed flag state as to the validity and enforceability of the Lessor's ownership interest in the Ship contemplated by the Transaction Documents;
 - (d) the Lessor's liability as owner of the Ship not increasing as a result of such change of flag; and
 - (e) the right of the Lessor to treat the applicable state or country as being unacceptable in the future in accordance with clause 12.5.1 above.
- 12.5.3 The Lessor agrees, at the request and cost of the Lessee, promptly to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee to re-register the Ship in any Approved Flag State.
- 12.5.4 All costs and expenses (including legal costs and expenses and Taxes thereon and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any re-registration pursuant to clause 12.5 shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand. The provisions of clause 12.4 shall, with any necessary modifications, apply following any re-registration.
- 12.6 Name, colours etc.**
- 12.6.1 The Ship shall be painted in such colours and display such funnel insignia as the Lessee may from time to time lawfully require. The Lessee shall notify the Lessor of any intended change in the name of the Ship. At the request and cost of the Lessee, the Lessor agrees to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee in relation to any registration formalities required in connection with a change of the Ship's name.
- 12.6.2 All costs and expenses (including legal costs and expenses and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having

been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any registration formalities required in connection with a change of the Ship's name shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

12.7 Encumbrances

The Lessee shall not (save pursuant to the express powers conferred by this Agreement):

- 12.7.1 attempt or hold itself out as having any power to sell, charge or otherwise encumber or to sell or otherwise dispose of the Ship or any interest therein; or
- 12.7.2 let the Ship otherwise than as provided in this Agreement; or
- 12.7.3 create, incur, suffer or permit to exist any Security Interest (other than Permitted Security Interests) on or over the Ship, its earnings or on or over the Insurances,

and agrees to carry a properly certified copy of this Agreement with the Ship's papers and to exhibit the same to any person having business with the Ship which might give rise to any Security Interest thereon other than Permitted Security Interests.

12.8 Protection of Lessor

The Lessee shall seek to avoid anything being done which jeopardises the rights of the Lessor in the Ship or any part thereof and/or seek to avoid any omission which would prevent those rights from being exercised or enjoyed.

12.9 Notice of Lease

The Lessee shall place and keep or procure that there is placed and kept prominently displayed in the control room of the Ship throughout the Lease Period a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space of not less than six (6) inches wide by nine (9) inches high, substantially reading as follows:

“ NOTICE OF OWNERSHIP AND LEASE ”

“This Ship is owned by Peony Leasing Limited (the “Lessor”) and is subject to a lease agreement between the Lessor and Seaspan Finance I Co. Ltd (the “Lessee”). Neither the Lessee nor any manager, nor the master of the Ship nor any servant or agent of any of them have any right, power or authority whatsoever to contract on behalf of the Lessor or to pledge the credit of the Lessor or the involvement of the Lessor in any liability whatsoever and none of the Lessee, any manager, the master of the Ship and any other person has any right, power or authority to create, incur or permit to be imposed upon this Ship any Security Interest whatsoever except for general average, crew's wages or salvage”

or in such other form as the Lessor may reasonably require from time to time.

- 12.9.1 The Lessee shall not remove or cover up such notice, and will not place or permit to be placed any other notice affecting the ownership of the Ship or otherwise relating to the rights of the Lessor in or on the Ship or any part thereof save as is expressly permitted or required by the Transaction Documents without the prior written consent of the Lessor.

13 Insurances

13.1 General

The Lessee undertakes with the Lessor to procure that the following provisions of this clause 13 are complied with at all times during the Lease Period and, thereafter, until the Ship is sold, either by the Lessee or by any Guarantor Group Member to whom the Lessee delegates its rights and duties as sales agent in accordance with clause 2.8.9, except as the Lessor may otherwise permit. The Lessee confirms that throughout the Lease Period until the Ship is sold, the Ship shall be in every respect at the risk of the Lessee.

13.2 Maintenance of Insurances

The Ship shall be kept insured at no cost to the Lessor against:

- 13.2.1 fire and usual marine risks (including excess risks) and war risks;
- 13.2.2 protection and indemnity risks (including pollution risks and excess war protection and indemnity risks), on “full entry” terms; and
- 13.2.3 in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner or operator of vessels of a similar age, condition and type as the Ship and which may be requested by the Lessor from time to time (other than (i) the amount of any deductible, and (ii) loss of earnings/hire).

13.3 Terms of Insurances

Such Insurances shall be effected:

- 13.3.1 in Dollars or such other currency as the Lessor and the Lessee may agree;
- 13.3.2 in the case of fire and usual marine risks and war risks (on an agreed value basis) in an amount equal to the greater of (i) 120% of the highest Termination Sum applicable to the period for which the insurances are renewed and (ii) the market value of the Vessel;
- 13.3.3 in the case of protection and indemnity risks (including pollution liability risks), in an amount equal to the highest amount in respect of which cover is in accordance with customary insurance market practice taken out by prudent owners or operators of vessels of a similar type, size, age, condition and flag as the Ship with protection and indemnity risks associations that are members of the International Group of Protection and Indemnity Associations (but in the case of pollution risks, for a minimum amount of one billion Dollars (\$1,000,000,000) or where cover for such risks is not available in such an amount, such lesser amount as is the best level of cover available in the market at the applicable time); and
- 13.3.4 on terms approved under clause 13.19, but subject to a minimum requirement of the scope of coverage of that provided by the Norwegian Marine Insurance Plan 1996 or as provided by the equivalent full conditions forms of other nationality (so far as can be reasonably obtained in the market at the applicable time); and
- 13.3.5 through brokers and with insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in war risks and protection and indemnity risks associations, in each case approved under clause 13.19.

13.4 Further protection for Lessor

In addition to the terms set out in clause 13.3, the Insurances effected under such clause shall:

- 13.4.1 name (or be amended to name) the Lessor as additional assured (in the case of the Insurances referred to in clause 13.2.1) and (in the case of Insurances referred to in clause 13.2.2 and war risks insurance if such risks are insured against by entry of the Ship in a war risks association) either as an assured with limited rights on “misdirected arrow” conditions in accordance with the usual terms of the club or association or (at the option of the Lessor) as a joint member for its rights and interests and, as between the Lessor and the Lessee, without the Lessor being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such Insurances and the Lessee hereby agrees to promptly indemnify the Lessor against any liability the Lessor may have for premiums, calls or other assessments in respect of any such Insurances;
- 13.4.2 in the case of the Insurances in respect of marine risks and war risks, be endorsed by way of a loss payable clause to the effect that:
- (a) payment of a claim for a Total Loss will be made to the Lessor (who shall, upon receipt thereof, apply the same in accordance with clause 14.3);
 - (b) payment of a claim for an amount which equals or exceeds the threshold amount attributable to a Major Casualty amount shall be paid to the Lessor and, subject to no Relevant Event then having occurred which is continuing (after which such sums shall be applied in accordance with clause 14.3) shall be applied as follows:
 - (i) the sum received by the Lessor shall be paid over to the Lessee or any other applicable Transaction Company subject to the Lessor receiving evidence satisfactory to the Lessor that all loss and damage resulting from the casualty has been properly made good and repaired and that all repair accounts and other liabilities connected with the casualty have been paid by the Lessee or by any other Transaction Company; and
 - (ii) the insurers with whom the fire and usual marine risks and war risks insurances are effected may in the case of any Major Casualty, and with the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed) make payment on account of the repairs which are being carried out; and
 - (c) as long as no Relevant Event has occurred and is continuing, payment of any other claim shall be made to the Lessee or, as applicable, such other Transaction Company, who shall apply the same in or towards making good the loss and fully repairing all damage in respect whereof such payment shall have been made and after the occurrence of a Relevant Event and whilst it is continuing and following notification by the Lessor to the approved brokers, payment of any such claim shall be made to the Lessor; and
 - (d) in the case of the Insurances in respect of protection and indemnity risks, be endorsed by way of a loss payable clause to the effect that moneys payable thereunder shall be paid in reimbursement of the assured which has settled the liability to which the relevant claim relates or, if so agreed by the relevant insurers,

be paid directly to the person to whom was incurred the liability in respect of which the relevant money was paid unless and until the Lessor, following the occurrence of a Relevant Event which is continuing, shall direct that they shall be paid to the Lessor whereupon they shall be paid to the Lessor.

13.5 Renewals

- 13.5.1 As soon as possible, but in any case not less than seven (7) days before the expiry of any of the policies, entries or contracts forming part of the Insurances or if there is a change in the insurers and/or markets through whom the Insurances are placed, the Lessee shall notify the Lessor of the names of the brokers (or other insurers) and any protection and indemnity and/or war risks association through or with whom such Insurances are proposed to be renewed and (if any material change is proposed) of the proposed terms and amounts of renewal. The Lessee shall also promptly notify the Lessor of any material change in the information notified to the Lessor pursuant to this clause 13.5.1 and shall provide the Lessor with particulars of such changes. If at any time the terms and amounts on and for which the Insurances are proposed to be renewed or the identity of the broker or war or protection and indemnity risks associations with whom the Insurances are proposed to be renewed are not approved by the Lessor, as contemplated by clause 13.19, the Lessor shall notify the Lessee promptly in writing of the withdrawal of its approval, and the Lessee shall procure that the Insurances are renewed or replaced on terms satisfactory to the Lessor.
- 13.5.2 Before the expiry of any Insurances the Lessee shall procure that such relevant Insurances are renewed and shall confirm to the Lessor that such renewals have been effected or shall procure that such confirmation is given to the Lessor before the expiry of any such Insurances.
- 13.5.3 Promptly after each such renewal, the Lessee shall procure that the Lessor is provided with the details of the terms and conditions and amounts on which and for which such Insurances have been renewed.
- 13.5.4 If, after renewal and after review by the Lessor of the terms and conditions of renewal, the Lessor advises the Lessee that the terms and conditions of such Insurances as renewed, do not conform with the requirements of this clause 13 (which advice shall specify the particular discrepancies) then, after consultation with the Lessor, the Lessee shall ensure that any such discrepancies are corrected promptly.

13.6 Custody of Policy Documents/Loss Payable Clauses

The Lessee shall procure that there shall be deposited with the brokers and/or insurers through which the Insurances are arranged from time to time copies of all slips, cover notes, policies certificates of entry or other instruments of insurance from time to time issued in connection with such of the Insurances referred to in this clause 13 as are effected through such brokers and/or the war risks and protection and indemnity association approved in accordance with clause 13.19 and shall also procure that, in the case of the Insurances referred to in clause 13.2.1, the interest of the Lessor shall be endorsed on the relevant cover note or policy and, in the case of the protection and indemnity Insurances referred to in clause 13.2.2, the interest of the Lessor shall be endorsed on the relevant certificate of entry or policy, in each case in addition to incorporation of the relevant loss payable clause and the Lessee shall procure that the Lessor shall be furnished with copies of the relevant cover note or policy or certificate of entry or policy, duly endorsed.

13.7 Letters of undertaking

In relation to all Insurances effected from time to time under and in accordance with this clause 13, the Lessee shall ensure that all brokers and/or insurers and any protection and indemnity or war risks associations in which the Ship is entered, in each case being approved under clause 13.19, provide the Lessor with letters of undertaking:

- 13.7.1 in the case of an approved broker, in such form as represents the then current market practice in the insurance market in which the approved broker operates and any professional association of which that approved broker is a member; and
- 13.7.2 in the case of a protection and indemnity association, having regard to the current market practice and the practices prescribed by the International Group of Protection and Indemnity Associations or, if the relevant protection and indemnity association is not a member of the International Group of Protection and Indemnity Associations but has otherwise been approved by the Lessor in accordance with clause 13.19, the current practice of that association (and which will for all purposes provide for notification to the Lessor prior to the cancellation of any such entry); and
- 13.7.3 in the case of a war risks association, having regard to the current market practice in the insurance market in which such association operates.

13.8 Fleet Cover

If any of the Insurances referred to in clause 13.2.1 and/or 13.2.2 form part of a fleet cover, the Lessee will procure that (a) any letter of undertaking referred to in clause 13.7 is amended to provide that the relevant brokers shall undertake to the Lessor that they shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (b) that the applicable policy documents are endorsed to the effect that the applicable insurers shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (c) that the Lessor receives other comfort that this will not occur.

13.9 No material adverse alteration

The Lessee shall comply with the terms and conditions of the Insurances and shall not do and shall ensure that there is no act or omission which would give rise to a right to cancel any Insurances or render any Insurances, or any policy or policies or certificate or certificates of entry invalid, void, or unenforceable or render any sum paid out under any policy or policies or certificate or certificates of entry or the Insurances evidenced thereby repayable in whole or in part. The Lessee will not make, and shall procure that no material alteration is made to the terms of any of the Insurances without the prior written consent of the Lessor.

13.10 Operation outside terms of Insurances

The Lessee will take all steps necessary so that:

- 13.10.1 the Ship is not operated in any way inconsistent with the provisions or warranties of or implied in, or in contravention of the cover provided by, any Insurance taken out in accordance with this clause 13;

- 13.10.2 the Ship is not engaged in any voyage or to carry any cargo not permitted by any Insurance, in each case without first obtaining the consent (if necessary) of the insurers to such operation or engagement and complying with such requirements as to extra premium or otherwise as the insurers may prescribe; or
- 13.10.3 all requisite certificates of financial responsibility and/or other consents, licences, approvals or authorisations as may from time to time be required are obtained and maintained if the Ship is likely to be operating in or into or off-shore from the United States of America.
- 13.11 Payment of premiums and calls**
- The Lessee shall procure that (taking account of any applicable grace period) all premiums, calls, contributions or other sums of money from time to time due in respect of any Insurance are paid punctually and in full.
- 13.12 Notification of Total Loss**
- The Lessee shall procure that the Lessor is notified of:
- 13.12.1 the levy of any distress on the Ship or its arrest, detention, seizure, condemnation as prize, Compulsory Acquisition or requisition for title or use; and
- 13.12.2 (save in the case of Compulsory Acquisition or requisition for title or use or any capture, seizure, arrest, detention or confiscation of the Ship by any government, or by persons acting or purporting to act on behalf of any government) any accident, casualty or other event which has caused or resulted in or is likely to cause or result in the Ship being or becoming a Total Loss.
- 13.13 Settlement of claims**
- 13.13.1 The Lessee shall do all things necessary and provide all documents, evidence and information to enable the Lessor to collect or recover any moneys which at any time become due and payable to the Lessor or otherwise under in respect of the Insurances.
- 13.13.2 Subject to the Lessee having provided any necessary security in a timely manner so as to prevent the actual or continued arrest of the Ship and subject also to clause 7.6 and provided that no Termination Event or Mandatory Prepayment Event shall have occurred and be continuing, the Lessor agrees that the Lessee shall have the right to settle, compromise or abandon any claim under the Insurances for Total Loss or in respect of a Major Casualty or to give notice of abandonment of the Ship to the insurers and/or to claim a constructive Total Loss upon the prior written approval of the Lessor (such approval not to be unreasonably withheld or delayed) but that the Lessor itself shall not settle, compromise or abandon any such claim without reference to the Lessee prior to the occurrence of any Termination Event or Mandatory Prepayment Event. After the occurrence of any Termination Event or Mandatory Prepayment Event while it is continuing or after termination of leasing of the Ship to the Lessee pursuant to clause 18.1 or, as the case may be, clause 18.2 the Lessor alone shall have the right to settle, compromise or abandon any claims under the Insurances and/or give notice of abandonment of the Ship to the Insurers and/or claim a Constructive Total Loss.

13.14 P & I Guarantee

The Lessee shall arrange for the execution and delivery of all guarantees and indemnities as may from time to time be required by the Ship's P & I Club or war risks association.

13.15 Additional Insurance

Nothing in this clause 13 shall prohibit the Lessee from placing additional insurance on the Ship at its own expense and for its sole benefit provided however that:

- 13.15.1 such insurance shall not prejudice the Insurances or recovery thereunder or exceed the amount permitted by warranties or other conditions contained in the Insurances without the written consent of the insurers of the Insurances;
- 13.15.2 where the written consent of the insurers as referred to in clause 13.15.1 is required, the Lessee shall procure that there shall be promptly furnished to the Lessor a copy of such consent and, in all cases, with particulars of any additional insurance effected including copies of any cover notes or policies; and
- 13.15.3 any insurance payments received by the Lessor arising solely from additional insurance effected by the Lessee under this clause 13.15 less amounts due (if any) by the Lessor in respect of Taxes in relation to the sums received shall be paid by the Lessor to the Lessee promptly after receipt thereof.

13.16 No Security Interest

The Lessee shall not, and shall procure that no other Transaction Company nor the Time Charterer will, create or permit to exist any Security Interest over or in respect of the Insurances save for the approved brokers' or insurers' right of set off and lien for unpaid premiums to the extent permitted by clause 13.8, and save for any security interest created by the Lessee in favour of the Security Trustee pursuant to and in accordance with the Proceeds Deed.

13.17 Provision of copies of communications

At the Lessor's request the Lessee shall procure that there is provided to the Lessor at the time of each such communication, copies of all material written communications between the Lessee, or any other Transaction Company and:

- 13.17.1 the approved brokers; and
 - 13.17.2 the approved protection and indemnity and/or war risks associations; and
 - 13.17.3 the approved insurance companies and/or underwriters;
- which relate directly or indirectly to:

- (a) the Ship and the obligations of the Lessee or any other Transaction Company relating to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls and all communication relating to

non-payment of premiums or calls and cancellation of any of the Insurances or relating to the imposition of any material new or modified condition, warranty, exclusion or qualification or the material alteration of the Insurances; and

- (b) any credit arrangements made between the Lessee or any other Transaction Company and any of the persons referred to in paragraphs 13.17.1 to 13.17.3 relating wholly or partly to the effecting or maintenance of the Insurances.

13.18 Provision of information

The Lessee shall procure that there shall be provided promptly any information reasonably required for the purpose of the Lessor obtaining or preparing any report from a reputable international independent marine insurance broker or adviser appointed by the Lessor as to the adequacy of the Insurances effected or proposed to be effected, and the Lessee shall, promptly upon demand, indemnify the Lessor in respect of reasonable fees incurred by or for the account of the Lessor in connection with one such report prepared immediately prior to Delivery and at annual intervals thereafter, but only following either any material change to the terms of any of the Insurances or a change in the identity of the approved brokers, the approved protection and indemnity and/or war risks association or the approved insurance companies and/or underwriters.

The Lessee shall also, on the Lessor's request (not more frequently than annually and, in case of a policy period of more than 12 months, not more than once in each policy period), provide copies of all policy documents and certificates of entry relating to the Insurances which are in the possession of the Lessee, its agents or managers or the approved brokers.

13.19 Approval process

At all times the Lessor's approval must be obtained in relation to placement and renewal of Insurances, particularly with respect to requirements as to amounts and terms of insurance and identity of brokers and insurers. The Lessor will act promptly and will not act unreasonably in relation to giving its approval in relation to these matters, and will give its approval to any insurer which has (and maintains) a credit rating of not less than A- with Standard & Poor's (or equivalent rating with another first class rating agency).

13.20 Insurance review

From time to time during any period of insurance cover the Lessor may review the terms of and identity of brokers, insurance companies and underwriters and war risks or protection and indemnity associations through which the Ship is insured under this clause 13. Such review shall be made in consultation with the Lessee and shall be undertaken at least three (3) months prior to the date for renewal of such insurance cover. After consultation, the Lessee shall implement such modifications as the Lessor may reasonably request in order to seek to ensure that such insurances at all times cover all risks which may customarily and generally be covered in transactions similar to that covered by this Agreement and that the terms of such insurances and the identity of brokers, underwriters, insurance companies and associations will continue to be approved by the Lessor, as provided for in clause 13.19.

13.21 Innocent Owner's Insurance/Contingent Liability Insurance

Nothing contained in this clause 13 shall affect the Lessor's right to take out innocent owner's or contingent liability insurance in relation to the insurances of the Ship for its own account, and the Lessor shall be so entitled.

13.22 Wreck Removal

In the event of the Ship becoming a wreck or obstruction to navigation, the Lessee (in addition to any other obligation it may have under clause 7) shall indemnify and hold harmless the Lessor against all costs, expenses, payments, charges, losses, demands, any liabilities, claims, actions, proceedings (whether civil or criminal) penalties, fines, damages, judgments, orders or other sanctions which may be incurred by, or made or asserted against the Lessee by reason that the Ship shall have become a wreck or obstruction to navigation (including, without limitation) in respect of the removal or destruction of the wreck or obstruction under statutory powers but only to the extent that such has not been recovered from the Ship's insurers.

14 Loss, Damage, Requisition and Salvage

14.1 Risk

Throughout the Lease Period and until such time as the Ship is delivered to a purchaser the Lessee shall bear the full risk of:

14.1.1 any Total Loss of or any other damage to the Ship howsoever arising; and

14.1.2 subject to clause 6.1 any other occurrence of whatever kind which deprives the Lessee of the use, possession or enjoyment of the Ship.

14.2 Payments on Total Loss or Compulsory Acquisition

If the Ship becomes a Total Loss after the Delivery Date, on the Total Loss Payment Date the Lessee will pay to the Lessor the amounts pursuant to and determined in accordance with clause 18.4. Any Total Loss Proceeds or any Requisition Compensation actually and unconditionally received by the Lessor following a Total Loss or Compulsory Acquisition will be applied in accordance with clause 14.3.

14.3 Application of Total Loss Proceeds

All Net Total Loss Proceeds and Requisition Compensation received by the Lessor shall be retained in full by the Lessor and shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to nought point nought one per cent. (0.01%) of the Net Total Loss Proceeds;

SECOND: in payment to the Lessor of amounts equal to all or any part of the Termination Amount as at the date of the receipt by the Lessor of the Net Total Loss Proceeds which have not, on or before the date of application of the Net Total Loss Proceeds, been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

14.4 Payments to Lessee

Any payment to the Lessee under “FOURTH” of clause 14.3 shall be made reasonably promptly but in any event within five (5) Business Days following the date of actual and unconditional receipt by the Lessor of the Net Total Loss Proceeds and the determination by the Lessor of the application thereof in accordance with clause 14.3.

14.5 Continuation of Lease Period

Notwithstanding that the Ship has become a Total Loss, the Lessee shall continue to pay Rental under this Agreement until all sums due by the Lessee to the Lessor under clause 14.2 have been paid in full. The Lease Period will end on the date on which all sums due under clause 14.2 have been paid provided however that if the Net Total Loss Proceeds are insufficient to satisfy the amounts to be retained by the Lessor pursuant to the applications in “FIRST”, “SECOND” and “THIRD” set out in clause 14.3, the provisions of clause 5.3 shall apply.

14.6 Damage claims

Moneys, other than Total Loss Proceeds, received by the Lessor in respect of claims for repairable damage to the Ship shall be applied in the manner described in clause 13.4.2(b).

14.7 Sale of Ship after Total Loss

If the insurers of the Ship have:

14.7.1 satisfied or admitted in full their obligations under the Insurances; and

14.7.2 waived any rights they have in the Ship,

the Lessor shall as soon as practicable after the Total Loss Payment Date use all reasonable endeavours to sell the Ship and such sale shall, save for the foregoing obligation as to timing, be concluded in accordance with the provisions of clause 2.9.

14.8 Abandonment

14.8.1 If no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee has the sole right to determine whether or not a case has arisen for the giving of notice of abandonment to abandon the Ship to the insurers and/or claim a constructive Total Loss.

14.8.2 The Lessor authorises the Lessee to give such a notice if it so determines.

14.8.3 The Lessor will upon the request and at the cost of the Lessee promptly execute all such documents as may be required to enable the Lessee to abandon the Ship to the insurers and/or to claim a constructive Total Loss. The Lessor will give to the Lessee all reasonable assistance in processing such a claim Provided that any costs reasonably incurred by the Lessor pursuant to this clause 14.8.3 shall be reimbursed by the Lessee to the Lessor promptly following the Lessor’s demand.

14.9 Salvage and towage

All salvage and towage and all proceeds from derelicts will be for the benefit of the Lessee, subject to the prior right of the Lessor to retain from those proceeds any sums due and payable to it under this Agreement, and the cost of repairing any damage occasioned in the course of salvage or towage shall be borne by the Lessee.

14.10 Requisition for hire of the Ship

If the Ship is requisitioned for hire by any governmental or other competent authority during the Lease Period then, if and only for so long as such requisition for hire does not constitute a Compulsory Acquisition:

- 14.10.1 the leasing of the Ship under this Agreement shall continue (subject always to the provisions of clauses 17 and 18) for the remainder of the Lease Period and the Lessee shall remain fully responsible for the due compliance with all its obligations under this Agreement other than such obligations which the Lessee is unable to comply with by virtue of such requisition;
- 14.10.2 if no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee shall be entitled during the Lease Period as between the Lessor and the Lessee to all requisition hire paid to the Lessor or to the Lessee by such governmental or other competent authority or by any person acting by the authority of the same on account of such requisition, but subject always to any right of set-off which the Lessor may have in respect of amounts due and unpaid under the terms of this Agreement and the other Lease Documents;
- 14.10.3 as soon as practicable after the end of any requisition for hire, and whether that requisition shall end during or after the expiry or termination of the Lease Period, the Lessee shall cause the Ship to be put into the condition required by this Agreement;
- 14.10.4 the Lessor shall be entitled to all compensation payable by the relevant governmental or other competent authority, or by any person acting by the authority of the same, in respect of any change in the structure, state or condition of the Ship arising during the period of requisition for hire (and such compensation shall be paid to the Lessee by way of rebate of Rental unless a Termination Event or Mandatory Prepayment Event shall have occurred and be continuing in which event the Lessor shall be entitled to apply such compensation in or towards discharge of any and all amounts which are then owing to the Lessor under any of the Lease Documents or any of the other Transaction Documents); and
- 14.10.5 should the Ship be under requisition for hire at the end of the Lease Period:
 - (a) the leasing of the Ship under this Agreement shall nevertheless be terminated at the end of the Lease Period (unless otherwise agreed between the Lessor and the Lessee) but without prejudice to the accrued rights of the parties including, without prejudice to the generality of the foregoing, the obligations of the Lessee under clause 15 (as modified by paragraph (b) below), and the Lessor shall (for so long as it remains the owner of the Ship) be entitled to receive and retain any requisition hire payable in respect of the period from the expiry or termination of the Lease Period it being agreed however that, subject to the Lessee having paid to the Lessor

in full all amounts due by it under the Transaction Documents and under the Sister Ship Transaction Documents and to the Lessor first having retained out of such requisition hire such amount as it certifies as representing its continuing costs of owning and managing the Ship (including Lessor's Management Time at the Lessor's Management Time Cost Rate), the Lessor shall upon the eventual sale of the Ship pay to the Lessee by way of rebate of Rental any remaining surplus amount of such requisition hire; and

- (b) without prejudice to clause 14.10.3 the Lessee shall, if it is prevented by reason of the requisition for hire from re-delivering the Ship under clause 15, be relieved from its obligations so to do, but shall consult with the Lessor as to the most convenient method of enabling the Lessor to obtain redelivery of the Ship when the Ship is released from such requisition.

The Lessor shall be under no obligation to provide to the Lessee, or to any other person, any replacement for the Ship or any part thereof should the Ship or any part thereof be lost, damaged, the subject of Compulsory Acquisition, seized, or requisitioned for hire or use, nor shall the Lessor have any liability or responsibility whatsoever in respect thereof (unless and to the extent that the same results from any Lessor Breach).

15 Redelivery

15.1 Redelivery procedure

- 15.1.1 As soon as reasonably practicable following the termination of the leasing of the Ship under this Agreement (other than pursuant to clause 14.5), or upon the ending of the Lease Period by effluxion of time, the Lessee at its own expense shall redeliver the Ship to the Lessor safely afloat in accordance with this clause 15 (but subject to the rights of the Time Charterer) and in any event before the fifth anniversary of Delivery.
- 15.1.2 Upon the ending of the Lease Period by effluxion of time or upon the termination of the leasing of the Ship under this Agreement (other than a termination pursuant to clause 14.5 or any termination where the Lessee is not acting as sales agent of the Lessor) the Lessee, at its own expense, shall deliver the Ship safely afloat to a purchaser of the Ship who satisfies the requirements of clause 2.7 at such location (including without limitation, at sea) as shall be mutually agreed between the Lessee (as agent of the Lessor) and the purchaser upon completion of the sale of the Ship in accordance with clause 2.7 (and such delivery by the Lessee shall be deemed to have satisfied the obligation of the Lessee to redeliver the Ship to the Lessor) and subject to the rights of the Time Charterer.
- 15.1.3 Upon the termination of the leasing of the Ship under this Agreement where the Lessee is not acting as sales agent of the Lessor, the Lessee, at its own expense, shall redeliver the Ship safely afloat to the Lessor at a safe port worldwide to be designated by the Lessor acting reasonably and bearing in mind the location and trading pattern of the Ship as at the time of any required redelivery.

15.2 Redelivery condition

The Lessee shall ensure that on any redelivery of the Ship to the Lessor in accordance with clause 15.1.3 above and on any deemed redelivery to the Lessor in accordance with clause 15.1.2 above where the purchaser of the Ship so requires:

- 15.2.1 the Ship shall be in class free of conditions not complied with in accordance with their terms and overdue recommendations affecting the Ship's class;

- 15.2.2 the Ship shall be in no worse structure, state and condition as at Delivery (fair wear and tear alone excepted) and have installed the machinery and equipment installed thereon at Delivery or replacements or substitutions therefor made in accordance with the terms of this Agreement;
- 15.2.3 the last consignment of containers carried on board the Ship shall have been unloaded;
- 15.2.4 the Ship shall be free of Security Interests other than any Lessor's Security Interest; and
- 15.2.5 the Ship shall be free of any charter or other contract of employment or affreightment other than the Time Charter in circumstances where the Time Charterer's rights under the QEL are subsisting.

The Lessee shall further ensure that, prior to re-delivery, all arrears of wages of the Master and crew of the Ship are fully paid.

15.3 Redelivery survey

- 15.3.1 In case only of redelivery of the Ship consequent upon termination of the Lease Period where the Lessee is not acting as sales agent or upon the expiry of the Lessee's sales agency rights pursuant to clauses 2.8.2 or 2.8.3, at or about the time of redelivery, a survey shall be made to determine the state and condition of the Ship, unless the Lessor agrees that no such survey is required or the Ship is to be sold.
- 15.3.2 The Lessee and the Lessor shall each appoint surveyors to be present at such survey and the surveyors present shall determine the state and condition of the Ship and shall identify the repairs or work necessary to place the Ship at the date of redelivery in the class and the structure, state and condition referred to in clause 15.2.
- 15.3.3 The surveyors referred to in clause 15.3.2 shall both be acting as experts, not arbitrators and, in case of disagreement, the matter shall be resolved pursuant to clause 29.
- 15.3.4 All proper costs occasioned by any such survey including the costs of the said surveyors appointed by the Lessee and the Lessor and, if appointed, the cost of the senior surveyor of the Ship's Classification Society shall be payable by the Lessee.

15.4 Consumable stores

All consumable stores, unused lubricating oils and bunkers on board the Ship at the time of redelivery shall be purchased by the Lessor from the Lessee and sold by the Lessor to the purchaser of the Ship. The price payable by the Lessor to the Lessee pursuant to this clause 15.4 will be the same as the price received at the same time by the Lessor from the purchaser of the Ship for those items.

15.5 Continuing performance of obligations

From the end of the Lease Period until the Ship has been sold in accordance with clause 2, the Lessee shall, at no cost to the Lessor, but subject to the Lessor permitting the Lessee continued possession of the Ship, continue to perform all its obligations under this Agreement other than its obligations to pay Rental and, in particular, it shall continue to perform its undertakings under clauses 9 to 14.

15.6 Ship's Software Licences on Redelivery

The Lessor shall be entitled to require that the Lessee grant or procure the grant (to the extent reasonably achievable) in favour of the Lessor or, as the Lessor may stipulate, a purchaser for or subsequent charterer of the Ship a licence to use all Ship's Software which may be necessary or desirable to be used for the maintenance and operation of the Ship, provided that this requirement shall not apply to (i) obsolete software which has been replaced by alternative or updated software or (ii) other software which the Lessee may satisfy the Lessor (acting reasonably) was not in use regularly during the last voyage or engagement of the Ship prior to redelivery and which is no longer required or desirable for the safe or efficient operation of the Ship.

16 Standby Lender Review and Standby Loan Transaction**16.1 Review**

- 16.1.1 During the Standby Lender Review Period, the Lessor shall procure that the Standby Lender carries out a review of (i) the creditworthiness of the Lessee and the Guarantor and, (ii) the security value of the Ship as at such time in order for the Standby Lender to determine in its sole and absolute discretion whether it is prepared to enter into the Standby Loan Transaction upon the expiry of the Lease Period.
- 16.1.2 Such Standby Lender Review shall be carried out by the Standby Lender:
- (a) in good faith;
 - (b) in accordance with its then current procedure for reviewing the creditworthiness of its customers of similar standing as the Lessee and the Guarantor; and
 - (c) applying its then current general credit criteria and the same criteria in the same manner as the Lessor would apply to the assessment of the creditworthiness of its customers of similar standing as the Lessee and the Guarantor.
- 16.1.3 Following the Standby Lender Review, the Standby Lender shall determine in its sole and absolute discretion whether or not it is able to enter into the Standby Loan Transaction and the Lessor shall notify the Lessee as soon as possible after the Standby Lender has conducted its review and reached its conclusions (and in any event such notification to be given by the Review Notification Date).
- 16.1.4 The Lessee acknowledges that neither the Lessor nor the Standby Lender shall be obliged to reveal any details of the credit procedure or the criteria applied (as referred to in clauses 16.1.2(b) and (c) above) or the reasons for the decision made by the Standby Lessor under this clause 16.1 but if the Lessor notifies the Lessee that the Standby Lender Review has not been satisfactory, the Lessor agrees to enclose with such notification a certificate signed by a director of the Lessor to the effect that the Standby Lender Review has been carried out by the Standby Lender in accordance with clause 16.1.2.

16.2 Standby Loan Transaction

In the event that the Lessor notifies the Lessee pursuant to clause 16.1.3 that the Standby Lender is willing to enter into the Standby Loan Transaction, and the Lessee notifies the Lessor in writing within fourteen (14) Business Days of the Review Notification Date that it wishes to enter into the Standby Loan Transaction (each of which notifications must be given in respect of the Ship and all of the Sister Ships, but not some only), and subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction for the Ship on the Lease Period End Date.

17 Termination, Mandatory Prepayment and Further Novation Events

17.1 Termination Events

The Lessor and the Lessee agree that it is a fundamental term and condition of this Agreement that none of the following events shall occur during the Construction Period or the Lease Period and that the occurrence of any of the following events shall constitute a repudiatory breach of this Agreement and shall be a Termination Event for the purpose of this Agreement, whether it occurs during the Construction Period or the Lease Period:

- 17.1.1 any instalment of Rental or any other sum payable to the Lessor under this Agreement or under any of the other Lease Documents is not paid when due in accordance with the terms of the applicable document (and in the case of a sum payable on a due date, remains unpaid for three (3) Business Days after the due date for payment thereof and in the case of a sum payable on demand, remains unpaid for five (5) Business Days after the date of service by the Lessor of a written demand for payment thereof);
- 17.1.2 any of the Insurances required to be placed and maintained in clause 13 are placed or renewed on terms which do not comply with the provisions of clause 13;
- 17.1.3 at any time, any of the Insurances required to be maintained under clause 13 either lapse before the time of scheduled renewal without being renewed within three (3) days of so lapsing in accordance with the requirements of clause 13 or are cancelled or rendered invalid, void or unenforceable or any sums recovered under any of such Insurances are or become repayable in whole or in part;
- 17.1.4 the Guarantor fails to comply with its obligations under clause 5.3 of its Guarantee;
- 17.1.5 any Transaction Company fails to comply with any other term or condition of this Agreement or any other Transaction Document and:
 - (a) that failure would or may be likely, in the reasonable opinion of the Lessor, to have a material adverse effect on the rights of the Lessor under the Lease Documents or the ability of the relevant Transaction Company to perform any of its obligations under the Transaction Documents; and
 - (b) if such failure is remediable then, within thirty (30) days (or such longer period as the Lessor may specify or agree) after receipt by the Lessee of a written notification from the Lessor of that failure, the relevant Transaction Company shall have failed to remedy that failure;
- 17.1.6 any representation or warranty made by any Transaction Company in any of the Transaction Documents is or proves to have been incorrect in any material respect when made and, in case such incorrectness is remediable, within thirty (30) days after receipt by

the Lessee of a written notification from the Lessor of such failure (or such longer period as the Lessor may specify or agree) the relevant Transaction Company shall have failed to remedy it;

- 17.1.7 any of the following occurs in relation to any Financial Indebtedness of any of the Guarantor, the Lessee or (at any time prior to Delivery) the Replacement Purchaser which is owed to any Lessor Group Member (herein, “**BOS Financial Indebtedness**”), and would have, or is reasonably likely to have, a material adverse effect on the Lessee’s ability to perform under this Agreement and/or the Guarantor’s ability to perform under the Guarantee:
- (a) any BOS Financial Indebtedness of any such person is accelerated following an event of default and not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Security Interest securing any BOS Financial Indebtedness of any such person becomes enforceable;
- 17.1.8 any of the following occurs in relation to (i) any Financial Indebtedness where the principal amount then outstanding or capable of becoming due thereunder (or for which the Guarantor is otherwise liable) exceeds in aggregate \$25,000,000 in the case of a Guarantor or (ii) any Financial Indebtedness of the Lessee or (at any time prior to Delivery) the Replacement Purchaser:
- (a) any Financial Indebtedness of any such person is not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Financial Indebtedness of any such person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (c) a lease, hire purchase agreement or charter creating any Financial Indebtedness of any such person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any event of default, howsoever described; or
 - (d) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of any such person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (e) any Security Interest securing any Financial Indebtedness of any such person becomes enforceable;
- 17.1.9 any of the following occurs in relation to the Lessee or any Transaction Company (other than, following Delivery, the Replacement Purchaser):
- (a) it becomes unable to pay its debts as they fall due within the meaning of section 123(1)(e) of the Insolvency Act 1986;

- (b) a winding-up or administration order is made, provided however that, in case only of an order for winding-up, the occurrence of such event shall not constitute a Termination Event if such winding-up has commenced as part of a process of a fully-solvent reorganisation, previously approved by the Lessor, which shall not affect either the timing or amount of any amount payable under this Agreement or any other Transaction Document to the Lessor or the ability of the relevant Transaction Company to perform all its obligations, or the Lessor's ability to exercise its rights, under this Agreement or any of the other Transaction Documents;
- (c) an administrative or other receiver, trustee or liquidator is appointed over all or a part of the assets of the relevant Transaction Company; or
- (d) a petition for the winding-up of the relevant Transaction Company is presented or an application is made for an administration order in relation to the relevant Transaction Company (pursuant to Section 9 of the Insolvency Act 1986) if such petition or application is not withdrawn, discharged or dismissed within thirty (30) days or is not otherwise being contested in good faith by appropriate proceedings;
- (e) the relevant Transaction Company makes, proposes or otherwise threatens an arrangement for the benefit of all or any class of its creditors or an arrangement or composition with or for the benefit of all or any class of its creditors or convenes a meeting with all or any class of its creditors with a view to a composition or arrangement for the benefit of its creditors generally; or
- (f) the relevant Transaction Company ceases or suspends or threatens in writing to cease or suspend to carry on its business;

17.1.10 any litigation, arbitration or administrative action or proceeding is commenced against any Transaction Company (other than, following Delivery, the Replacement Purchaser) or any of its property, undertakings or assets before any court, arbitrator or administrative agency or authority which, if adversely determined, would, or would be reasonably likely to have, a material adverse effect on the financial condition or business or operations of the relevant Transaction Company and, in each case, on its ability to perform its obligations under the Transaction Documents unless:

- (a) the relevant Transaction Company demonstrates in writing to the Lessor (who shall act reasonably in considering such matters) to the Lessor's satisfaction, that such litigation, arbitration or administrative action or proceeding is or may reasonably be considered to be vexatious or frivolous or is unlikely to be adversely determined; or
- (b) it is dismissed or irrevocably stayed within sixty (60) days of commencement;

17.1.11 any event or circumstance occurs as referred to in clause 17.1.9 in relation to any Transaction Company (other than, following Delivery, the Replacement Purchaser) in any jurisdiction other than England and Wales;

17.1.12 any Transaction Company (other than, following Delivery, the Replacement Purchaser) ceases or suspends carrying on its business or a part of its business which, in the reasonable opinion of the Lessor, is or may be likely to be material in the context of this Agreement;

- 17.1.13 the Guarantor transfers or disposes of, or threatens in writing to transfer or dispose of, a substantial part of its business (otherwise than in the normal course of business or for full consideration in money or money's worth);
- 17.1.14 the Guarantee shall for any reason not be in full force and effect or shall be declared to be null and void, or (as applicable) the Guarantor shall contest the validity or enforceability of the Guarantee in writing or deny in writing that it has any further liability under the Guarantee;
- 17.1.15 any Transaction Company repudiates in writing any material provision of a Transaction Document (other than the Time Charter) to which it is a party, or gives notice in writing of its intention to do so;
- 17.1.16 without the Lessor's prior written consent, either of the Lessee or (at any time prior to Delivery) the Replacement Purchaser ceases to be owned (whether directly or indirectly) by the Guarantor;
- 17.1.17 any condition precedent stipulated in clauses 3.1 to 3.3 is waived on a temporary basis and is not fulfilled to the satisfaction of the Lessor by the time stipulated in such waiver;
- 17.1.18 the Ship is subject to any form of execution, attachment, arrest, sequestration or distress, except in relation to a Permitted Security Interest created by the Lessor or a Lessor Security Interest and the Lessee fails to procure the release of the Ship within sixty (60) days, or such longer period to which the Lessor may agree unless such event is covered by the Insurances in which case the relevant period is the period covered by such insurances;
- 17.1.19 after Delivery the registration of the Ship is cancelled or terminated otherwise than in accordance with the terms of this Agreement or as a consequence of any act or omission of the Lessee or any other Transaction Company and is not re-instated within fifteen (15) days after the receipt by the Lessee of a written notification from the Lessor regarding remedy of that breach; or
- 17.1.20 a Termination Event occurs and is continuing under any of the Sister Ship Lease Agreements.

17.2 Mandatory Prepayment Events

Each of the following shall be a Mandatory Prepayment Event for the purpose of this Agreement:

- 17.2.1 any of the Transaction Documents (other than the Time Charter) or any provision thereof (i) for any reason is not or ceases to be in full force and effect other than in accordance with its terms or (ii) is declared null and void or (iii) any of the parties to a Transaction Document (other than the Time Charter) shall contest the validity or enforceability of any Transaction Document (other than the Time Charter) or repudiates in writing any Transaction Document (other than the Time Charter) or any of its obligations thereunder or gives notice in writing of its intention to do so;
- 17.2.2 any consent necessary to enable any Transaction Company to comply with any provision of a Transaction Document (other than the Time Charter) is not granted, expires without being renewed or is revoked and that failure (in the sole opinion of the Lessor, acting in good faith) would have a material adverse effect on the rights of the Lessor under the Transaction Documents (other than the Time Charter) or the ability of any Transaction

Company to perform its material obligations under the Transaction Documents (other than the Time Charter) and the Lessee and the Lessor have negotiated in good faith for a period of thirty (30) days to agree an alternative means to continue the transaction contemplated by this Agreement and have been unable to do so;

17.2.3 there shall occur an Environmental Incident in circumstances where the Lessor believes, acting reasonably, that the Lessor is or will be held to be liable to third parties as a result thereof and either (i) such liability will or could, in the reasonable opinion of the Lessor, reasonably be expected to exceed the limit of the Ship's protection and indemnity insurance, or (ii) the Ship's protection and indemnity insurers have disclaimed or notified in writing an intention to disclaim liability as regards the Lessor;

17.2.4 there occurs a Change of Law or other change of circumstances which will result in the Lessor incurring:

- (a) a liability arising out of its ownership of the Ship which it does not have as at the date of this Agreement; or
- (b) an increase in liability arising out of its ownership of the Ship over and above that liability which it has as at the date of this Agreement,

which liability or increase in liability does not entitle the Lessor to increase the Rental pursuant to the Financial Schedule and is material in the context of the Lessor's maximum existing liabilities arising out of its ownership of the Ship from time to time prior to the date of that Change of Law or other change of circumstances and where, in either case, following consultation with the Lessee as to such liability or increased liability and the matters referred to below:

- (i) the Lessor and the Lessee have endeavoured to mitigate or eliminate that liability or increased liability and have failed to do so prior to commencement of the applicable Change of Law; and
- (ii) that liability or increased liability is not covered by insurance or other security which is, in the opinion of the Lessor acting reasonably, satisfactory having regard to the amount of that liability or increased liability; and
- (iii) that liability or potential liability is not removed or terminated by the Lessee moving the Ship to, and if necessary keeping the Ship in, a location or locations where that liability or increased liability would not be incurred or ensuring that the Ship does not enter into any location where that liability or increased liability would be incurred; or

17.2.5 there occurs a Change of Law as a result of which it becomes unlawful for (a) the Lessor to own and/or lease the Ship and/or continue to exercise its rights and/or perform its obligations under any Transaction Document or (b) any Transaction Company to continue to exercise its rights and/or perform its obligations under any Transaction Document (other than the Time Charter).

17.3 Further Novation Events

Each of the following shall be a Further Novation Event for the purpose of this Agreement:

17.3.1 any Termination Event or Mandatory Prepayment Event occurs prior to the Delivery Date;

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- 17.3.2 the Delivery Date does not occur on or before the Commitment Expiry Date;
- 17.3.3 if (a) the Ship is rejected by the Lessor upon the request of the Supervisor or (b) the Novated Building Contract is terminated or rescinded for any reason or becomes capable of immediate termination or rescission in accordance with article VIII thereof or (c) consequent upon a total loss of the Ship as envisaged by article XVII of the Novated Building Contract unless the Lessor is satisfied in its reasonable opinion that the Ship can be rebuilt in accordance with the specification by the Commitment Expiry Date or (d) the Builder becomes entitled to terminate or rescind the Novated Building Contract or the Builder purports to rescind or terminate the Novated Building Contract under article XI thereof;
- 17.3.4 the Lessee fails to pay when due any Contribution Payment due to the Lessor under clause 3.10 of this Agreement;
- 17.3.5 prior to the Delivery Date the Builder makes a claim against the Lessor under the Novated Building Contract (unless the claim arises as a result of Lessor Misconduct) and:
- (a) such claim is not settled in a manner acceptable to the Lessor acting reasonably on the earlier of the Delivery Date and the date falling thirty (30) days after the making of that claim; and
 - (b) the Lessor is not secured to its reasonable satisfaction in respect of any Loss it may suffer as a direct result of that claim;
- 17.3.6 prior to the Delivery Date the Supervisor commences proceedings against the Builder under the Novated Building Contract and the Lessor has not given its consent to such proceedings pursuant to clause 4.9 of the Supervision Agreement;
- 17.3.7 the Supervisor is in breach of any of its obligations to the Lessor pursuant to the Supervision Agreement or the Supervisor is otherwise acting outside the scope of its authority under the Supervision Agreement in a manner materially detrimental to the rights and interests of the Lessor;
- 17.3.8 the Refund Guarantor fails to comply with any of its obligations under the Refund Guarantee; or
- 17.3.9 the conditions precedent to the Lessor's obligation to make payment of any Instalment or to Delivery are not fulfilled or waived and such failure has, or in the reasonable opinion of the Lessor, is reasonably likely to have a material adverse effect upon the Lessor, or its rights and/or obligations and liabilities in respect of the Ship or under this Agreement and the other Transaction Documents.

18 Lessor's Rights on a Termination Event, Mandatory Prepayment Event or Further Novation Event

18.1 Termination rights

On, or at any time after the repudiation of this Agreement by the Lessee, including the occurrence of any Termination Event (and provided that the same is continuing), the Lessor may by notice to the Lessee, (i) if such repudiation or Termination Event occurs after the Delivery Date, accept such repudiation by the Lessee of this Agreement and shall terminate the Lease Period or (ii) if such repudiation or Termination Event occurs prior to

Delivery, may accept its entitlement to terminate its obligation to acquire and lease the Ship to the Lessee pursuant to this Agreement, and immediately, or on such date as the Lessor shall specify, may terminate its obligation to lease the Ship to the Lessee (whereupon the provision of clause 18.3.2 shall apply).

18.2 Mandatory prepayment

On or at any time after the Delivery Date following the occurrence of a Mandatory Prepayment Event (and provided that the same is continuing):

- 18.2.1 the Lessor may notify the Lessee that the Lessor has elected to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.5 but without reference to a notice period; and
- 18.2.2 on the applicable Lease Termination Date, the Lessee will pay to the Lessor the amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4 as at the required date of that payment; and
- 18.2.3 with effect on and from the date of the payment by the Lessee of all amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's obligations pursuant to the Financial Schedule; and
- 18.2.4 notwithstanding anything else to the contrary in this Agreement, the Lease Period will continue until and end on the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 18.6.

18.3 Further Novation

- 18.3.1 At any time after the occurrence of a Further Novation Event (other than a Termination Event) or at any time after the occurrence of a Mandatory Prepayment Event which occurs before the Delivery Date and in each case whilst such event is continuing:
 - (a) the Lessor may by notice to the Lessee elect (prior to the Delivery Date) to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.2 but without reference to a notice period; and
 - (b) if the Lessor makes an election under paragraph (a) above, the Lessor shall, as contemplated by clause 2.3, give notice to the Replacement Purchaser under clause 6.1 of the Novation Agreement and to the Refund Guarantor pursuant to the Refund Guarantee.
- 18.3.2 On or at any time following the occurrence of a Termination Event which occurs before the Delivery Date and whilst it is continuing, if the Lessor elects to exercise its rights under clause 18.1 following the occurrence of such Termination Event the Lessor shall, as contemplated by clause 2.3, give a notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

18.4 Payments on the Termination Date after the occurrence of a Termination Event, Mandatory Prepayment Event, Further Novation Event or a Total Loss

- 18.4.1 In the event that:
 - (a) the Lessor has become entitled to treat this Agreement as having been repudiated and the obligation of the Lessor to acquire and lease the Ship to the Lessee or, as the case may be, the Lease Period shall have terminated pursuant to clause 18.1; or

- (b) a Mandatory Prepayment Event shall have occurred after Delivery and the Lessor has issued a notice to the Lessee pursuant to clause 18.2.1; or
- (c) a Mandatory Prepayment Event shall have occurred prior to Delivery or a Further Novation Event shall have occurred and the Lessor has issued a notice to the Lessee pursuant to clause 18.3.1(a); or
- (d) a Total Loss of the Ship shall have occurred after Delivery,

the Lessee will be liable to pay to the Lessor, on the applicable Termination Date or, as the case may be, the Total Loss Payment Date:

- (i) an amount equal to the aggregate of:
 - (A) any amounts of Rental, any Broken Funding Costs and other moneys then due and payable under any of the Lease Documents or any of the other Transaction Documents; and
 - (B) the amount of any Losses in respect of which the Lessee agreed to indemnify the Lessor pursuant to clause 7.4 (but, for the avoidance of doubt, not including any loss of profit) incurred by the Lessor in connection with that termination which are unpaid; and
- (ii) by way of agreed compensation and not as a penalty, the amount of the Termination Amount as at the date of that termination.

18.4.2 The Lessor agrees with the Lessee that in circumstances where the obligation to lease Ship has terminated or, as the case may be, where the Lease Period has terminated and in each case the Lessor has received payment in full of all amounts owing to the Lessor under any of the other Lease Documents in cleared funds and without conditions attached, if the amounts received by the Lessor exceed the total of all the amounts owed to the Lessor, the Lessor shall pay an amount equal to the excess to the Lessee by way of a rebate of Rental.

18.5 Lessor's rights to retake possession

On or at any time after the Termination Date following (i) a termination of the Lease Period pursuant to clause 18.1 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (ii) the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (iii) where the Lessee was appointed as sales agent pursuant to clause 2.8.1 but such appointment is terminated pursuant to clause 2.8.3, following the termination of the Lessee's appointment as sales agent; in each case the Lessor shall (as between the Lessor and the Lessee) be entitled to retake possession of the Ship in accordance with the provisions of clause 15.2. The Lessee agrees that the Lessor, for that purpose only, may put into force and exercise all its rights and entitlements at law and may enter upon any premises belonging to or in the occupation or under the control of the Lessee where the Ship is located.

18.6 Sale of the Ship following the Termination Date

At any time following termination of the Lease Period pursuant to clause 18.1 or following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 and following any other Termination Date in circumstances where the Lessor has become entitled to retake possession of the Ship in accordance with clause 18.5, the Lessor, (provided it is not prevented by law from doing so), shall use reasonable endeavours to sell the Ship. The Lessor will notify the Lessee as soon as reasonably practicable of any proposed sale or auction of the Ship by it and of the terms of that sale.

18.7 Application of payments on sale or further renovation

18.7.1 In the event of a sale of the Ship following a termination pursuant to clause 18.1 after Delivery, the Net Sale Proceeds will be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.2 In the event of a sale of the Ship following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 after Delivery, the Net Sale Proceeds shall be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.3 In the event of the renovation by the Lessor of its rights and obligations under the Novated Building Contract to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement following the occurrence of (i) a Further Novation Event, or (ii) a Mandatory Prepayment Event prior to Delivery or (iii) a Termination Event prior to Delivery, any moneys received from the Replacement Purchaser pursuant to clause 6.3 of the Novation Agreement or from the Refund Guarantor pursuant to the Refund Guarantee (either before or after such renovation) or from the Builder pursuant to the Novated Building Contract (either before or after such renovation) shall be applied by the Lessor in accordance with clause 2.10 as if those moneys were Net Sale Proceeds.

18.8 Continuation of obligations and storage until sale

Following termination of the Lease Period pursuant to clause 18.1 or 18.2 the Lessee will:

18.8.1 continue to comply with its obligations under this Agreement until the earlier of the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 or the date on which the Ship is redelivered to the Lessor in accordance with clause 15; and

18.8.2 pay, or reimburse, to the Lessor on demand all Losses suffered by the Lessor in connection with recovering possession of and in moving, storing, insuring and maintaining the Ship and in carrying out any works or modifications required to cause the Ship to conform with the provisions of clause 15.2 until such time as the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8.

18.9 Failure to perform insurance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 13, the Lessor, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event:

18.9.1 following notification to the Lessee, may effect and thereafter maintain all such Insurances as the Lessor in its sole discretion may think fit in order to procure compliance with such provisions; or

18.9.2 alternatively, at the Lessee's risk, may require the Ship to remain in, or to proceed to and remain in, a port designated by the Lessor until such provisions are fully complied with.

18.10 Failure to perform maintenance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 10, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within fifteen (15) days after receipt of that notification, arrange for the carrying out of such repairs, changes or surveys as are required in order to procure compliance with such provisions.

18.11 Failure to protect Lessor's rights

If the Lessee fails to comply with any of its material obligations pursuant to clause 12.8, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within 15 days after receipt of that notification, take any such measures as may be required for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.12 Failure to Prevent or Release from Arrest

If the Lessee fails to comply with any of the provisions of clause 10.8, the Lessor without being in any way obliged to do so, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, may, pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.13 Costs of Remedying Defaults

Without prejudice to the Lessor's rights under each of clauses 7.1, 7.2, 7.3 and 7.4, all Losses of whatsoever nature (including without limitation, Taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Lessor in connection with the exercise by the Lessor of any of its powers under clauses 18.9, 18.10, 18.11, and/or, as the case may be, 18.12 and interest on all such Losses from the date on which the same were suffered, incurred or paid by the Lessor until the date of receipt or recovery thereof (both before and after any relevant judgment) at the Default Rate shall be repayable by the Lessee to the Lessor on demand.

19 Representations and Warranties

19.1 General

The Lessee represents and warrants to the Lessor as follows:

19.2 Status

The Lessee is duly incorporated and validly existing under the laws of the Marshall Islands.

19.3 Share capital and ownership

The Lessee is a wholly-owned direct Subsidiary of the Guarantor.

19.4 Corporate powers

The Lessee has the corporate capacity, and has taken all corporate action and obtained all consents, if any, necessary for it:

19.4.1 to execute this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party; and

19.4.2 to make all the payments and perform all the obligations contemplated by, and to comply with this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party.

19.5 Consents in force

All the consents referred to in clause 19.4 remain in force and nothing has occurred which makes any of them liable to revocation.

19.6 Legal validity

The Lease Documents and the Transaction Documents to which the Lessee is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration) constitute the Lessee's legal, valid and binding obligations enforceable against the Lessee in accordance with their respective terms.

19.7 No conflicts

The execution by the Lessee of each Lease Document and each Transaction Document to which it is or is to be a party and its compliance with each Lease Document and each Transaction Document to which it is or is to be a party will not involve or lead to a contravention in any material respect of:

19.7.1 any law or regulation; or

19.7.2 the Bye-laws and Articles of Incorporation of the Lessee; or

19.7.3 any contractual or other obligation or restriction which is binding on the Lessee or any of its assets.

19.8 No Relevant Events

No Relevant Event has, to the Lessee's knowledge, occurred and is continuing.

19.9 No litigation

Except as disclosed to the Lessor in writing, and to the best of the Lessee's knowledge and belief, no legal or administrative action involving the Lessee has been commenced or taken which is likely to have a material adverse effect on the ability of the Lessee to perform its obligations under this Agreement.

19.10 Free of Security Interests

Other than Permitted Security Interests, the Novated Building Contract is and, at the Delivery Date, the Ship and the Insurances will be free from all Security Interests.

19.11 Completeness of Transaction Documents

The copy of each Transaction Document delivered to the Lessor before the date of this Agreement is a true and complete copy and, no amendments or additions to any Transaction Document have been agreed nor have the parties to any Transaction Document waived any of their respective rights under the Transaction Documents.

19.12 Compliance with certain undertakings

At the date of this Agreement, the Lessee is in compliance with clause 20.1.

19.13 Taxes paid

The Lessee has paid all Taxes applicable to, or imposed on or in relation to the Lessee and its business.

19.14 Information

To the best knowledge and belief of the Lessee:

19.14.1 all information which has been provided in writing to the Lessor by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement and any other Transaction Document is true and not misleading and does not omit any material fact or consideration taking into account the circumstances in which the information was provided; and

19.14.2 copies of all relevant documents supplied to the Lessor in relation to this Agreement, the other Transaction Documents and transactions contemplated thereby are true and complete copies of the originals of such documents.

19.15 Absence of withholding taxes

All payments to the Lessor by the Lessee under the Lease Documents may be made in full, free of any deduction or withholding in respect of Tax.

19.16 No Stamp Taxes

There are no stamp, documentary, registration or other like duties or Taxes imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents other than in respect of Slavenburg registrations at Companies House in England and Wales.

19.17 Filings

All registrations or filings required in connection with the enforceability of any Transaction Documents against the Lessee have been made or will be made within any applicable required period and (if applicable) the Lessee shall promptly file particulars of any Security Interest it grants or creates under the Transaction Documents in its Register of Mortgages and Charges.

19.18 Pari Passu

The obligations of the Lessee under the Transaction Documents to which it is a party rank pari passu with all other unsecured indebtedness of the Lessee, other than indebtedness mandatorily preferred by law.

19.19 Choice of law

The choice by the Lessee of English law to govern the Lease Documents and its submission to the jurisdiction of the English courts as contemplated in each of the Lease Documents are valid and enforceable.

19.20 Ship's condition at Delivery

In relation only to Delivery, the Ship will then comply with all requirements of this Agreement including as to its ownership, condition, insurance, class and employment.

19.21 No Money Laundering

In relation to the performance and discharge of its respective obligations and liabilities under this Agreement and the other Transaction Documents, the Lessee confirms that it is acting for its own account and that the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities).

19.22 Reservations

The representations and warranties of the Lessee in this clause are subject to:

19.22.1 the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court;

19.22.2 the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting or limiting the rights of creditors;

19.22.3 the time-barring of claims under any applicable limitation acts;

19.22.4 the possibility that a court may strike out provisions for a contract as being invalid for reasons of oppression, undue influence or similar reasons; and

19.22.5 any other reservations or qualifications of law expressed in any legal opinions obtained by the Lessor in connection with the Lease Documents.

19.23 Inconsistency

To the extent of any inconsistency between warranties and declarations in any other Transaction Documents and those in this Agreement, those in this Agreement shall prevail.

20 General Undertakings

The Lessee undertakes with the Lessor to comply with the following provisions of this clause at all times until the end of the Lease Period except as the Lessor may otherwise permit.

20.1 Status

20.1.1 The Lessee will maintain its separate corporate existence as a corporation under the laws of the Marshall Islands.

20.1.2 The Lessee will not make a tonnage tax election for the purposes of section 82 of and Schedule 22 of the Finance Act 2000.

20.2 Information provided to be accurate

All financial and other information which is provided to the Lessor in writing by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement or any of the other Transaction Documents will be true and not misleading and will not omit any material fact or consideration.

20.3 Provision of financial statements

The Lessee will send, or procure that there be sent, to the Lessor no later than 90 days after the end of the first half of each financial year of each relevant company, in the case of unaudited financial statements, and no later than 180 days after the end of each financial year of each relevant company in the case of audited annual accounts:

20.3.1 unaudited consolidated financial statements in respect of the first half financial year of each Guarantor;

20.3.2 the unaudited annual accounts of the Lessee; and

20.3.3 the consolidated audited annual accounts of the Guarantor and its Subsidiaries.

20.4 Form of financial statements

All accounts (audited and unaudited) delivered under clause 20.3 will:

20.4.1 be prepared in accordance with all applicable laws and generally accepted accounting principles in the principal place of business of the company concerned (or, as the case may be, generally accepted accounting principles in the jurisdiction adopted by a company for the purposes of the preparation of its accounts), consistently applied;

20.4.2 give a true and fair view of the state of affairs of each such company at the date of those accounts and of its profit for the period to which those accounts relate; and

20.4.3 fully disclose or provide for all significant liabilities of each such company.

20.5 Consents

The Lessee will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Lessor of, all consents required:

20.5.1 for the Lessee to perform its obligations under any Transaction Document to which it is a party;

20.5.2 for the validity, enforceability, priority or admissibility in evidence of any such Transaction Document;
and the Lessee will comply with the terms of all such consents.

20.6 Maintenance of Security Interests

The Lessee will:

20.6.1 at its own cost, do and procure that each other Transaction Company will do, all that it reasonably can to ensure that any Transaction Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and

20.6.2 without limiting the generality of clause 20.6.1, at its own cost, promptly register, file, record or enrol any Transaction Document to which it is a party with any court or authority in all relevant jurisdictions, pay any stamp, registration or similar tax in all relevant jurisdictions in respect of any Transaction Document to which it is a party, give any notice or take any other step which, in the opinion of the Lessor, is or has become necessary or desirable for any Transaction Document to which it is a party to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

20.7 Notification of litigation

The Lessee will provide the Lessor with details of any legal or administrative action involving the Lessee, any other Transaction Company (other than, following Delivery, the Replacement Purchaser), the Ship or any Transaction Document to which it is a party promptly after it becomes aware that such action has been instituted or it becomes apparent to the Lessee that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of the Lease Documents.

20.8 Principal place of business

The Lessee will forthwith notify the Lessor if it has a place of business in any jurisdiction which would require a Lease Document to be registered, filed or recorded with any court or authority in that jurisdiction.

20.9 Confirmation of no default

The Lessee, within five (5) Business Days after service by the Lessor of a written request (such notices to be served no more frequently than is reasonable), will serve on the Lessor a notice which is signed by an authorised signatory of the Lessee and which:

20.9.1 states that no Relevant Event has occurred; or

20.9.2 states that no Relevant Event has occurred, except for any specified event or matter, of which all material details are given.

20.10 Notification of default

The Lessee will notify the Lessor as soon as the Lessee becomes aware of:

20.10.1 any adjustment to the Contractual Delivery Date;

20.10.2 the occurrence of any Relevant Event; and

20.10.3 any matter which indicates that any Relevant Event may have occurred, and will keep the Lessor fully up-to-date with all developments.

20.11 Pari passu

The Lessee will ensure that at all times its liabilities under this Agreement and the other Lease Documents to which it is a party rank at least pari passu in all respects with all its other unsecured liabilities from time to time (apart from liabilities mandatorily preferred by law).

20.12 Provision of information

The Lessee will provide or procure that there is provided to the Lessor, reasonably promptly, such information (i) with respect to the compliance by the Lessee with the terms of this Agreement and each of the other Transaction Documents to which the Lessee is party and (ii) with respect to the compliance by each of the other Transaction Companies with the terms of the other Transaction Documents to which they are respectively party, or (iii) with respect to the Ship, as the Lessor from time to time may reasonably request.

20.13 Negative undertakings

The Lessee will not:

20.13.1 carry on any business other than the leasing in and chartering out of the Ship and each Sister Ship and matters reasonably incidental thereto (as contemplated by the Transaction Documents); or

20.13.2 enter into any form of amalgamation, consolidation, merger or de-merger or any form of reconstruction or reorganisation; or

20.13.3 save by, or as permitted by, the Transaction Documents and the Sister Ship Transaction Documents, transfer, lease, charge or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation.

20.14 Title; negative pledge

The Lessee will:

20.14.1 not attempt or hold itself out as having any power to sell, transfer or otherwise dispose of or abandon the Ship or any shares or interest therein;

- 20.14.2 hold the legal title to, and own the entire beneficial interest in all its assets, free from all Security Interests and other interests and rights of every kind, except for those created by or contemplated to be created pursuant to any of the Transaction Documents and Sister Ship Transaction Documents and (in the case of the Ship and Sister Ships only) except for Permitted Security Interests; and
- 20.14.3 save as contemplated by the Transaction Documents and Sister Ship Transaction Documents, not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

20.15 No amendment to any Transaction Document

The Lessee will not agree or purport to agree and will procure that no other Transaction Company will agree or purport to agree to any amendment or supplement to, or variation of, or waive or fail to enforce, any Transaction Document to which the Lessee or, as the case may be, such other Transaction Company is a party, unless the Lessee, or as the case may be, the applicable Transaction Company acting reasonably considers that the amendment, supplement, variation, or waiver will not prevent the fulfilment by the Lessee or the other Transaction Companies of their respective obligations to the Lessor, and will not adversely affect any of the rights, interests, benefits, powers and remedies of the Lessor under the Lease Documents.

21 Assignments, transfers and sale of the Ship

21.1 Assignment and/or transfer by Lessor

The Lessor may assign all (but not part) of its rights and/or transfer all (but not part) of its obligations under this Agreement and the other Lease Documents together with a contemporaneous transfer of its rights, title and interests in the Ship:

- 21.1.1 without the prior consent of the Lessee where the assignment or transfer is to a Lessor Group Member which is resident in the United Kingdom for the purpose of the charge to corporation tax and which carries on the trade of leasing subject only to:

- (a) the Lessor giving the Lessee not less than thirty (30) days prior written notice of such assignments or transfer;
- (b) the Lessor Parent Support Letter being in full force and effect and, simultaneously with such assignment or transfer, extended or reissued to cover such assignee or transferee; and
- (c) the transferee for the time being remaining a Lessor Group Member; and

- 21.1.2 to the Replacement Purchaser in the circumstances contemplated by clause 18.3 of this Agreement and clause 7 of the Novation Agreement; and

- 21.1.3 to any other person after the occurrence of any Termination Event which is continuing; or

- 21.1.4 to any person other than those contemplated in clause 21.1.1 to 21.1.3 above with the prior written consent of the Lessee,

Provided that:

- (a) any transferee under this clause 21.1 shall assume all of the Lessor's obligations;
- (b) no costs, charges or expenses (including stamp duties payable in respect of any transfer) shall be payable by the Lessee; and
- (c) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessee under this Agreement and the other Transaction Documents to which the Lessor and Lessee are respectively party shall be calculated as if no such assignment or transfer had taken place.

21.2 Transfer by Lessee

Subject to no Relevant Event having occurred and then continuing, the Lessee may transfer all (but not part) of its rights and obligations under this Agreement and the other Transaction Documents:

21.2.1 to any other Guarantor Group Member without the prior written consent of the Lessor; or

21.2.2 to any other person (subject to clause 21.2.3 below) with the prior written consent of the Lessor.

21.2.3 Any intended transfer by the Lessee pursuant to clause 21.2.1 or 21.2.2 shall be subject to the further conditions that:

- (a) the Lessee shall give thirty (30) days prior written notice to the Lessor (or such shorter period as the Lessor may agree (acting reasonably)) of any intended transfer;
- (b) the Lessor shall not be subject to any material additional expense or any liability or increased liability as a result thereof (which is not indemnified against by the Lessee and guaranteed by the Guarantor or secured to the Lessor's satisfaction where the same is in the nature of a liability which is capable of being so indemnified, guaranteed or secured);
- (c) the Lessor is satisfied that, following the proposed transfer, the Guarantee, General Assignment and any other security then held by the Lessor in respect of the Lessee's obligations under this Agreement will remain in full force and effect as security for the obligations of the proposed transferee, or the Lessor is satisfied that such Guarantee, General Assignment and other security will be replaced on terms and in accordance with arrangements satisfactory to the Lessor; and
- (d) the intended transfer will not invalidate or result in any adverse effect on the Lessor's claim to UK Capital Allowances;

21.2.4 Following any transfer pursuant to clause 21.2.1 or 21.2.2:

- (a) the Lessee shall reimburse the Lessor in respect of all Losses, costs, charges or expenses (including stamp duties payable in respect of any transfer) properly incurred by the Lessor in connection with any transfer by the Lessee pursuant to this clause 21.2;

- (b) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessor under this Agreement and the other Transaction Documents shall be calculated as if no such transfer had taken place; and
- (c) in the case of any transfer pursuant to clause 21.2.1 the Guarantor shall guarantee to the Lessor the obligations of the transferee on terms satisfactory to the Lessor.

21.2.5 The Lessor agrees to assist the Lessee, upon the request of the Lessee, to restructure any security granted to the Lessor in respect of the Lessee's obligation to pay the Termination Amount to the Lessor in connection with any transfer of rights and obligations pursuant to this clause 21.2.

21.2.6 All costs and expenses (including legal costs and expenses and the relevant fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which will be charged at the Lessor's Management Time Cost Rate) in connection with any such restructuring shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

21.3 Sale of the Ship

During the Lease Period the Lessor will not sell, transfer, assign or otherwise dispose of the legal title to, or beneficial interest in, the Ship, or agree so to do, except as expressly contemplated by this Agreement or the other Transaction Documents.

22 Increased Costs

22.1 Increased costs

22.1.1 This clause 22 applies, otherwise than where a payment is made in respect of the effect of a Change of Law in accordance with the provisions of the Financial Schedule, if at any time the Lessor notifies the Lessee that it considers that as a result of:

- (a) any Change of Law; or
- (b) the effect of complying with any regulation which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Lessor or any Lessor Group Member has incurred or will incur an "increased cost".

22.2 Meaning of "increased cost"

In this clause 22, "increased cost" means, in relation to the Lessor:

22.2.1 the cost or additional cost referred to in clause 22.1 above; or

22.2.2 an additional or increased cost incurred directly as a result of, or in connection with, the Lessor having entered into, or being a party to, the Transaction Documents or funding, maintaining or performing its obligations under the Transaction Documents; or a reduction

-
- in the amount of any payment to the Lessor or any Lessor Group Member under any of the Transaction Documents or in the effective return which such a payment represents to the Lessor or on its capital; or
- 22.2.3 an additional or increased cost of funding all or maintaining all or any of the Lessor's expenditure under the Novated Building Contract or the Supervision Agreement or (as the case may require) the proportion of that cost attributable to the funding or maintaining of such expenditure; or
- 22.2.4 a liability to make a payment, or interest or the reduction in any amount payable or in the rate of return foregone, which is calculated by reference to any amounts received or receivable by the Lessor under this Agreement or any of the Transaction Documents; or
- 22.2.5 for the avoidance of doubt, any increased costs which relate to the implementation of the matters set out in the Basel II Accord.
- 22.3 Payment of increased costs**
- The Lessee shall pay to the Lessor the amounts which the Lessor from time to time notifies the Lessee that it has determined is necessary to compensate it for the increased cost.
- 22.4 Mitigation and consultation**
- 22.4.1 If circumstances arise which would result in notification under clause 22.1 then, without limiting the rights of the Lessor under clause 22.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or might be considered likely in the Lessor's opinion to:
- (a) have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;
 - (b) involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or
 - (c) involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.
- 23 Funding Problems**
- 23.1 Funding problems**
- If the Lessor notifies the Lessee that LIBOR cannot be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR:
- 23.1.1 the Lessor shall give notice thereof to the Lessee; and
- 23.1.2 the Lessor and the Lessee shall meet to discuss the matter in good faith and, unless within 30 days of the giving of such notice the Lessor and the Lessee arrive, by negotiation in good faith, at an alternative basis reasonably acceptable to the Lessor and the Lessee for continuing the Lessor's funding of its purchase of the Ship and/or continuing the leasing of the Ship under this Agreement and determining LIBOR (and any alternative basis agreed

in writing shall be retroactive to and effective from the commencement of the relevant period and shall continue until LIBOR can be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR), the Lessee shall indemnify the Lessor for its cost of funds from whatever source the Lessor may reasonably select, and for reasonable periods, in any such case following consultation with the Lessee.

24 Illegality, etc

24.1 Illegality

This clause 24 applies if the Lessor notifies the Lessee that it has become, or will with effect from a specified date, become:

24.1.1 unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or

24.1.2 contrary to, or inconsistent with, any regulation,

for the Lessor to continue to lease the Ship to the Lessee under this Agreement.

24.2 Termination

The Lessor is entitled either in its notice to the Lessee pursuant to clause 24.1 or by a subsequent notice, to terminate the Lease Period either immediately or at a future specified date being in any such case not earlier than the date on which it becomes unlawful, prohibited or contrary to, or inconsistent with, any regulation for the Lessor to continue to lease the Ship to the Lessee under this Agreement, but for the avoidance of doubt no Termination Fee shall be payable by the Lessee in such circumstances.

24.3 Manner of termination

A termination under clause 24.2 will be deemed to be a voluntary termination of the Lease Period in accordance with clauses 2.3 or 2.6 (notwithstanding that the Lessor shall not have received 30 days' notice) and the provisions of clauses 2.4 to 2.13 shall apply to that termination.

24.4 Mitigation

If circumstances arise which would result in notification under clause 24.1 then, without limiting the rights of the Lessor under clauses 24.2 and 24.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or, in the Lessor's opinion, might be considered likely to:

24.4.1 have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;

24.4.2 involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or

24.4.3 involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.

25 Release from Arrest: Lessor's and Lessee's Vessels

25.1 Release from arrest: Lessor's vessels

Other than the Ship or the Sister Ships or any other vessel owned by the Lessor and leased to a company which is owned by the Guarantor, if any vessel which is for the time being owned (in whole or in part) by or leased to any Lessor Group Member shall at any time have a writ or equivalent claim or pleading in admiralty filed against it or be arrested, attached or levied upon pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, and which arises out of the use or operation of the Ship or the Sister Ships or any other vessel owned in whole or in part by or leased or chartered to the Lessee or to any Transaction Company or other Guarantor Group Member or to any other company owned by the Guarantor with any other company, or otherwise by reason of the act or omission of any of the Lessee or any Transaction Company or other Guarantor Group Member, except where that lien or claim arises as a result of any Lessor Misconduct or the equivalent in relation to a Lessor Group Member (but excluding for this purpose any act or omission relating to the operation of the Ship or the Sister Ships or any other vessel owned by any Lessor Group Member and leased or chartered to the Lessee or any Transaction Company or any other Guarantor Group Member for which the Lessee or such Transaction Company or other Guarantor Group Member is responsible pursuant to this Agreement or the relevant leasing or chartering contracts):

25.1.1 the Lessee forthwith upon receiving notice thereof at its expense shall procure the release of such vessel from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty by providing bail or procuring the provision of security or otherwise as the circumstances may require; and

25.1.2 the Lessee shall be responsible for discharging each and every liability in connection with any such process, claim, lien or other action.

Without prejudice to the generality of the other indemnities contained in this Agreement or any of the other Transaction Documents, should any such other vessel owned (in whole or in part) by or leased or chartered to any Lessor Group Member and leased or chartered by it (otherwise than to the Lessee or any other Transaction Company or Guarantor Group Member) be arrested, detained, attached or levied upon or be the subject of or have a writ or equivalent claim or pleading in admiralty filed against it in such circumstances, the Lessee shall indemnify the Lessor against all Losses imposed on, suffered or incurred or expended by the Lessor and/or such Lessor Group Member in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty, together with any costs and expenses (including the provision of any guarantee or bond) or other outgoings which may be suffered or paid by the Lessor and/or any Lessor Group Member in releasing such vessel from any such arrest, seizure, custody, detention, attachment or distress.

25.2 Release from arrest: Lessee's vessels

If:

25.2.1 the Ship or the Sister Ships or any other vessel owned or operated by any Guarantor Group Member or any company owned by the Guarantor, at any time has a writ or equivalent claim or pleading in admiralty filed against it or is arrested, attached or levied upon

pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature in each such case arising out of the use or operation of any other vessel for the time being owned by any Lessor Group Member and leased or chartered by it otherwise than to the Lessee or any Transaction Company or to any other Guarantor Group Member or to any company owned by the Guarantor; and

- 25.2.2 should the charterers of such other vessel (being in that situation under obligations to the Lessor or the Lessor Group Member equivalent to those assumed by the Lessee under clause 25.1) fail to fulfil those obligations,
- Provided that the Lessee shall first have given prior notice thereof to the Lessor and, to the extent practicable, consulted with the Lessor or such Lessor Group Member as far in advance as is reasonable in all the circumstances, the Lessee shall:
- (a) be entitled to act as agent for the Lessor or the Lessor Group Member to procure release of the Ship or the Sister Ships or such other vessel (as the case may require) from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
 - (b) be entitled to be indemnified by the Lessor or the Lessor Group Member against claims made on the Lessee by the charterers of such other vessel in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty and all losses and expenses reasonably and properly so incurred by it.

26 Confidentiality

26.1 Confidentiality

At all times during the Lease Period, each of the Lessor and the Lessee shall keep confidential and shall not, without the prior written consent of the other:

- 26.1.1 issue any press release or make any other public announcement or statement in relation to the transactions evidenced by this Agreement and the other Transaction Documents; or
 - 26.1.2 disclose to any other person (i) the financial details of this Agreement or any other Transaction Document or the transactions contemplated by this Agreement or any other Transaction Document or any other agreement entered into after the date of this Agreement by the Lessor or the Lessee in connection with this Agreement or any other Transaction Document or (ii) any information provided pursuant to any of the Transaction Documents; or
 - 26.1.3 release copies of drafts of this Agreement or any other Transaction Document which disclose or reveal the identity of the parties (or any of them),
- the information contemplated by clauses 26.1.1 to 26.1.3 above being “ **Confidential Information** ”
- Provided that the parties shall be entitled, without any such consent, to disclose such Confidential Information:
- (a) if the same is already known to the receiving person at the time of disclosure as shown by the receiving person’s files and records immediately prior to that disclosure or is developed by the receiving person independently of such disclosure; or

-
- (b) in connection with any proceedings arising out of or in connection with this Agreement or any of the other Transaction Documents; or
 - (c) if required to do so by an order of a court of competent jurisdiction whether in pursuance of any procedure for discovery of documents or otherwise; or
 - (d) if it is reasonably believed by such party to be disclosable pursuant to any applicable law, stock exchange regulations or by a governmental order, decree, regulation or rule; or
 - (e) to any fiscal, monetary, tax, governmental or other competent authority; or
 - (f) to the auditors, legal or professional or insurance advisors, underwriters or brokers of the Lessee or the Lessor who (A) shall have a need to have such knowledge of the same in connection with carrying out work related to the transaction contemplated by this Agreement and the other Transaction Documents and (B) shall be advised of the confidential nature of any such information supplied to them and shall be instructed to maintain the confidentiality of any information supplied to them; or
 - (g) in any manner contemplated by any of the Transaction Documents; or
 - (h) if the same is in the public domain or shall become publicly known otherwise than as a result of a breach by such party or by the receiving person or any other person to whom disclosure is made of this clause 26.1; or
 - (i) if the same is acquired independently from a third party without breach of that third party's obligations of confidentiality; or
 - (j) in the case of the Lessee, to any director, officer, employee, agent or representative of any Guarantor Group Member, the Time Charterer or the Approved Manager and its Affiliates, and, in the case of the Lessor, any director, officer, employee, agent or representative of any Lessor Group Member provided that in each case the Lessee or the Lessor shall procure that the party to whom such disclosure is made shall comply with the requirements of this clause,

provided that if the Confidential Information is provided by a party on the basis that it is to be kept confidential, but the party providing the information discloses it to another person on a non-confidential basis, then the receiving parties shall no longer be obliged to treat such information as confidential.

26.1.4 The Lessor and the Lessee shall be responsible for ensuring that where Confidential Information is disclosed to persons under clause 26.1.3 such persons shall keep the information confidential and shall not disclose or divulge the same to any unauthorised person.

27 Notices

27.1 General

Unless otherwise specifically provided, any notice under or in connection with this Agreement shall be given by letter or fax; and references in this Agreement to notices in writing and notices signed by particular persons shall be construed accordingly.

27.2 Addresses for communications

A notice shall be sent:

to the Lessee:

Seaspan Finance I Co. Ltd
Unit 2
7th Floor Bupa Centre
141 Connaught Road West
Hong Kong F4 0000
China

Fax No: +852 2450 1689

Attn: Gerry Wang

with a copy to:

Seaspan Management Services Limited
c/o 2600-200 Granville Street
Vancouver, BC
Canada V6C 1S4

Fax No: +604 648 9351 / +604 676 2296

Attn: Gerry Wang

to the Lessor:

Peony Leasing Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Fax No: + 44 20 7012 9455

Attn: Head of Structured Marine Finance

or to such other address as the relevant party may notify the other.

27.3 Effective date of notices

Subject to clauses 27.4 and 27.5:

27.3.1 a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is received;

27.3.2 a notice which is sent by fax shall be deemed to be served, and shall take effect, upon the confirmed despatch by the sender.

27.4 Service outside business hours

However, if under clause 27.3 a notice would be deemed to be served:

27.4.1 on a day which is not a business day in the place of receipt; or

27.4.2 on such a business day, but after 5 p.m. local time,

the notice shall be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

27.5 English language

Any notice under or in connection with this Agreement shall be in English.

27.6 Meaning of “notice”

In this clause “ **notice** ” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

28 Supplemental

28.1 Rights cumulative, non-exclusive

The rights and remedies which this Agreement and the other Transaction Documents give to the Lessor are:

28.1.1 cumulative;

28.1.2 may be exercised as often as appears expedient; and

28.1.3 shall not, unless this Agreement or any Transaction Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

28.2 Severability of provisions

If any provision of this Agreement or any Transaction Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of this Agreement or that Transaction Document or of the provisions of any other Transaction Document.

28.3 Variations, waivers etc.

A document shall only be effective to vary, waive, suspend or limit any provision of this Agreement or any Transaction Document, or the Lessor’s or the Lessee’s rights or remedies under such a provision or the general law, if the document is signed, or specifically agreed to in writing by the Lessor and the Lessee.

28.4 Counterparts

This Agreement and any Transaction Document may be executed in any number of counterparts and one such counterpart executed by each of the parties thereto and, provided that all parties sign, each executed counterpart duly executed and delivered shall be deemed an original but taken together they shall constitute one instrument.

28.5 Set-off

The Lessee authorises the Lessor without prejudice to any of the Lessor's rights of set-off at law, in equity or otherwise, at any time after the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event and whilst it is continuing to set-off or withhold from any sum or sums expressed in the Lease Documents to be payable to the Lessee by the Lessor any amount due and payable but unpaid to the Lessor from the Lessee under the Lease Documents. The Lessor shall not be obliged to exercise any right given to it by this clause 28.5. The Lessor shall notify the Lessee upon the exercise or purported exercise by the Lessor of any right of set-off or withholding.

28.6 Further Assurance

As soon as practicable after any such request by the Lessor and at its own expense, the Lessee shall execute, sign, perfect and do any and every such further assurances, document, act or thing as is, in the reasonable opinion of the Lessor:

28.6.1 necessary to carry out the transactions contemplated by this Agreement and the other Transaction Documents; or

28.6.2 necessary to protect or enforce any of the Lessor's rights under this Agreement or the other Transaction Documents or title of the Lessor in the Ship.

28.7 Time of the essence

Subject to any periods of grace provided for by or referred to in this Agreement and the other Transaction Documents, time shall be of the essence as regards performance by the Lessee of its obligations under this Agreement and the other Transaction Documents.

28.8 Entire Agreement

As at the date of this Agreement, the Transaction Documents constitute the entire agreement between the parties in relation to the leasing of the Ship by the Lessor to the Lessee and supersedes all previous proposals, agreements and other written or oral communications in relation thereto.

28.9 Third party rights

With the exception of Indemnified Persons, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed. However, notwithstanding any term of this Agreement to the contrary, no variation of this Agreement, and no release or compromise of any liability hereunder and no termination by the Lessor of the leasing of the Ship or of its obligation hereunder to lease the Ship shall require consent or approval of any third party.

29 Law and Jurisdiction

29.1 English law

This Agreement shall be governed by, and construed in accordance with, English law.

29.2 Exclusive English jurisdiction

Subject to clause 29.3, the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and the Lessee irrevocably designates, appoints and empowers WFW Legal Services Limited of 15 Appold Street, London EC2A 2HB to receive for it and on its behalf service of process issued out of the English courts in connection with any such dispute.

29.3 Choice of forum

Clause 29.2 is for the exclusive benefit of the Lessor which reserves the rights:

29.3.1 to commence proceedings in relation to any matter which arises out of or in connection with this Agreement in the court of any country other than England which has jurisdiction in respect of that matter; or

29.3.2 to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

29.4 Lessee rights unaffected

Nothing in this clause 29 shall exclude or limit any right which the Lessor may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

29.5 Meaning of “proceedings”

In this clause 29, “ **proceedings** ” means proceedings of any kind, including an application for a provisional or protective measure.

THIS AGREEMENT has been executed by the parties to it on the date stated at the beginning of this Agreement.

Schedule 1
Financial Schedule

(see attached)

Schedule 2
Description of Ship

The Ship to be constructed by the Builder under the Novated Building Contract with Builder's Hull No. 1853 to the following approximate principal specifications as at the date of this Agreement and subject to alteration pursuant to any amendment to the Novated Building Contract in accordance with the terms and conditions of this Agreement and the other Lease Documents.

Length overall	268.5m
Length between perpendiculars	254.3m
Breadth (moulded)	35.0m
Depth (moulded) to upper deck	19.5m
Draught (design), moulded	11.0m
Classification Society	Det norske Veritas
Class	DNC, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V(3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport

Schedule 3
Part A - Form of Lessor Parent Support Letter (Lessee)

[On Bank of Scotland plc notepaper]

To: [Lessee]

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
UK Finance Lease for Samsung Hull no. [—] (the “Ship”)

We refer to the Lease of even date herewith between the Subsidiary and yourselves (the “**Lessee**”) relating to the Ship (the “**Lease**”). Terms defined in the Lease shall have the same meanings when used in this letter.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Lessee under the Transaction Documents.

In consideration of the Lessee agreeing to lease the Ship from the Subsidiary we confirm that throughout the term of the Transaction Documents we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Lessee arising from the Transaction Documents.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Lessee under the Transaction Documents, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Lessee and, if the Lessee so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Transaction Documents are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Lessee and so as to ensure that the Lessee shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Transaction Documents to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Without prejudice to or limitation of our other statements and undertakings in this letter, and our contractual obligations and liabilities in respect of the foregoing, nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Transaction Documents.

This letter is intended to create legal relations between us and will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

The Letter is confidential and shall not be disclosed to any party save as permitted by clause 26 of the Lease.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Part B - Form of Lessee Parent Support Letter (Builder)

[On Bank of Scotland plc notepaper]

To: Samsung Heavy Industries Co. Ltd.,
34th Floor, Samsung Life Insurance Seocho Tower
1321-15 Seoul
South Korea

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
Samsung Hull no. [—] (the “Ship”)

We refer to the Novation Agreement to be entered into on or about the date hereof between (among others) the Subsidiary and yourselves (the “**Builder**”) pursuant to which the Subsidiary will become the new buyer of the Ship under a Shipbuilding Contract dated [—] 2007 originally between Seaspan Corporation and the Builder. Such novated Shipbuilding Contract is herein referred to as the “**Contract**”.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Builder under the Contract.

We further confirm that throughout the term of the Contract we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Builder arising from the Contract.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Builder under the Contract, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Builder and, if the Builder so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Contract are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Builder and so as to ensure that the Builder shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Contract to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Contract.

This letter will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Schedule 4
Lessee's Condition Precedent Documents

Part A

Lessor's Conditions Precedent to the First Instalment

The following are the documents and actions referred to in clause 3.1.1 as conditions precedent to the obligations of the Lessor under this Agreement and the payment of the First Instalment pursuant to the Novated Building Contract and the Novation Agreement:

- 1 An original of this Agreement, the Novation Agreement, the Supervision Agreement, the Refund Guarantee, the Guarantee, the QEL, the General Assignment, the Indexation Relief Letter, the Tax Consultation Letter and the Non Discrimination Letter and each other Transaction Document to which the Lessor is or is then to be a party (and each notice or document required to be delivered by each such Transaction Document), each duly signed by all parties thereto.
- 2 Copies of the certificate of incorporation and constitutional documents of the Lessee, the Guarantor and the Supervisor.
- 3 Copies of resolutions of the directors and, if necessary for the purposes of obtaining the opinions referred to in paragraph 12 in form and substance satisfactory to the Lessor, the shareholders of the Lessee, the Guarantor and the Supervisor or equivalent documents authorising the execution of each of the Transaction Documents to which any of them is or is to be a party and authorising named persons to give all notices under this Agreement and each Transaction Document.
- 4 The original of any power of attorney under which any Transaction Document is executed on behalf of the Lessee, the Guarantor and the Supervisor.
- 5 Copies of any governmental or other third-party consents, licences, approvals, registrations and filings (“ **Consents** ”) necessary for any matter contemplated by the Lease Documents and for the legality, validity, enforceability, and admissibility in evidence and effectiveness thereof having been obtained or effected and remain in full force and effect, including, but not limited to, such Consents required to make any payment under any Transaction Document or evidence that no such Consents are required.
- 6 Certified true copies of the Building Contract, the Time Charter and all of the other Transaction Documents to which the Lessor is not a party which have been executed at such time and all documents to be delivered pursuant to each of such documents each duly signed by all parties.
- 7 Evidence reasonably acceptable to the Lessor of the amounts of all payments already made by the Original Purchaser under the Building Contract to the Builder together with details relating to each payment including what the payment was for and the date on which payment was made, and an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement.

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- 8 Documentary evidence that the novation of the Building Contract contemplated in the Novation Agreement has or, simultaneously with the Lessor's obligations referred to in clause 3.1.1 becoming effective, shall become effective.
 - 9 Receipt by the Lessor of any fees, costs and expenses payable by the Lessee which are due for payment on or prior to the date for the payment of the First Instalment and which are not rentalised in the Financial Schedule.
 - 10 Documentary evidence that the agents for service of process in England appointed by the Lessee, the Guarantor, the Supervisor and the Time Charterer (as applicable) in relation to all Transaction Documents have accepted such appointment.
 - 11 Opinions from:
 - (a) Kim & Chang as special Korean legal counsel in relation to the Builder and the Refund Guarantor and the execution of the Novation Agreement by the Builder and the Refund Guarantee by the Refund Guarantor, and as to matters of Korean law;
 - (b) Cozen O'Connor, as special Marshall Islands legal counsel in relation to the Lessee, the Guarantor, this Agreement, the Novation Agreement, the Guarantee, and as to matters of Marshall Islands law,
 - (c) Conyers, Dill & Pearman, as special Bermudan legal counsel in relation to the Supervisor, the Supervision Agreement and as to matters of Bermudan law;
 - (d) Halpern Law Office, as special Japanese legal counsel in relation to the Time Charterer, the QEL and as to matters of Japanese law; and
 - (e) The Lessor's insurance advisers, Marsh, in respect of the insurance provisions of this Agreement and insurance arrangements with respect to the Ship and the Sister Ships generally,
each in form and substance satisfactory to the Lessor.
 - 12 If the Lessor reasonably requires, in respect of any of the documents referred to above which may be provided in a language other than English, a certified English translation prepared by a translator approved by the Lessor.
 - 13 The Lessee has confirmed that the conditions precedent to its obligations set out in Schedule 5 have been satisfied or waived by the Lessee.
 - 14 Completion of all relevant money laundering compliance checks by the Lessor in respect of the Lessee, the Replacement Purchaser, the Guarantor and any other relevant company, in accordance with the Lessor Group's current procedural requirements.

Part B

Lessor's Conditions Precedent to each Instalment

The Lessor shall have received each of the following, in form and substance satisfactory to the Lessor:

- 1 evidence that the relevant Instalment has fallen due for payment under the terms of the Novated Building Contract and the Novation Agreement, which evidence shall be constituted by notice from the Builder to the Supervisor (and copied to the Lessor) in accordance with clause 7.2 of the Novation Agreement;
- 2 evidence as to the amount of the relevant Instalment and the account to which it is to be paid, which evidence shall be constituted by an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement;
- 3 if the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, the other Lease Amounts and the amount of the Instalments previously paid, cause the Maximum Commitment to be exceeded, the Lessor shall have received the required amount to be paid by the Lessee to the Lessor as a Contribution Payment under clause 3.10 within the time permitted under clause 3.10;
- 4 confirmation from a duly authorised officer of each of the Lessee, the Replacement Purchaser, the Guarantor and the Supervisor that there has been no change in the constitutive documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended and in full force and effect; and
- 5 receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clause 3.2 of this Agreement have been satisfied.

Part C
Lessor's Conditions Precedent to the Final Instalment

The following are the documents referred to in clause 3.3.1:

- 1 An Intended Delivery Notice in accordance with the terms of this Agreement;
- 2 The commercial invoice of the Builder addressed to the Lessor in respect of the Final Instalment payable under the Novated Building Contract;
- 3 Drafts of the Builder's Certificate and the Protocol of Delivery and Acceptance together with drafts of certain of the other documents referred to in article VII of the Novated Building Contract and evidence that, at Delivery, originals of all these documents (where applicable, signed for the Builder) will be delivered to, or to the order of, the Lessor;
- 4 Evidence that the obligations of the Lessee under clauses 10.10, 13.2 and 13.3 of this Agreement will be complied with, as from Delivery;
- 5 Confirmation from the Supervisor that the Ship has been constructed in compliance with the terms of the Novated Building Contract and any minor works identified by the Supervisor in the Intended Delivery Notice which are to be rectified by the Builder after the Delivery Date; and
- 6 If the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, and the other Lease Amounts and the amount of the Instalments previously paid cause the Maximum Commitment to be exceeded, receipt by the Lessor of the required amount to be paid as a Contribution Payment under clause 3.10 within the period of time permitted by clause 3.10.

Part D

Lessor's conditions precedent to Delivery

The following are the documents referred to in clause 3.3.2:

- 1 Duly executed originals of the documents specified in Part C paragraph 3 of this Schedule;
- 2 Evidence that the Ship is duly registered under a flag referred to in clause 12.3 in the name of the Lessor;
- 3 Evidence that the Ship has been granted the classification referred to in clause 10.3.2 free of overdue conditions affecting the Ship's class unless waived;
- 4 Copies of any Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate and all other documents required at that time for the Ship pursuant to the ISM Code and ISPS Code;
- 5 Evidence that the obligations of the Lessee in relation to Insurances under clauses 13.2 and 13.3 of this Agreement have been complied with;
- 6 If so requested by the Lessor, an insurance report, paid for by the Lessee, from an independent adviser selected by the Lessor (subject to prior agreement on their fee) confirming that the Ship's Insurances comply with the requirements of clause 13;
- 7 Copies of any consents which are required to be obtained and maintained in respect of the Ship and its operation;
- 8 The certificate of delivery and acceptance in the form of schedule 7 to this Agreement duly signed by the Lessee, and a copy of the protocol of delivery and acceptance in the form required by the Time Charter signed by the Time Charterer;
- 9 Confirmation from a duly authorised officer of each of the Lessee, the Supervisor and the Guarantor that there has been no change in the constitutional or organisational documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended in full force and effect and that all the Transaction Documents to which they are a party remain in full force and effect;
- 10 Receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clauses 3.2 and 3.3 of the Lease Agreement have been satisfied;
- 11 Confirmatory opinions each confirming that the opinions expressed in the legal opinions issued pursuant to paragraph 14 of Part A of Schedule 4 need not be altered or modified in any way or, as the case may be, supplemental opinions in respect of any matters in respect of which such confirmations cannot be given in form and content acceptable to the Lessor; and

-
- 12 An opinion from counsel selected by the Lessor in the proposed flag state for the Ship, in relation to the registration of the Ship, in form and content acceptable to the Lessor.

General Note

- 1 All copies of documents to be provided under any part of this Schedule 4 must be certified to be true, complete and up-to-date as at the date of certification, and must be certified by an authorised signatory of the person providing such copies.
- 2 In the event that any of the representations and warranties on the part of any of the Lessee, the Replacement Purchaser, the Supervisor, the Time Charterer and/or the Guarantor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 5
Lessee's Pre-Delivery Condition Precedent Documents

The following are the documents referred to in clause 3.4:

- 1 An original of each Transaction Document to which the Lessor or the Lessor Parent is a party duly executed by the Lessor or, as the case may be, the Lessor Parent;
- 2 Copies of resolutions of the directors of the Lessor authorising execution of each of the Transaction Documents to which it is a party by the persons signing them;
- 3 Certified copies of any power of attorney under which any Transaction Document is executed on behalf of the Lessor; and
- 4 Evidence of the due execution by the Bank of the Lessor Parent Support Letter given in favour of the Lessee in a form satisfactory to the Lessee (acting reasonably).

Schedule 6
Form of Instalment Request

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated: [—]

Dear Sirs

Lease Agreement (the “Lease Agreement”) dated [—] 2007 relating to Samsung Hull No. [—]

We refer to the Lease Agreement and give you notice that the expected date for the [—] Instalment of the Purchase Price is [—] .

We further notify you that the payments due on that date [is/are] as follows:

[—]

We confirm that no Relevant Event has occurred which is continuing.

Words and expressions defined in the Lease Agreement shall have the same meanings when used in this Instalment Request.

For and on behalf of
[Lessee]

Schedule 7
Form of Certificate of Delivery and Acceptance

Pursuant to a lease agreement (the “**Lease**”) dated [—] 2007 made between (i) [—] Limited (the “**Lessor**”) and (ii) [—] (the “**Lessee**”) in respect of the m.v. “ [—] ” (the “**Ship**”), registered under the laws and flag of [—] with Official Number [—] and on the basis of the confirmation given by the Lessee in this Certificate, the Ship was delivered by the Lessor to the Lessee, and accepted by the Lessee from the Lessor, at [—] hours [GMT]/[BST] on [—] at [—] under, and in accordance with the terms and conditions of, the Lease.

The Lessee confirms that as at the date of this Certificate:

- (a) no Relevant Event has occurred and is continuing; and
- (b) the representations and warranties set out in clause 19 of the Lease are true and correct as if each was made with reference to the facts and circumstances existing at the date of this Certificate.

Dated: [—]

For and on behalf of
[Lessee]

Schedule 8
Form of Intended Delivery Notice

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated : [—]

Dear Sirs

m.v. “ [—] ” - Lease Agreement dated [—] 2007 (the “Lease”)

We refer to the Lease. Words and expressions defined in the Lease shall have the same meaning when used in this notice.

The Supervisor hereby advises you that the anticipated date of Delivery is [—] and confirms that the Ship is built in accordance with the Novated Building Contract [subject only to []]*.

The Lessee hereby requests the Lessor to take delivery of the Ship on that date, to make all necessary arrangements to fund the Final Instalment of the Purchase Price and to lease the Ship to the Lessee pursuant to the Lease (subject to any revised or replacement notice which may be served on the Lessor if the anticipated date of Delivery is postponed). The Lessee confirms that:

- (a) no Relevant Event has occurred and is continuing, either now or at the anticipated Delivery Date;
- (b) each of the representations and warranties contained in clause 19 of the Lease is true and correct by reference to the facts and circumstances now existing, and will be true and correct by reference to the facts and circumstances existing on the anticipated Delivery Date**.

Yours faithfully

for and on behalf of
[—], as Lessee

* [any qualifications disclosed to and agreed by the Lessor to be inserted].

** In the event that any of the representations and warranties on the part of the Lessee or the Supervisor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

for and on behalf of
[—] as Supervisor

Schedule 9
Form of Notice of Assignment of Builder Warranties

To: [Samsung]

Dated: []

m.v. “ [—] ”

[—] Limited (the “ **Lessor** ”), of which the principal mailing address is currently c/o Bank of Scotland Structured Asset Finance Limited, PO Box 39900, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB, the Lessor of the vessel currently under construction with yourselves (the “ **Builder** ”) having Builder’s Hull No. [—] (the “ **Ship** ”) **GIVES NOTICE** that by an assignment dated [] 2007 made by the Lessor in favour of [—] (the “ **Assignee** ”) we have assigned to the Assignee absolutely the full benefit of all guarantees, warranties and indemnities of every kind (the “ **Warranties** ”) to which we are entitled now or at any later time to, in or in connection with a Building Contract dated [—] (the “ **Building Contract** ”) made between the Builder and Seaspan Corporation, in respect of the construction and sale of the Ship as novated from Seaspan Corporation to the Lessor by a Novation Agreement dated [] 2007 (the “ **Novation Agreement** ”) and made between (i) the Builder, (ii) Seaspan Corporation, (iii) the Lessor and (iv) [—] (the Building Contract, as novated and amended by the Novation Agreement, the “ **Novated Building Contract** ”).

The Assignee is entitled, as from the Delivery Date, to exercise and enforce all rights in respect of the Warranties including without limitation the right to receive damages and other sums in connection with the Novated Building Contract (but subject always to any express provisions in the Novation Agreement) and the Lessor shall, unless the Lessor notifies the Builder in writing to the contrary, have no further responsibility or liability in respect of such matters.

The Lessor instructs the Builder to comply with the instructions contained in this notice until otherwise notified by both the Lessor and Assignee. Until such time the instructions contained herein are irrevocable.

This notice is governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice by delivering a copy endorsed as set out below to the Lessor and the Assignee.

For an on behalf of
[Lessor]

To: [—] Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London EC2M 3YB

Attention: Head of Structured Marine Finance

cc: [Lessee]

m.v. “[•]”

We hereby acknowledge receipt of the notice set out above and hereby confirm:

- 1 our agreement to the assignment referred to therein; and
- 2 that we have not received any other notice of assignment in respect of the same matter.

For and on behalf of
[Samsung]

Dated :

Schedule 10
Standby Loan Transaction Characteristics

Borrower:	a company in the Guarantor Group
Guarantor:	the Guarantor will guarantee the obligations of the Borrower in the same form as the Guarantee (but subject to such amendments to the financial covenants therein as may be determined during the Lessor Standby Lender Review)
Lender:	Bank of Scotland plc
Amount:	an amount equal to the Final Rental under the Lease Agreement
Currency:	US Dollars
Maturity Date:	the loan shall be fully repaid by the seventh (7th) anniversary of the Lease Period End Date
Interest:	US\$[1/3] month LIBOR plus Margin, payable [monthly/quarterly]
Margin:	110 bps
Repayments:	the repayments will be [monthly/quarterly] and calculated so as to amortise to a final principal repayment on the Maturity Date of an amount equal to 30% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)
Security:	in addition to the Guarantee referred to above, the Borrower shall grant to the Lender a mortgage over the Ship, an assignment over the earnings, insurances and requisition compensation, and such other Security as may be required by the Lessor, all in a form satisfactory to it
Documentation:	to be prepared by the Lender's legal counsel, based on the appropriate Loan Market Association form but adapted to reflect the provisions of the Lease Agreement (particularly in the case of representations and warranties, operational covenants, undertakings and indemnities, and events of default)
Costs:	for the account of the Borrower

The following additional provisions shall apply to any Standby Loan Transaction entered into pursuant clause 2.14:

-
- Amount:** an amount equal to the relevant Termination Sum under the Lease Agreement plus, in the case of any termination under clause 2.2.1(a), all further amounts to be advanced under the Standby Loan Agreement during the Construction Period in respect of the Contract Price
- Repayment:** the repayments will be calculated so as to amortise initially to an amount as at the original Lease Period End Date equal to 80% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)

Standby Lender Review: the Standby Lender Review referred to in clause 16 of the Lease Agreement shall continue to apply (mutatis mutandis) and, in the event of an adverse determination by the Lender, the Lender shall be entitled to require a repayment of the standby loan on the original Lease Period End Date

Schedule 11

Specimen Profit and Loss Account for Lessor

(referred to in clause 6.8)

[LESSOR NAME]
PROFIT AND LOSS ACCOUNT
FOR THE [YEAR] [[—] MONTHS] ENDED [date]

	Note	[period] \$000	[period] \$000
INCOME FROM FINANCE LEASES		[—]	[—]
Administrative expenses		([—])	([—])
OPERATING PROFIT		[—]	[—]
Interest payable and similar charges		([—])	([—])
PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION		[—]	[—]
Tax on profit on ordinary activities		([—])	([—])
PROFIT FOR THE FINANCIAL PERIOD		[—]	[—]

Specimen Balance Sheet for Lessor
(referred to in clause 6.4)

[LESSOR NAME]
BALANCE SHEET AS AT [date]

	<u>Note</u>	<u>200[—]</u> <u>\$000</u>	<u>200[—]</u> <u>\$000</u>
CURRENT ASSETS			
Debtors amounts falling due:			
within one year		[—]	[—]
after one year		<u>[—]</u>	<u>[—]</u>
Total Debtors		[—]	[—]
CREDITORS: amounts falling due within one year		<u>([—])</u>	<u>([—])</u>
NET CURRENT ASSETS		[—]	[—]
CREDITORS: amounts falling due after more than one year			
PROVISIONS FOR LIABILITIES AND CHARGES		<u>([—])</u>	<u>([—])</u>
NET ASSETS		<u>[—]</u>	<u>[—]</u>
CAPITAL AND RESERVES			
Called up equity share capital		[—]	[—]
Profit and loss account		<u>[—]</u>	<u>[—]</u>
EQUITY SHAREHOLDERS' FUNDS		<u>[—]</u>	<u>[—]</u>

LESSOR

SIGNED by)

for and on behalf of)

PEONY LEASING LIMITED)

in the presence of:)

/s/ Keith Roderick Glasscoe

Keith Roderick Glasscoe

Jus Lyall

Norton Rose LLP SE1

Associate

LESSEE

SIGNED by)

for and on behalf of)

SEASPAN FINANCE I CO. LTD.)

in the presence of:)

/s/ Hanno Erwes

Hanno Erwes

Attorney-In-Fact

Dated December 27, 2007

PEONY LEASING LIMITED (1)
as Lessor

and

SEASPAN FINANCE I CO. LTD. (2)
as Lessee

LEASE AGREEMENT
in respect of one 4520 TEU container carrier
to be built at Samsung Heavy Industries Co.,
Ltd
with Hull No. 1854

 **NORTON ROSE**

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THIS AGREEMENT is made on December 27, 2007,

BETWEEN

- (1) **PEONY LEASING LIMITED**, a company incorporated in England and Wales with company number 4442275 and whose registered office is at PO Box 39900, Level 7, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB (the “**Lessor**”); and
- (2) **SEASPAN FINANCE I CO. LTD.**, a corporation incorporated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the “**Lessee**”).

BACKGROUND

This Agreement sets out the terms and conditions on which the Lessor will acquire and lease to the Lessee, and the Lessee will take on lease, the Ship.

IT IS AGREED as follows:

1 Interpretation

1.1 Definitions

Subject to clause 1.6, in this Agreement:

“**Adjustment Date**” has the meaning given to that term in the Financial Schedule;

“**Adjustment Period**” has the meaning given to that term in the Financial Schedule;

“**Agreed Form**” in relation to any document, means that document in form, substance and terms approved in writing by the Lessor and the Lessee and any other Transaction Company which is a signatory thereto or otherwise in accordance with any such other approval procedure detailed in any relevant provision of this Agreement and any Lease Document;

“**Approved Flag State**” means each of the states described in clause 12.3.1 together with any other state or country approved by the Lessor pursuant to clause 12.5.2;

“**Approved Manager**” means Seaspan Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM11, Bermuda, or such other company as the Lessor may from time to time approve (such approval not to be unreasonably withheld or delayed, and such approval to be given in the case of any first class ship manager/operator nominated by the Lessee);

“**Arrangement Fee**” has the meaning given to such term in the Financial Schedule;

“**Assumptions**” has the meaning given to such term in the Financial Schedule;

“**Auditors**” means KPMG or such other firm of appropriately qualified accountants as may be the Lessor’s auditors from time to time;

“**Bank**” means Bank of Scotland plc a company incorporated in Scotland with company number SC 327000 and having its registered office at The Mound, Edinburgh, EH1 1YZ;

“ **Broken Funding Benefits** ” has the meaning given to such term in the Financial Schedule;

“ **Broken Funding Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Builder** ” means Samsung Heavy Industries Co., Ltd., a company incorporated in Korea with its principal place of business at 34th Floor, Samsung Life Insurance Seocho Tower 1321-15, Seocho-Dong, Seocho-Gu, Korea;

“ **Building Contract** ” means the contract dated 3 December 2007 for construction of the Ship signed by the Guarantor (as “Buyer”) and the Builder;

“ **Business Day** ” means a day (other than a Saturday or Sunday) on which banks are open for business in London, New York, Hong Kong, Vancouver and (during the Construction Period only) Seoul;

“ **Buyer’s Supplies Reimbursement Amount** ” means the amount payable by the Lessor to the Supervisor pursuant to clause 4.5(a) of the Supervision Agreement;

“ **CAA** ” means the Capital Allowances Act 2001;

“ **Capital Commitment Fee Letter** ” means the letter so called issued or to be issued in respect of the capital commitment fee relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Certificate of Delivery and Acceptance** ” means the certificate in the form of schedule 7 to be executed by the Lessee upon the delivery of the Ship in accordance with clause 3.11;

“ **Certificate of Financial Responsibility** ” has the meaning attributed to it in clause 9.3(d);

“ **Change of Law** ” means, in each case after the date of this Agreement:

- (a) the implementation, introduction, abolition, withdrawal or variation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by the Bank of England, the European Union or any central bank or tax, fiscal, revenue, monetary, governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (b) any change in any interpretation, or the introduction or making of any new or further interpretation, or any new or different interpretation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by any court, tribunal, governmental, local, international, national or other competent authority or agency or the Bank of England, the European Union or any central bank or tax, fiscal, revenue or monetary authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (c) compliance with any new or different request or direction from the Bank of England, the European Union or any central bank, tax, fiscal, regulatory monetary, revenue,

governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary);

“ **Classification Society** ” means Det Norske Veritas, the American Bureau of Shipping, Germanischer Lloyd or the Lloyds Register of Shipping or, with the prior written approval of the Lessor, any other classification society which is a member of IACS;

“ **Commitment Expiry Date** ” means 28 April 2012 or such later date as the Lessor may agree;

“ **Commercially Burdensome** ” has the meaning given to such term in clause 2.2.2;

“ **Compulsory Acquisition** ” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Ship by any Government Entity or other competent authority, whether de jure or de facto but shall exclude requisition for use or hire not involving a requisition for title;

“ **Construction Period** ” means the period commencing on the Effective Date and ending on the earlier of (i) the Delivery Date or (ii) the date on which any further novation referred to in clause 2.3 occurs;

“ **Contract Price** ” means eighty two million eight hundred and eleven thousand Dollars (US\$82,811,000) as the same may be adjusted from time to time in accordance with the provisions of the Novated Building Contract;

“ **Contribution Payment** ” means a payment by the Lessee to the Lessor in accordance with clause 3.10 by way of capital contribution to the Lessor’s Total Expenditure of an amount in Dollars equal to the aggregate amount by which the aggregate of Lessor’s Total Expenditure already paid by the Lessor and the amount next due in respect of the Lessor’s Total Expenditure would otherwise exceed the Maximum Commitment on the date on which such next payment in respect of Lessor’s Total Expenditure is to be incurred;

“ **Contribution Payment Request** ” means a notice given by the Lessor to the Lessee under clause 3.10.2 of this Agreement;

“ **Corporation Tax** ” has the meaning given to such term in the Financial Schedule;

“ **Default Rate** ” means the rate of interest determined by the Lessor, and certified by it to the Lessee, to be the aggregate of:

(a) two per cent (2%) per annum; and

(b) LIBOR;

“ **Delivery** ” means the time at which the Lessor delivers the Ship to the Lessee pursuant to clause 3, and “ **Delivered** ” shall be construed accordingly;

“ **Delivery Date** ” means the date on which Delivery occurs (anticipated to be 28 April 2011);

“ **Dollar Equivalent** ” has the meaning given to such term in the Financial Schedule;

“ **Dollars** ” and “ **\$** ” means the lawful currency from time to time of the United States of America and in respect of all payments to be made under this Agreement, means immediately available, freely transferable funds;

“ **Economically Burdensome** ” has the meaning given to such term in the Financial Schedule;

“ **Effective Date** ” means the date on which the conditions specified in clause 3.1.1 and, if payment of an Instalment is being made simultaneously with or immediately after the novation of the Building Contract, clause 3.2 are satisfied and the novation of the Building Contract takes effect in accordance with clause 3 of the Novation Agreement;

“ **Environmental Approval** ” means any permit, licence, certificate, filing, consent, authorisation, or any other approval required at any time by any Environmental Law;

“ **Environmental Claim** ” means any claim by any person which arises out of or in connection with an Environmental Incident or an alleged Environmental Incident or any breach of, or non-compliance with, or which otherwise relates to any Environmental Law or Environmental Approval and, for the purposes of this definition, “ **claim** ” includes any threatened claim which may reasonably be considered as likely to develop into an actual claim;

“ **Environmental Incident** ” means:

- (a) any release, discharge or emission of Environmentally Sensitive Material from the Ship other than any of the foregoing which the Lessee, acting reasonably, considers not to be material in the context of this Agreement and which is not reasonably likely to give rise to an Environmental Claim; or
- (b) any incident in which Environmentally Sensitive Material is released, discharged or emitted from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or is reasonably likely to be arrested, attached, detained or injuncted and/or the Ship and/or the Lessee or any Manager and/or any sub-lessee, time charterer, operator or other manager is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, discharged or emitted otherwise than from the Ship and in connection with which the Ship is actually and/or is reasonably likely to be arrested and/or where the Lessee or any Manager and/or any operator, time charterer, or other manager of the Ship is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action;

“ **Environmental Law** ” means any or all laws applicable or relating to pollution or contamination or protection of the environment, to the generation, manufacture, processing, distribution, use or misuse, treatment, storage, disposal, carriage or holding of Environmentally Sensitive Material or to actual or threatened emissions, releases, spillages or discharges of Environmentally Sensitive Material;

“ **Environmentally Sensitive Material** ” means liquefied natural gas, oil, oil products and any other element or substance whether natural or artificial and whether consisting of gas, liquid, solid or vapour (including any chemical, gas or other hazardous or noxious substance) which is or is capable of becoming polluting, toxic, hazardous, harmful or damaging to mankind or the environment or any living organism;

“ **Excluded Event** ” means any of:

- (a) a Change of Law or a change in GAAP; or
- (b) any action or inaction effected or required under or pursuant to any provision of this Agreement or the other Transaction Documents; or
- (c) anything requested or consented to by the Lessee or any Guarantor Group Member; or
- (d) any failure by the Lessee or any Guarantor Group Member to supply information reasonably requested by the Lessor or required to be given under the Transaction Documents; or
- (e) any act or omission of any party to the Transaction Documents or their affiliates (other than the Lessor or any Lessor Group Member);

“ **Financial Indebtedness** ” means, in relation to a person (the “debtor”), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a lease or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

but excludes any liability under a fully non-recourse project finance facility;

“ **Financial Schedule** ” means the financial schedule set out in Schedule 1;

“ **Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Further Novation Event** ” means any of the events or circumstances described in clause 17.3;

“ **Further Novation Notice** ” means a notice which the Lessor (as new purchaser) may issue to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement or, as the case may be, a notice which the Builder may issue to the Lessor and the Replacement Purchaser pursuant to clause 6.2 of the Novation Agreement;

“ **General Assignment** ” means the assignment dated on or about the date hereof pursuant to which the Guarantor and the Lessee (as assignors) assign to the Lessor (as assignee) the benefit of (i) the Time Charter and any other earnings of the Ship, (ii) the Insurances, and (iii) any Requisition Compensation;

“ **Government Entity** ” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant;

“ **Guarantee** ” means the guarantee issued or to be issued by the Guarantor in favour of the Lessor in respect of the obligations of, the Lessee, the Manager, the Supervisor and the Replacement Purchaser under the Transaction Documents;

“ **Guarantor** ” means Seaspan Corporation, a company incorporated in the Republic of the Marshall Islands with its principal office at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F4 000, People’s Republic of China;

“ **Guarantor Group** ” means each of the Guarantor and any company which is a Subsidiary of the Guarantor from time to time;

“ **Guarantor Group Member** ” means as at the date hereof and from time to time any member of the Guarantor Group;

“ **HMRC** ” means H.M. Revenue & Customs;

“ **Holding Company** ” in relation (i) to a company incorporated in England and Wales, has the meaning given in Section 736 Companies Act 1985 and (ii) in relation to a company or other person incorporated or formed outside England and Wales means a company or other person of which such company is the Subsidiary;

“ **IACS** ” means the International Association of Classification Societies;

“ **ICTA** ” means the Income and Corporation Taxes Act 1988;

“ **Indemnified Person** ” means the Lessor, the Bank, any other Lessor Group Member and their respective officers, directors, secondees, agents and employees;

“ **Indexation Relief Letter** ” means the letter so called issued or to be issued in respect of indexation relief relating to this Agreement addressed by the Lessor to the Lessee;

“ **Instalment** ” means each instalment of the Purchase Price, being:

- (a) the instalment of the Contract Price payable on the date upon which the Novation Agreement becomes effective, referred to as the “First Instalment” in article II.4(a) of the Novated Building Contract, in an amount of \$17,702,200 (the “ **First Instalment** ”);

-
- (b) the instalment of the Contract Price payable on any date between 19 December 2007 and 31 December 2007, referred to as the “Second Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$56,827,700, together with such additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the date of the Second Instalment (the “**Second Instalment**”); and
 - (c) the instalment of the Contract Price referred to as the “Delivery Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$8,281,100, together with such other additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the Delivery Date (the “**Final Instalment**”),

or such other dates (up to the Commitment Expiry Date) or amounts (subject to the Maximum Commitment) to be agreed by the Lessor and the Lessee or, as the case may be, the Lessor and the Supervisor;

“**Instalment Date**” means the date for the payment of each Instalment and the expressions “**First Instalment Date**”, “**Second Instalment Date**”, and “**Final Instalment Date**” shall be construed accordingly (the Instalment Date relating to the date for the payment of the Final Instalment being the Delivery Date);

“**Instalment Request**” means a notice to be sent by the Lessee to the Lessor requesting the payment of an instalment in the form of Schedule 6;

“**Insurances**” means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are from time to time in place or taken out or entered into or which are required to be put in place or taken out or entered into in respect of the Ship or otherwise in relation to it pursuant to clause 13; and
- (b) all benefits, rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and claims of whatsoever nature,

provided however that this shall not include any policies and contracts of insurance which are or may be effected by the Lessor as referred to in clause 13.21 or by the Lessor pursuant to clause 18.9 following the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event;

“**Intended Delivery Notice**” means a notice addressed by the Lessee and the Supervisor to the Lessor, substantially in the form of Schedule 8;

“**Irrecoverable VAT**” has the meaning given to such term in the Financial Schedule;

“**ISM Code**” means the International Safety Management Code (including the guidelines on its implementation) adopted by the International Maritime Organisation Assembly as Resolutions A. 741(18) and A. 788(19) and incorporated into SOLAS as the same may be

amended or supplemented from time to time and all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or may in the future be issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code;

“ **ISPS Code** ” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation Assembly as the same may have been or may be amended or supplemented from time to time;

“ **Lease Amounts** ” means the amounts payable by the Lessor pursuant to clause 3.7 of this Agreement;

“ **Lease Documents** ” means this Agreement, the Certificate of Delivery and Acceptance, the Novated Building Contract, the Refund Guarantee, the QEL, the Guarantee, the Indexation Relief Letter, the Novation Agreement, the Supervision Agreement, the Tax Consultation Letter, the Non Discrimination Letter, the General Assignment, the Pooling Benefits Letter, the Capital Commitment Fee Letter, the Pre-Tax Loss Letter, the Technical Note Letter and any other document, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of any of the foregoing and to which the Lessor is a party and any other documents, notice, letter or instrument designated as a Lease Document by the Lessor and the Lessee;

“ **Lease Period** ” means the period during which the Lessee is entitled under the terms of this Agreement to possession and use of the Ship commencing on the Delivery Date and ending on the earlier of:

- (a) the Lease Period End Date; and
- (b) the date of termination of the leasing of the Ship under this Agreement;

“ **Lease Period End Date** ” means the date falling four years and three hundred and sixty days after the Delivery Date;

“ **Lease Rental Date** ” has the meaning given to such term in the Financial Schedule;

“ **Lease Termination Date** ” means the date on which the leasing of the Ship by the Lessor to the Lessee terminates under this Agreement, being:

- (a) the Lease Period End Date; or
- (b) where the leasing of the Ship ends following the occurrence of a Total Loss, the Total Loss Payment Date; or
- (c) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) by virtue of the fact that the leasing of the Ship pursuant to this Agreement has become Economically Burdensome, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(a), being a date not less than five (5) Business Days after service of that notice; or
- (d) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) for any reason other than that specified in paragraph (c) above, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(b) being a date no less than thirty (30) days after service of that notice; or

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- (e) where the leasing of the Ship ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (f) where the leasing of the Ship ends pursuant to clause 18.2, by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (g) where the leasing of the Ship ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee by the Lessor pursuant to clause 24.1;

“ **Lessor** ” includes the successors and permitted assigns and transferees of the Lessor;

“ **Lessor Breach** ” means any breach by the Lessor or any Lessor Group Member and their respective agents, assigns, directors, officers, secondees and servants (each a “ **Lessor Party** ”) of its obligations, warranties or representations to the Lessee under the Transaction Documents to which the relevant Lessor Party is a party, but excluding any breach resulting from any act or omission of:

- (a) the Lessee, any Transaction Company or any person which derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of a Lessor Party;
- (b) a Lessor Party, that arises as a result of the failure of the Lease or any Transaction Company to duly and punctually perform all its obligations under any Transaction Document; or
- (c) a Lessor Party, that arises as a result of a breach of any of the express representations or express warranties of the Lessee or any Transaction Company;

“ **Lessor Group Member** ” means any member of the Lessor’s Group other than the Lessor;

“ **Lessor Misconduct** ” means any act or omission of the Lessor or any Indemnified Person, (excluding any act or omission of the Lessee or any Transaction Company, or any Person who derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of the Lessor or any Indemnified Person) which constitutes:

- (a) wilful misconduct;
- (b) reckless misconduct with:
 - (i) the intent to cause damage; or
 - (ii) actual knowledge that damage would probably result;

“ **Lessor Parent Support Letters** ” means the letters issued or, as the context may require, to be issued by the Bank:

- (a) in favour of the Lessee in the form set out in Schedule 3A; and
- (b) in favour of the Builder in the form set out in Schedule 3B, and, in the singular, means either of them; and

“ **Lessor’s Group** ” means the Lessor and its ultimate Holding Company and any company which is a Subsidiary of such Holding Company from time to time;

“ **Lessor’s Legal Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Lessor’s Management Time** ” means the amount of time which any director or employee of the Lessor or any Lessor Group Member (other than those employees whose functions are of an administrative or clerical nature) spends or anticipates in good faith will be spent in connection with the taking of any actions, the consideration of any requests and/or the entering into of any discussions by the Lessor in accordance with this Agreement and the other Transaction Documents as shall be notified to the Lessee by the Lessor (provided however that this shall not include time spent on routine transactional management or on administrative or clerical matters);

“ **Lessor’s Management Time Cost Rate** ” means £300 per hour plus RPI, or as otherwise notified by the Lessor to the Lessee from time to time, acting reasonably;

“ **Lessor’s Security Interest** ” means any Security Interest on the Ship, its earnings, the Insurances or any Requisition Compensation which arises as a result of:

- (a) any claim against or affecting the Lessor that is not related to, or does not arise directly or indirectly as a result of, the transactions contemplated by this Agreement or any of the other Transaction Documents; or
- (b) any act or omission of the Lessor which is unrelated to or does not arise directly or indirectly as a result of the transactions contemplated by this Agreement and the other Transaction Documents; or
- (c) any Taxes imposed upon the Lessor other than those in respect of which the Lessor or any other Indemnified Person is required to be indemnified against by the Lessee or by any other person under this Agreement or under any of the other Transaction Documents;

“ **Lessor’s Total Expenditure** ” means:

- (a) for the purposes of paragraph (a) of the definition of Maximum Commitment, all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and, in respect of amounts payable in any other currency, means the Dollar Equivalent of such amounts; and
- (b) for the purposes of paragraph (b) of the definition of Maximum Commitment, the aggregate of all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and each of the Sister Ships (as such expressions are defined in, as the case may be, this Agreement or the relevant Sister Ship Lease Agreement);

“ **Lessor’s Underwriting Fee** ” has the meaning given to that term in the Financial Schedule;

“ **LIBOR** ” has the meaning given in the Financial Schedule;

“ **Losses** ” means any and all losses, costs, charges, expenses, fees, interest, commissions, payments, demands, claims, actions, proceedings, liabilities, penalties, fines, judgments, damages, orders, liens, salvage and general average or other sanctions other than Taxes, and except also those excluded by clause 7.5, and the expression “Loss” shall be construed accordingly;

“ **Major Casualty** ” means a casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$5,000,000 or the equivalent in another currency;

“ **Manager** ” means the Approved Manager or any Replacement Manager;

“ **Mandatory Prepayment Event** ” means any of the events or circumstances described in clause 17.2;

“ **Maximum Commitment** ” means each of:

- (a) \$85,811,000 in respect of the Lessor’s Total Expenditure on the Ship; and
- (b) \$400,000,000 in aggregate in respect of the Lessor’s Total Expenditure on the Ship and each of the Sister Ships,

in each case exclusive of any United Kingdom Value Added Tax payable under the law in force in the United Kingdom at the date of this Agreement, Provided however that:

- (i) during the period between the date of this Agreement and 31 December 2007, the Maximum Commitment under paragraph (b) above shall be limited to an aggregate of \$226,000,000; and
- (ii) if any Sister Ship Lease Agreement terminates (the “ **Terminated Lease** ”) pursuant to clauses 2.2 or 2.5 thereof prior to the date on which Delivery shall have occurred under this Agreement and all of the other Sister Ship Agreements (as “ **Delivery** ” is defined therein), for the purposes of paragraph (b) of the definition of Lessor’s Total Expenditure there shall be disregarded all amounts paid by the Lessor under the Terminated Lease by way of Purchase Price and Lease Amounts (as defined therein);

“ **Net Sale Proceeds** ” means in relation to a sale of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the amount of the consideration actually and unconditionally received by the Lessor from a purchaser of the Ship upon such sale and any non-refundable deposit paid to or for the account of the Lessor by a person acquiring or proposing to acquire the Ship under a contract or offer to purchase the Ship or other agreement to acquire the Ship which has been withdrawn, terminated or cancelled or has lapsed;

after deducting:

- (i) any VAT for which the Lessor is required to account in respect of such sale; and
- (ii) the Lessor’s costs and out-of-pocket expenses, excluding Recoverable VAT on such expenses, properly incurred in connection with such sale (including but not limited to brokers’ commissions, legal fees, registration fees and stamp duties) or properly incurred in recovering possession of or in moving, insuring, maintaining, laying up or dry-docking the Ship and in carrying out any repairs, works or modifications required to restore the Ship to the condition required by this Agreement or required pursuant to any sale and purchase agreement in respect of the Ship;

“ **Net Total Loss Proceeds** ” means, in relation to a Total Loss of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the Total Loss Proceeds actually and unconditionally received by the Lessor after deducting the Lessor’s costs and out-of-pocket expenses (excluding Recoverable VAT on such expenses) reasonably incurred by the Lessor in connection with the collection of such proceeds;

“ **Non Discrimination Letter** ” means the letter agreement so called issued or to be issued in relation to this Agreement addressed by the Lessor to the Lessee;

“ **Notice Response Date** ” shall have the meaning attributed thereto in clause 16.2;

“ **Novated Building Contract** ” means the Building Contract as novated and amended by the Novation Agreement;

“ **Novation Agreement** ” means the novation agreement entered or to be entered into in respect of the Building Contract and made between (i) the Builder, (ii) the Lessor, (iii) the Guarantor (as “Original Purchaser”) and (iv) the Lessee (as “Replacement Purchaser”);

“ **Permitted Security Interests** ” means:

- (a) Security Interests created by the Transaction Documents;
- (b) Lessor’s Security Interests;
- (c) liens for unpaid crew’s wages;
- (d) liens for salvage;
- (e) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (f) liens for master’s disbursements incurred in the ordinary course of trading;
- (g) other liens arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship and which secure amounts not exceeding five million Dollars (\$5,000,000) where the Lessee is contesting the claim giving rise to such lien in good faith by appropriate steps and for the payment of which adequate reserves have been made in case the Lessee finally has to pay such claim so long as any such proceedings shall not, and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;
- (h) any Security Interest created in favour of a claimant or defendant in any action of the court or tribunal before whom such action is brought as security for costs and expenses where the Lessee is prosecuting or defending such action in good faith by appropriate steps or which are subject to a pending appeal and for which there shall have been granted a stay of execution pending such appeal and for the payment of which adequate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of, the Ship or any interest in the Ship; and

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- (i) Security Interests arising by operation of law in respect of Taxes which are not overdue for payment or Taxes which are overdue for payment but which are being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;

“ **Pooling Benefits Letter** ” means the letter so called issued or to be issued in respect of any pooling benefits relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Pre-Delivery Termination Date** ” means the date on which the Lessor’s obligation to acquire the Ship pursuant to the Novated Building Contract and lease the Ship to the Lessee terminates, being:

- (a) where the obligation of the Lessor to acquire the Ship and lease the Ship to the Lessee ends by virtue of the fact that the transaction has become Economically Burdensome or the Lessee has determined that the transaction has become Commercially Burdensome, the date specified in the notice served on the Lessor by the Lessee pursuant to clause 2.2.1;
- (b) if the Ship becomes a Total Loss, the earlier of the date on which the Supervisor (acting on behalf of the Lessor and in accordance with the Supervision Agreement) agrees with the Builder that the damage shall not be repaired and that the Novated Building Contract shall be deemed to be rescinded and all amounts paid by the Lessor thereunder (together with interest thereon) be refunded by the Builder or, where no agreement is reached by the Builder and the Supervisor, the date falling six (6) months after the occurrence of the Total Loss;
- (c) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice;
- (d) where a Further Novation Event occurs, the date stipulated in the notice served on the Replacement Purchaser by the Lessor pursuant to clause 18.3.1; and
- (e) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee pursuant to clause 24.1;

“ **Pre-Tax Loss Letter** ” means the letter so called issued or to be issued in respect of any pre-tax loss relating to this Agreement addressed by the Lessor to the Lessee;

“ **Purchase Price** ” means the price for the Ship payable by the Lessor under the Novation Agreement and the Novated Building Contract, which price shall be reduced by any amounts payable by the Builder to the Lessor under article III.2 (*Adjustment of Contract Price - Speed*), article III.3 (*Adjustment of Contract Price - Fuel Consumption*), article III.4 (*Adjustment of Contract Price - Deadweight*), article III.5 (*Adjustment of Contract Price - Container Capacity*) of the Novated Building Contract, but shall not be reduced by any amounts payable by the Builder to the Lessor under article III.1 (*Adjustment of Contract Price - Delivery*) of the Novated Building Contract;

“ **QEL** ” means the quiet enjoyment letter in respect of the Ship between the Lessor and the Time Charterer;

“ **Recoverable VAT** ” means any amounts paid or payable by or on behalf of the Lessor in respect of Value Added Tax which is not Irrecoverable VAT;

“ **Refund Guarantee** ” means the refund guarantee issued or, as the context may require, to be issued by the Refund Guarantor in favour of the Lessor pursuant to the Novation Agreement;

“ **Refund Guarantor** ” means Woori Bank, with its principal place of business at 1328-3 Seochodong Seochogu, Seoul 13-070, Korea;

“ **Relevant Event** ” means any Termination Event, Mandatory Prepayment Event or Further Novation Event, or any event which only with the passage of time, the giving of any notice or the fulfilment of any other condition (or a combination thereof) would constitute a Termination Event, Mandatory Prepayment Event or Further Novation Event;

“ **Rental** ” has the meaning given to such term in the Financial Schedule;

“ **Replacement Manager** ” means any company which the Lessor may approve from time to time as the manager of the Ship pursuant to clause 10.11;

“ **Requisition Compensation** ” means all sums of money or other compensation from time to time payable in respect of the Compulsory Acquisition of the Ship;

“ **Review Notification Date** ” means the date falling four (4) months after the commencement of the Standby Lender Review Period;

“ **Revised Cash Flow** ” has the meaning given to that term in the Financial Schedule;

“ **Saving on Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Security Interest** ” means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the rights of the claimant under an action in rem in which the ship concerned has been arrested or a writ has been issued or similar step taken; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which person (B) would have been had person (B) held a security interest over an asset of person (A), but this paragraph (c) does not apply to a right of set-off or combination of accounts arising by operation of law or conferred by the standard terms of business of a bank or financial institution and which has not been exercised;

“ **Ship** ” means the vessel currently under construction with the Builder pursuant to the Novated Building Contract and having Builder’s Hull Number 1854 to be sold by the

Builder to the Lessor pursuant to the Novated Building Contract and to be registered in the name of the Lessor as and from the Delivery Date and includes any share or interest therein, as the same is more particularly described in Schedule 2 and includes its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, and everything belonging or appurtenant to it whether on board or ashore (including, for the avoidance of doubt, any depot spares and other spare parts and other such items purchased by the Lessor under the Novated Building Contract) together with any and all substitutions, replacements and renewals of any of them and any and all substitutions therefor and replacements and renewals thereof and any additions thereto from time to time made in accordance with the provisions of this Agreement and any of the foregoing which, having been removed from it, remain the property of the Lessor pursuant to this Agreement and any additions thereto which have not been removed and have become the Lessor's property in accordance with clause 11.4;

“**Ship's Software**” means all computer software which is required for the operation of the Ship, including, but not limited to, navigation software;

“**Sister Ship**” and “**Sister Ships**” mean any or all (as the case requires) of the vessels currently under construction with the Builder identified as Hull numbers 1851, 1852, 1853, and 1855;

“**Sister Ship Lease Agreements**” means the lease agreements entered into on, or at any time after, the date of this Agreement in respect of each of the Sister Ships between the Lessor and the Lessee;

“**Sister Ship Time Charters**” means the time charters defined in each of the Sister Ship Lease Agreements as the “Time Charter”;

“**Sister Ship Transaction Documents**” means the documents defined as “**Transaction Documents**” in each of the Sister Ship Lease Agreements;

“**SOLAS**” means International Convention for the Safety of Life at Sea, 1974, with Protocol 1978 and Amendments of 1981, 1983, 1988, 1991, 1992, 1994, 1996, 1998, 2000, 2002, 2003 and 2004 as the same may be further amended or supplemented, consolidated or replaced from time to time;

“**Standby Lender**” means the Bank or such other company in the Lessor's Group as shall be nominated by the Lessor for such purpose;

“**Standby Lender Review**” means the review which the Standby Lender is entitled to undertake pursuant to clause 16.1;

“**Standby Lender Review Period**” means the period commencing on the date falling six (6) months prior to the Lease Period End Date applicable to whichever of the Ship and the Sister Ships is the first vessel to be Delivered (as defined in this Agreement or, as the case may be, the relevant Sister Ship Agreement), and expiring on the Review Notification Date;

“**Standby Loan Transaction**” means a transaction with the characteristics described in Schedule 10;

“**Subsidiary**” means:

- (a) in respect of a person incorporated or formed outside England and Wales, any company or entity directly or indirectly controlled by such person, and for this purpose “control” means either the ownership of more than fifty (50) per cent. of the voting share capital (or equivalent rights of ownership) of such company or entity or the power to direct its policies and management whether by contract or otherwise; and

(b) in respect of a person incorporated in England and Wales, a subsidiary within the meaning of Section 736 Companies Act 1985;

“ **Supervision Agreement** ” means the supervision agreement entered or to be entered into in respect of the construction of the Ship and made between (i) the Supervisor and (ii) the Lessor;

“ **Supervision Costs** ” means the amount payable by the Lessor to the Supervisor under clause 4.5(b) of the Supervision Agreement;

“ **Supervisor** ” means the Approved Manager, in its capacity as the “Supervisor” pursuant to the Supervision Agreement;

“ **Tax** ” includes all present and future taxes, levies (whether by deduction, withholding or otherwise), imposts, duties, or charges of a similar nature (or any amount payable on account of or as security for any of the foregoing), including, but not limited to, income tax, corporation tax, VAT, stamp duty, customs and other impost or export duty or excise duty, imposed by any statutory, governmental, national, international, state or local taxing or fiscal authority, body or agency or department whatsoever or any central bank, monetary agency or European Union institution, whether in the United Kingdom or elsewhere together with interest thereon and any additions, fines, surcharges, penalties in respect thereof or relating thereto and “ **Taxes** ” and “ **Taxation** ” shall be construed accordingly;

“ **Tax Consultation Letter** ” means the letter issued or to be issued in relation to this Agreement regulating the conduct of matters between the Lessor and HMRC or any other tax authority in respect of the transactions represented by the Transaction Documents addressed by the Lessor to the Lessee;

“ **Tax Written Down Value** ” has the meaning given to such term in the Financial Schedule;

“ **Technical Note Letter** ” means the letter agreement of that name issued or to be issued in relation to this Agreement addressed from the Lessor to the Lessee;

“ **Termination Amount** ” means the aggregate of the Termination Sum and the Termination Fee (if any);

“ **Termination Date** ” means, as the context may require, the Pre-Delivery Termination Date or the Lease Termination Date;

“ **Termination Event** ” means any of the events or circumstances described in clause 17.1;

“ **Termination Fee** ” has the meaning given in the Financial Schedule;

“ **Termination Payment Date** ” means:

(a) in the case of a voluntary termination pursuant to clause 2.2, the Pre-Delivery Termination Date;

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- (b) in the case of a voluntary termination pursuant to clause 2.5, the Lease Termination Date;
 - (c) in the case of any termination of the Lessor's obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.1, the Pre-Delivery Termination Date;
 - (d) in the case of any termination of the leasing of the Ship pursuant to clause 18.1, the Lease Termination Date;
 - (e) in the case of any termination of the Lessor's obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.2, the Pre-Delivery Termination Date;
 - (f) in the case of any termination of the leasing of the Ship pursuant to clause 18.2, the Lease Termination Date; and
 - (g) in the case of the occurrence of a Further Novation Event, the Pre-Delivery Termination Date; and
 - (h) in the case of a Total Loss, the Total Loss Payment Date;

“ **Termination Sum** ” has the meaning given to such term in the Financial Schedule;

“ **Time Charter** ” means the time charter agreement in respect of the Ship dated on or about the date hereof and entered into between the Guarantor and the Time Charterer;

“ **Time Charterer** ” means Kawasaki Kisen Kaisha, Ltd., a company incorporated in Japan;

“ **Total Loss** ” means:

- (a) an actual, constructive, compromised or arranged total loss of the Ship; or
- (b) any Compulsory Acquisition of the Ship; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to the Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Ship be released and restored to the Lessee or the Lessor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof; or
- (d) the expiry of one (1) year (or such longer period as the Lessor and the Lessee may agree) after the Ship shall have been requisitioned for hire or use by a Government Entity or other competent authority, whether de jure or de facto;

“ **Total Loss Date** ” means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;

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- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earlier of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Lessor with all of the relevant insurers of the Ship at the relevant time in which the said insurers agree to treat the Ship as a total loss; and
 - (c) in the case of a Compulsory Acquisition the date on which the requisition for title or other Compulsory Acquisition occurs; and
 - (d) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, the date upon which the relevant hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation constitutes a Total Loss (as stipulated by paragraphs (c) and (d) of the definition of “Total Loss”);

“ **Total Loss Payment Date** ” means, following the occurrence of a Total Loss, the earliest of the following dates to occur:

- (a) the date falling 120 days after the Total Loss Date or such later date as the Lessor may agree; or
- (b) the date on which the Lessor receives the Total Loss Proceeds or any Requisition Compensation;

“ **Total Loss Proceeds** ” means the proceeds of any policy or contract of insurance arising in respect of a Total Loss actually and unconditionally received by the Lessor following a Total Loss of the Ship;

“ **Total Vessel Cost** ” has the meaning given to such term in the Financial Schedule;

“ **Transaction Companies** ” means the Lessee, the Guarantor, the Supervisor (but only for so long as it owes any obligations to the Lessor under the Supervision Agreement), and the Replacement Purchaser (but only for so long as it owes any obligations to the Lessor under the Novation Agreement) and, in the singular, means any one of them;

“ **Transaction Documents** ” means the Lease Documents, the Time Charter, the Lessor Parent Support Letters and any other document, agreement, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of, as a pre-condition of, or otherwise in connection with any of the foregoing and any other document, agreement, acknowledgement, notice, letter or instrument designated as a Transaction Document by the Lessor and the Lessee;

“ **United Kingdom** ” or “ **UK** ” means United Kingdom of Great Britain and Northern Ireland;

“ **US Transportation Tax** ” means the 4% Tax imposed by the US on a foreign corporation’s US source gross transportation income for any tax year or any similar or equivalent Tax replacing or introduced in addition to the same;

“ **Value Added Tax** ” or “ **VAT** ” means:

- (a) value added tax of the United Kingdom as provided for in the VATA including legislation (delegated or otherwise) supplementary thereto, and any similar or substituted tax, or any tax imposed, levied or assessed in the United Kingdom on added value or turnover; and
- (b) any similar tax imposed, levied or assessed in any jurisdiction outside the United Kingdom; and

“ **VATA** ” means the Value Added Tax Act 1994;

1.2 Construction of certain terms

In this Agreement:

“ **consent** ” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

“ **excess risks** ” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies or the ordinary collision clause in respect of the Ship in consequence of her insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“ **law** ” includes any form of delegated legislation, any order or decree, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

“ **person** ” includes any company or unincorporated legal entity, any state, political sub-division of a state and local or municipal authority and any international organisation and reference to any person shall include its successors, permitted assignees and permitted transferees in accordance with their respective interests;

“ **policy** ” in relation to any insurance includes a slip, cover note, certificate of entry or other documents evidencing the contract of insurance or its terms;

“ **protection and indemnity risks** ” means the usual risks covered by a full owner’s entry in a protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies;

“ **regulation** ” includes, without limitation, any regulation, rule, official directive, request or guideline (either having the force of law or compliance with which is customary in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and

“ **war risks** ” includes the risk of mines, all risks covered by the English Institute War and Strikes Clauses or any equivalent provision and all insurable risks excluded under the war and terrorism risks exclusion clauses or equivalent under the rules of the protection and indemnity club or association with whom the protection and indemnity risks cover is placed from time to time.

1.3 Meaning of “month”

A period of one or more “ **months** ” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (the “ **numerically corresponding day** ”), but:

- 1.3.1 on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
 - 1.3.2 on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;
- and “ **month** ” and “ **monthly** ” shall be construed accordingly.

1.4 General interpretation

In this Agreement:

- 1.4.1 references in clause 1.1 to a document being in the form of a particular Schedule include references to that form with any modifications to that form which the Lessor and the Lessee agree in writing;
- 1.4.2 references to, or to a provision of, a Transaction Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise with the consent of the Lessor;
- 1.4.3 references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- 1.4.4 words denoting the singular number shall include the plural and vice versa;
- 1.4.5 references to clauses and Schedules are, unless otherwise stated, references to clauses of and schedules to this Agreement;
- 1.4.6 clauses 1.1 to 1.4 apply unless the contrary intention appears; and
- 1.4.7 in relation to an entity which is not a corporation, reference to “incorporated” and cognate expressions shall be deemed to be references to its formation and establishment under applicable law.

1.5 Headings

The clause headings shall not affect the interpretation of this Agreement.

1.6 Conflicts

If any conflict arises or exists between the provisions of this Agreement and any of the other Lease Documents, the provisions of this Agreement shall prevail.

2 Lease

2.1 Lease Period

Subject to and upon the terms and conditions of this Agreement, the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, and will be entitled to the full possession and use of, the Ship for a period commencing on the Delivery Date and ending on the Lease Period End Date.

2.2 Voluntary termination prior to Delivery

2.2.1 If at any time prior to Delivery:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome; or
- (b) the Lessee has determined that the transaction contemplated by the Transaction Documents has become Commercially Burdensome (as evidenced by a certificate issued by a director or officer of the Lessee),

the Lessee shall be entitled to terminate the agreement by the Lessor to acquire the Ship pursuant to the Novated Building Contract and to lease the Ship to the Lessee pursuant to this Agreement and the agreement by the Lessee to lease the Ship from the Lessor, by giving written notice to the Lessor in accordance with the provisions set out in clauses 2.2.3 and 2.2.4 below.

2.2.2 The transaction contemplated by the Transaction Documents shall be regarded as being “ **Commercially Burdensome** ” when the Lessee determines that it is no longer compatible with the commercial strategy of the Lessee and as a consequence the Lessee has good commercial reasons for wishing to terminate the transaction, provided however that the Lessee shall not be deemed to have a good commercial reason for terminating the transaction if primarily motivated by, or the termination is for the purposes of, the Lessee entering into any alternative financing arrangement with respect to the Ship with any other financier.

2.2.3 Any notice given by the Lessee pursuant to this clause 2.2 shall be irrevocable and shall state whether it is given pursuant to clause 2.2.1(a) or clause 2.2.1(b) and, in the case of a notice given pursuant to clause 2.2.1(b) above, shall attach a certificate from a director or officer of the Lessee certifying that the transaction contemplated by the Transaction Documents is Commercially Burdensome, which shall be conclusive as to the opinion of the Lessee.

2.2.4 The Lessee shall give at least:

- (a) five (5) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(a); and

- (b) thirty (30) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(b);

2.2.5 If a Mandatory Prepayment Event shall occur prior to Delivery or a Further Novation Event shall occur in each case which is continuing, the Lessor may exercise its rights under clause 18.2 or, as the case may be, clause 18.3 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.2, whereupon the provisions of clause 2.2.6 and 2.3 shall apply.

2.2.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount equal to the Termination Amount as at that date as determined in accordance with clause 18.4, together with all other moneys then due and payable but unpaid by the Lessee to the Lessor under the Lease Documents.

2.3 Further novation on voluntary termination before Delivery

If (a) the Lessee gives notice pursuant to clause 2.2 or (b) the Lessee is deemed to have given notice pursuant to clause 2.2 in accordance with the provisions of clause 18.3 to terminate the agreement to lease the Ship under this Agreement during the Construction Period or (c) the Lessor gives notice pursuant to clause 18.1 to terminate the agreement to lease the Ship during the Construction Period (and (in the case of clause 2.3(a)) the Lessor has received payment of all amounts owing to the Lessor by the Lessee under clause 18.4 in cleared funds in accordance with the payment instructions therefor and without conditions attached) the Lessor shall promptly give a Further Novation Notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

2.4 Continuation of Construction Period

Notwithstanding anything to the contrary contained in this Agreement, if the Lessee gives notice or is deemed to have given notice to terminate the agreement to lease the Ship under this Agreement during the Construction Period pursuant to clause 2.2, the Construction Period will continue until and end on the date on which the further novation referred to in clause 2.3 occurs.

2.5 Voluntary termination after Delivery

2.5.1 At any time after Delivery the Lessee is entitled to terminate the leasing of the Ship by the Lessor to the Lessee under this Agreement by giving written notice to the Lessor.

2.5.2 If:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome, the Lessee shall give at least five (5) Business Days notice of the proposed Lease Termination Date; and
- (b) in all other circumstances, the Lessee shall give at least thirty (30) days notice of the proposed Lease Termination Date.

2.5.3 Any notice given by the Lessee pursuant to clause 2.5.1 and 2.5.2 shall, subject to clause 2.5.7:

- (a) be irrevocable;

(b) state whether it is given pursuant to clause 2.5.2(a) or 2.5.2(b); and

(c) be given in respect of an imminently proposed sale.

2.5.4 If a Mandatory Prepayment Event shall occur which is continuing, the Lessor may exercise its rights under clause 18.2 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.5, whereupon the provisions of clause 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.5 If the Lessor issues a notice to the Lessee pursuant to clause 24 to terminate the Lease Period, such termination shall be treated as constituting a voluntary termination in accordance with this clause 2.5 whereupon the provisions of clauses 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount as determined in accordance with the provisions of clause 18.4.

2.5.7 Notwithstanding the service by the Lessee of a notice terminating the leasing of the Ship in accordance with clauses 2.5.1 and 2.5.2, if, after the service of such notice, the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee in each case as at the proposed Lease Termination Date, the leasing of the Ship shall continue as if such notice had not been issued.

2.5.8 If the Lessee is treated as having given a notice terminating the leasing of the Ship pursuant to clause 2.5.4 or 2.5.5 and the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee as at the applicable Lease Termination Date, the leasing of the Ship shall nevertheless terminate on the Lease Termination Date.

2.6 Continuation of Lease Period

Notwithstanding anything to the contrary in this Agreement, from the Lease Termination Date until the earlier of (i) the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 and (ii) the date on which the Ship is redelivered to the Lessor pursuant to clause 15 the Lessee shall continue in possession of the Ship as the Lessor's agent under a bailment terminable by the Lessor at will with no right of quiet enjoyment as between the Lessor and the Lessee (but otherwise without prejudice to its rights under clause 2.8 and to receive rebates of Rental under this Agreement); and as a term of its appointment as the Lessor's agent it shall continue to perform all its obligations under this Agreement as if the Lease Period were still continuing.

2.7 Terms and Conditions of sale

Any sale of the Ship pursuant to clause 2.8 (but not, for the avoidance of doubt, pursuant to clause 2.9) will be on the following terms and conditions and shall otherwise be completed in accordance with the provisions set out below:

2.7.1 the sale will be at a cash price payable by the purchaser to the Lessor in full on completion of that sale in Dollars or such other currency as the Lessor may agree (such agreement not to be unreasonably withheld or delayed);

2.7.2 the sale will be on the best terms (including price) which, in the opinion of a reputable firm of independent ship valuers and surveyors experienced in the container carrier sector, are reasonably obtainable on the open market on an “as is, where is” basis taking into account where continuing, the Time Charter and any charter of the Ship at that time which shall have been notified to the Lessor and approved by the Lessor pursuant to clause 10.17 and which is intended to continue (and is capable of continuing) after the date of sale and the termination of the bailment to the Lessee under this Agreement;

2.7.3 the sale may be to any person other than:

- (a) the Time Charterer, the Lessee or any other person to whom the Ship has at any time been leased or sub-leased; or
- (b) any person who is purchasing in trust for any of the parties referred to in (a); or
- (c) any other person to whom, by virtue of a Change of Law occurring after the date of this Agreement, a sale is certified by the Lessor (the “**Lessor’s Certificate**”) as being reasonably likely to result in the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship provided however that if the Lessee does not agree with the Lessor’s Certificate it shall be entitled to require the Lessor to obtain promptly a written opinion from leading tax counsel (“**Counsel**”) (in accordance with the provisions of clause 2.7.3(g)) stating whether or not the Lessor’s Certificate is correct;
- (d) if Counsel is of the opinion that the Lessor’s Certificate is incorrect, then the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, without the provision of any further security to the Lessor;
- (e) if Counsel is of the opinion that the Lessor’s Certificate is correct, the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) and (b) above, conditional upon the Lessee having first provided to the Lessor additional security of such appropriate amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any cost or expense on the End Date (as defined in the Financial Schedule);
- (f) if the Lessee notifies the Lessor in writing that it does not require the Lessor to obtain an opinion from Counsel, it shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, provided that it shall have first provided to the Lessor additional security of such amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim

capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any such cost or expense on the End Date (as defined in the Financial Schedule);

- (g) the Lessee shall be entitled to require the Lessor to obtain the opinion of Counsel chosen for the foregoing purpose by agreement between the Lessor and the Lessee (or in the absence of agreement by the Chairman of the Bar Council whom the Lessor and the Lessee shall instruct for that purpose). A consultation with Counsel shall be arranged expeditiously after the Lessor receives notification from the Lessee that it requires Counsel's opinion on the Lessor's Certificate. Counsel shall be instructed on the basis of instructions prepared by the Lessor's legal advisers in consultation with the Lessee and its legal advisers (with the intent that the Lessee and its legal advisers shall have a reasonable opportunity to consider and contribute to such instructions). The Lessee and its legal advisers shall be entitled to attend any consultation with Counsel save that the Lessee and its professional advisers shall withdraw from such consultation at the request of the Lessor for so long as, in the reasonable opinion of the Lessor, matters which are confidential or of a sensitive nature having regard to the business of the Lessor, or which relate to the confidential affairs of a third party, are to be discussed during such consultation. The cost of Counsel's opinion shall be for the account of the Lessee save where Counsel is of the opinion that the Lessor's Certificate is incorrect, in which case it shall be for the account of the Lessor;

- 2.7.4 the terms of the sale will include a warranty on the part of the Lessor that the Lessor will pass such title to the Ship as the Lessor has acquired pursuant to the Novated Building Contract free of Lessor's Security Interests, but otherwise shall be without any representation, recourse or warranty whatsoever to or on the part of the Lessor;
- 2.7.5 the Lessee, for its own account, may give any warranties reasonably required by the purchaser of the Ship in accordance with market practice for the sale of vessels of a similar type, design and age as the Ship;
- 2.7.6 the terms of the sale will include, subject to the consent of the Builder pursuant to the Novated Building Contract, an assignment by the Lessee of any unexpired portion of any assignable warranties and indemnities referred to in clause 6.5;
- 2.7.7 the sale will be on an "as is, where is and with all faults" basis and governed by the laws of England;
- 2.7.8 if the proposed sale provides for delivery of the Ship by the Lessor, such obligation is conditional on the Ship first being redelivered to the Lessor;
- 2.7.9 the sale will be for delivery on, or if for any reason a sale is not possible on that date as soon as reasonably practicable after, the termination date specified in the notice served by the Lessee pursuant to clause 2.5;
- 2.7.10 the sale will exclude, so far as permitted by the laws of England and any other laws governing or applicable to the sale of the Ship, all liability of the Lessor, in contract or tort, in relation to the Ship to the same extent as such liabilities are excluded by clause 6 except for the warranty given by the Lessor referred to in clause 2.7.4; and

2.7.11 if the Ship is at the date of entry into any contract for the sale of the Ship subject to any requisition for hire or (where continuing) the Time Charter or any other chartering of the Ship which shall have been notified to, and approved by the Lessor pursuant to clause 10.17 and which is continuing as at such date notwithstanding the termination of the bailment to the Lessee the sale will be subject to such requisition or any such other chartering of the Ship.

2.8 Sales agency

2.8.1 In respect of any sale of the Ship to be conducted:

- (a) following a termination of the leasing of the Ship pursuant to clause 2.5.2(a) or 2.5.2(b) (Voluntary Termination after Delivery) or any deemed voluntary termination of the leasing of the Ship pursuant to clause 24.3; or
- (b) on the Lease Period End Date; or
- (c) following any termination of the Lease Period pursuant to clause 18.1 (Termination Rights); or
- (d) following any termination of the Lease Period pursuant to clause 18.2 (Mandatory Prepayment);

the Lessor irrevocably appoints the Lessee to act as the agent of the Lessor for the purpose of negotiating the sale of the Ship on the terms set out in clause 2.7 subject to and upon the limitations set out in clauses 2.8.4 to 2.8.8 and the Lessor agrees that, until termination of such agency pursuant to clause 2.8.3 or 2.8.4, the Lessee shall continue to be empowered to negotiate a sale of the Ship, which shall then be concluded in the manner described in clauses 2.8.6 and 2.8.7.

2.8.2 The appointment of the Lessee as the sales agent of the Lessor shall commence on:

- (a) the date on which the Lessee notifies the Lessor that it wishes to terminate the leasing of the Ship in accordance with clause 2.2 or 2.5.2; and
- (b) on the date on which the Lessee is deemed to have exercised its rights of voluntary termination in accordance with clauses 2.5.4 or 2.5.5 following the issue by the Lessor of a notice pursuant to any of clauses 18.2 or 24; and
- (c) in the case of a termination of the leasing by the Lessor pursuant to clause 18.1, on the date on which the Lessor serves notice on the Lessee pursuant to clause 18.1; and
- (d) in any other circumstance, on the fourth anniversary of the Delivery Date,

and shall terminate on the earlier of (i) the date on which the Net Sale Proceeds are actually and unconditionally received and applied in accordance with clause 2.10 or (ii) the date on which the Lessor terminates the appointment of the Lessee pursuant to clause 2.8.3 below or (iii) in any event, and without any action being required by the Lessor, the fifth anniversary of the Delivery Date.

2.8.3 The Lessor shall be entitled to terminate the sales agency under clause 2.8.1 or, as the case may be, clause 2.8.2 by means of written notification to the Lessee:

- (a) at any time after notice is given under clause 18.1 or clause 18.2 and in each such case where the Lessee shall have failed to pay to the Lessor the Termination Amount and any other sums then due to the Lessor which are payable by the Lessee pursuant to clause 18.4 and such failure continues unremedied for a period of five (5) Business Days, unless the notice pursuant to 18.1 is given in respect of the occurrence of any of the events referred to in clauses 17.1.9 or 17.1.11 in relation to any of the Lessee or the Guarantor in which case the Lessor shall be entitled to terminate the sales agency with immediate effect; and

- (b) subject to paragraph (c) below, the date falling six (6) months after the applicable Lease Termination Date, if no sale of the Ship has been completed by that time; and
- (c) the date falling one day before the fifth anniversary of the Delivery Date, if no sale of the Ship has been completed by that time;

whereupon in the case where the Lessee's sales agency rights have been terminated in accordance with the provisions of this clause 2.8.3, the Lessor shall be entitled to repossess the Ship in accordance with clause 18.5 and the provisions of clause 2.9 shall apply.

- 2.8.4 The appointment of the Lessee as the Lessor's sales agent shall be on the basis that the Lessee is the Lessor's sole and exclusive agent from the date on which it is appointed until 45 days prior to the fifth anniversary of the Delivery Date at which point the Lessee shall continue as agent on a non-exclusive basis and the provisions of clause 2.8.10 shall apply.
- 2.8.5 The appointment of the Lessee as sales agent will constitute a full discharge by the Lessor of its obligations under clause 18.6 to use reasonable endeavours to sell the Ship for the period while such appointment is continuing.
- 2.8.6 The Lessee's authority is limited to the extent that the Lessee is not authorised to sell the Ship or to approve or execute on behalf of the Lessor any document relating to the sale of the Ship for which the Lessor's specific written authority will be required, which authority will not be unreasonably withheld or delayed where:
 - (a) the sale complies with the provisions of clause 2.7; and
 - (b) the sale price of the Ship exceeds the Tax Written Down Value.
- 2.8.7 Subject to clause 2.8.6 the Lessor agrees that, at the cost and expense of the Lessee, on reasonable notice it will complete the sale of the Ship and it shall execute any agreement, protocol of delivery and acceptance and/or bill of sale for, and any other documentation reasonably requested by the Lessee in respect of, the sale of the Ship which complies with the provisions of clause 2.7.
- 2.8.8 The Lessee will supply the Lessor with details of any offer received and keep the Lessor fully informed of the status of any negotiations for the sale of the Ship.
- 2.8.9 The Lessee is entitled to delegate its rights and duties under this clause 2.8 to any Guarantor Group Member without the approval of the Lessor or to such other person as the Lessor may approve, such approval not to be unreasonably withheld or delayed in relation to a first-class independent shipbroker and, in each case, on the basis that no further delegation shall be permitted without the Lessor's prior written approval.

2.8.10 In the event that by the date falling 45 days prior to the fifth anniversary of the Delivery Date (the “**Non-Exclusive Date**”), no arrangements have been concluded for the sale of the Ship on or before the Lease Period End Date and, in the opinion of the Lessor, no such arrangements are likely to be concluded, and subject to the sales agency not having terminated earlier under clause 2.8.3 prior to the Non-Exclusive Date, the Lessee will, if so required by the Lessor or the Lessee may, on notice to the Lessor, arrange a public auction of the Ship as soon as reasonably practicable after the Non-Exclusive Date and in any event by no later than the fifth anniversary of the Delivery Date (the “**Auction Sale Date**”). For the avoidance of doubt, notwithstanding that the Lessee is arranging an auction in accordance with this clause 2.8.10 the Lessee may nevertheless continue as the Lessor’s sales representative to endeavour to arrange for a private treaty sale of the Ship provided the same is completed by the Auction Sale Date and complies with the terms of clauses 2.7 and 2.8. The Lessor and the Lessee or any nominees or designee of either of them may bid at such auction and any sale resulting therefrom shall constitute a sale of the Ship if it otherwise complies with the other provisions of this Agreement

2.9 Sale of the Ship following any termination of the Lessee’s sales agency rights

If the Lessee’s right to act as sales agent is terminated pursuant to clause 2.8.2 or 2.8.3, the Lessor (as between the Lessor and the Lessee) shall have the sole right to determine the means, timing and the terms of the sale of the Ship (including by public auction) and clause 2.7 shall not apply to any such sale.

2.10 Application of Net Sale Proceeds

Upon the Ship being delivered to and accepted by a purchaser of the Ship, the leasing of the Ship under this Agreement shall terminate and the Net Sale Proceeds shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to 0.01% of the Net Sale Proceeds;

SECOND: in or towards payment to the Lessor of amounts equal to all or any part of the Termination Amount which, as at the date of the receipt by the Lessor of the Net Sale Proceeds, has not been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

2.11 Shortfalls

If the Net Sale Proceeds fall short of the aggregate of the amounts payable by the Lessee and described in FIRST, SECOND and THIRD of clause 2.10 the Lessee, on the date of receipt by the Lessor of the Net Sale Proceeds, shall pay to the Lessor an amount equal to the amount of that shortfall by way of additional Rental.

2.12 Payments to Lessee

Any payment to the Lessee under clause 2.10 in accordance with the paragraph entitled “FOURTH” shall be made reasonably promptly but in any event within five (5) Business Days after the date of actual and unconditional receipt by the Lessor of the Net Sale Proceeds.

2.13 Termination of obligation to pay Rental

With effect on and from the date of the Ship being delivered to and accepted by a purchaser following a sale of the Ship or the redelivery of the Ship pursuant to clause 15.1, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's accrued and contingent obligations pursuant to this Agreement including, without limitation, paragraph 5 of the Financial Schedule.

2.14 Standby Loan

In the event that the Lessee has given a notice of termination pursuant to clauses 2.2.1(a) or 2.5.2(a), and has also given a corresponding notice under clauses 2.2.1(a) or 2.5.2(a) of each of the Sister Ship Agreements specifying the same Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date), the Lessee shall be entitled to require that the Lessor procures that the Standby Lender enters into a Standby Loan Transaction in respect of the Ship and all of the Sister Ships (but not some only) and, subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction on such Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date) or as soon as reasonably practicable thereafter.

3 Conditions Precedent generally and to payment of Instalments and Delivery**3.1 Pre-delivery conditions to be fulfilled by Lessee**

3.1.1 All of the obligations of the Lessor under this Agreement and the obligations of the Lessor under the Novation Agreement and the Supervision Agreement including to pay the First Instalment are subject to the receipt by the Lessor of the documents described in Part A of Schedule 4 and the documents described in paragraph 5 of Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the First Instalment Date and in any event on or before 31 December 2007 or such other date to be agreed between the Lessee and Lessor.

3.1.2 The Lessor's obligation under this Agreement to pay the Second Instalment is subject in addition to receipt by the Lessor of the documents described in Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the Second Instalment Date.

3.2 Further Conditions to be fulfilled by Lessee in respect of each Instalment

The obligations of the Lessor to pay any Instalment and, in the case of the Final Instalment, to lease the Ship to the Lessee under this Agreement are further subject to the further conditions that:

3.2.1 the Lessor shall have received an Instalment Request not later than 11:00 a.m. (London time) on the third Business Day (in the case of the First and Second Instalments) prior to the relevant proposed date for payment of that Instalment by the Lessor pursuant to the Novation Agreement or, as applicable, the Novated Building Contract and the sixth Business Day (in the case of the Final Instalment) prior to the Delivery Date (or in any such case, such shorter period as the Lessor and the Lessee shall agree); and

- 3.2.2 as at the Effective Date and each Instalment Date (including the Delivery Date):
- (a) no Relevant Event has occurred which is continuing; and
 - (b) each of the representations and warranties contained in clause 19 of this Agreement and in clause 4 of the Guarantee is then true and correct by reference to the facts and circumstances then existing.

3.3 Delivery conditions and covenants to be fulfilled by Lessee

- 3.3.1 The obligation of the Lessor to pay the Final Instalment pursuant to article II of the Novated Building Contract and the Supervision Costs on the Delivery Date is subject to the receipt by the Lessor of the documents described in Part C of Schedule 4 in form and substance satisfactory to the Lessor not less than four (4) Business Days before the Delivery Date (or such shorter period as the Lessor and the Lessee shall agree).
- 3.3.2 The Lessee undertakes to provide to the Lessor such of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor as are available no less than two (2) Business Days before the Delivery Date. The Lessee undertakes to provide to the Lessor the remainder of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor on or before the Delivery Date, save for such of them as may only be available upon Delivery (which for the avoidance of doubt the Lessee acknowledges should be limited to the protocol of delivery and acceptance to be delivered pursuant to the Novated Building Contract and the documents listed at item 8 of Part D of Schedule 4).
- 3.3.3 The Lessee shall keep the Lessor fully advised of the anticipated date of delivery of the Ship.

3.4 Pre-delivery conditions to be fulfilled by Lessor

The obligations of the Lessee under this Agreement are subject to the receipt by the Lessee of the documents described in Schedule 5 in form and substance satisfactory to the Lessee not less than two (2) Business Days prior to the date specified in clause 3.1 unless waived by the Lessee in writing to the extent not so satisfied.

3.5 Further Conditions to be fulfilled by Lessor

During the Construction Period the Lessor shall comply with the terms of the Novation Agreement, the Supervision Agreement and the Novated Building Contract and, subject to no Relevant Event having occurred and the Lessee not having exercised its rights under clause 2.2, the Lessor shall not:

- 3.5.1 terminate, cancel, rescind or treat as repudiated the Novation Agreement and/or the Supervision Agreement, and/or the Novated Building Contract; or
- 3.5.2 effect, grant or agree any amendment, variation, waiver or release in respect of the obligations of the Builder under the Novated Building Contract or assign or transfer its rights or obligations under the Novated Building Contract other than in accordance with the terms of the Novation Agreement or the Supervision Agreement.

3.6 Waivers

The requirements of clauses 3.1, 3.2 and 3.3 which are for the benefit of the Lessor alone, may be waived by the Lessor in whole or in part and with or without conditions and, if the Lessor agrees to give such a waiver on terms that any condition may be fulfilled after the due date for its fulfilment, the Lessee (unless the Lessor shall have expressly agreed otherwise in writing) shall procure that such condition is fulfilled within thirty (30) days after that due date (or such greater period as the Lessor may specify in writing), and the Lessor shall be entitled to treat any failure by the Lessee to procure the fulfilment of any such condition as a Termination Event.

3.7 Payment of Purchase Price etc.

Subject to satisfaction of the relevant conditions referred to in clauses 3.1, 3.2 and 3.3 and to the satisfaction of the conditions set out in clause 3.11, in each case at the time then due or agreed to be due, the Lessor agrees:

3.7.1 to pay the First Instalment of the Contract Price pursuant to the Novation Agreement and each other Instalment of the Contract Price pursuant to the Novated Building Contract (in each case in the amount and at the time described therein);

3.7.2 to pay when due to the Supervisor the Supervision Costs and the Buyer's Supplies Reimbursement Amount payable pursuant to clause 4.5 of the Supervision Agreement;

3.7.3 to pay on the First Instalment Date:

(a) the Arrangement Fee; and

(b) the Lessor's Legal Costs and the costs of the Lessor's insurance advisers,

each in an amount as agreed and in accordance with the payment details specified in the invoices received by the Lessor from the arranger and from the Lessor's legal and insurance advisers on or before the First Instalment Date; and

3.7.4 to pay the Lessor's Underwriting Fee on the First Instalment Date.

3.8 No set-off

The Lessor is not entitled to set-off or withhold from the Contract Price any amounts due or expressed to be due from the Lessee or any other Guarantor Group Member.

3.9 Alterations to payment amounts

Each of (a) the Instalments of the Contract Price payable pursuant to the Novation Agreement (in the case of the First Instalment) and the Novated Building Contract (in the case of the other Instalments) shall be in the amounts set out in, or calculated in accordance with, the Novation Agreement and/or (as the case may be) the Novated Building Contract and (b) the Supervision Costs and Buyer's Supplies Reimbursement Amount payable in accordance with the Supervision Agreement shall be in the amount set out in, or calculated in accordance with, the Supervision Agreement, in each such case as amended and supplemented from time to time in accordance with any relevant provisions of the Transaction Documents.

3.10 Contributions

- 3.10.1 The Lessor shall notify the Lessee if at any time the aggregate of the Lessor's Total Expenditure has reached or, taking account of the next payment or payments in respect of the Lessors' Total Expenditure, will reach the Maximum Commitment and in circumstances where the aggregate of the Lessor's Total Expenditure and the Lessor's projected expenditure exceeds or is likely to exceed the Maximum Commitment (a " **Commitment Shortfall** ") the Lessor shall notify the Lessee promptly and in any event not later than two (2) Business Days before required, that a Contribution Payment will be required.
- 3.10.2 Any notice from the Lessor requiring a Contribution Payment shall specify the amount of the Contribution Payment due from the Lessee and the scheduled date for payment thereof, being no later than one (1) Business Day prior to the date on which the Lessor is to make payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, before the date on which the Lessor is required to procure the issuing of a payment undertaking from the Bank in accordance with article II.5(c) of the Novated Building Contract, and will be accompanied by documentation evidencing the amount of the Contribution Payment, to the best of the Lessor's then estimation. Each such notice shall constitute a " **Contribution Payment Request** ".
- 3.10.3 If and so often as the Lessee receives a Contribution Payment Request under clause 3.10.2, the Lessee shall pay to the Lessor an amount equal to the Contribution Payment requested by the Lessor in the applicable Contribution Payment Request to the Lessor's account as specified in the Contribution Payment Request, to be received not less than one (1) Business Day prior to the date on which the Lessor is to make the payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, not less than one (1) Business Day before the date on which the Lessor is required to procure the issue of a payment undertaking from the Bank in respect of the Final Instalment in accordance with article II.5(c) of the Novated Building Contract.

3.11 Certificate of Delivery and Acceptance

On Delivery the Lessee will deliver to the Lessor the Certificate of Delivery and Acceptance duly executed by the Lessee, which shall be conclusive proof that the Lessee has unconditionally accepted the Ship for leasing under this Agreement without any reservations whatsoever.

3.12 Condition of Ship; Lessee's risk and responsibility

The Lessee acknowledges that:

- 3.12.1 the condition of the Ship (or any part of it) on delivery to the Lessee under this Agreement will, as between the Lessor and the Lessee be the sole risk and responsibility of the Lessee and that the Lessor has agreed to purchase the Ship pursuant to the Novated Building Contract for the sole purpose of leasing the Ship to the Lessee pursuant to this Agreement;
- 3.12.2 the Lessee will not be entitled for any reason whatsoever to refuse to accept delivery of the Ship under this Agreement once the Lessor acquires title to, and receives possession, of the Ship pursuant to the Novated Building Contract; and

3.12.3 the Lessor will not be liable for any loss of profit resulting directly or indirectly from any defect or alleged defect in the Ship or failure or alleged failure of the Ship to comply with the Novated Building Contract.

3.13 Delays in delivery

The Lessor will not be responsible for any loss or expense, or any loss of profit, arising from any delay in the delivery of, or failure to deliver, the Ship to the Lessee under this Agreement except where such delay or failure is caused by the negligence or wilful default of the Lessor or any Lessor Breach.

4 Rental

4.1 Construction Period Rentals

The Lessee shall not be required to pay any instalments of Rental during the Construction Period.

4.2 Lease Period Rental

On each Lease Rental Date falling in the Lease Period the Lessee shall pay to the Lessor in respect of the Lease Period an instalment of Rental calculated in accordance with paragraph 2.1 of the Financial Schedule. Each such instalment of Rental shall be subject to adjustment in accordance with the Financial Schedule.

4.3 Adjustments of Rental

The Lessee, on the dates determined in accordance with the Financial Schedule, shall pay to the Lessor by way of additional Rental all amounts from time to time arising from recalculation of Rental made pursuant to and due to the Lessor in accordance with the Financial Schedule. The Lessor shall pay to the Lessee all amounts from time to time arising from recalculation of Rental made pursuant to the Financial Schedule and due to the Lessee, and expressed to be payable by way of rebate of Rental, in accordance with the Financial Schedule. The Lessor shall make any such payments to such account as the Lessee may notify in writing to the Lessor from time to time.

4.4 Lessor's Capital Commitment Fee

The Lessee shall pay to the Lessor a capital commitment fee, on the basis and in the manner agreed between the Lessor and the Lessee in writing.

4.5 Survival of Financial Schedule

The provisions of the Financial Schedule shall survive any termination or expiry of the Lease Period and any breach or repudiation, or alleged breach or repudiation, by the Lessee or the Lessor of this Agreement.

4.6 Unconditional payment obligations

The Lessee's obligation to pay Rental in accordance with this clause 4 (unless and until Rental ceases to be payable in accordance with the provisions of clause 2.13 or clause 14.5 or clause 18.1) and any other payments payable by the Lessee to the Lessor under the Lease Documents is absolute and shall apply irrespective of any contingency whatsoever including but not limited to:

4.6.1 any set-off, counterclaim, recoupment, defence or other right which either party to this Agreement may have against the other;

- 4.6.2 any unavailability of the Ship for any reason, including but not limited to, any lack or invalidity of title or any other defect in the title, seaworthiness, condition, design, operation, merchantability or fitness for use or purpose of the Ship or the ineligibility of the Ship for any particular use or trade or for registration or documentation under the laws of any relevant jurisdiction or the Total Loss of or any damage to the Ship;
- 4.6.3 any failure or delay on the part of either party to this Agreement, whether with or without fault on its part, in performing or complying with any of the terms, conditions or other provisions of this Agreement and the other Transaction Documents;
- 4.6.4 any insolvency, bankruptcy, reorganisation, arrangement, readjustment of debt, dissolution, administration, liquidation or similar proceedings by or against the Lessor or the Lessee;
- 4.6.5 any lack of due authorisation of, invalidity, unenforceability or other defect in any of the Transaction Documents; or
- 4.6.6 any other cause which but for this provision would or might have the effect of terminating or in any way affecting any obligation of the Lessee hereunder;

it being the declared intention of the parties that the provisions of this clause 4.6 and the obligations of the Lessee to pay Rentals and make other payments in accordance with this Agreement and the other Transaction Documents shall survive any frustration of this Agreement or any other Lease Document and that, save as expressly and specifically provided in this Agreement, no moneys payable or paid hereunder by the Lessee to the Lessor shall in any event or circumstances be repayable to the Lessee.

4.7 No waiver

Clause 4.6 does not constitute a waiver by the Lessee of any right of the Lessee to claim damages or specific performance or any other injunctive relief against the Lessor arising out of a Lessor Breach.

5 Payments

5.1 Manner of payment

All payments of Rental and other amounts payable by the Lessee under this Agreement and any other Transaction Document shall be made:

- 5.1.1 without prior demand (unless expressly stated to be payable on demand);
- 5.1.2 in full without any right of set-off or counterclaim and free and clear of all deductions or withholdings whatsoever, unless any deductions or withholdings are required by law in which event clause 8.2 shall apply;
- 5.1.3 in Dollars (or, in the case of payments in respect of Losses, in the currency in which the relevant Losses are incurred);

5.1.4 in cleared funds to the account of the Bank of Scotland with Bank of New York, New York SWIFT BIC: IRVTUS3N for credit to account no. 11087USD01 with reference: "Peony Leasing Limited, sort code: 802013, IBAN No. GB59BOFS80201311087101, SWIFT BIC: BOFSGB2SXXX" or to such other account or accounts at such other place or places as the Lessor may from time to time notify to the Lessee in writing at least ten (10) days before the due date for payment.

5.2 Payments on Business Days

When any payment under a Lease Document would otherwise be due on a day which is not a Business Day the due date for payment shall be extended to the next following Business Day unless such Business Day falls in the next calendar month in which case payment shall be made on the immediately preceding Business Day.

5.3 Interest on delayed payments

If the Lessee fails to pay any sum due by the Lessee under this Agreement or any other Lease Document on its due date for payment (including any failure to pay on demand any amount due under this clause 5.3) the Lessee will pay to the Lessor on demand interest on such Rental or other amount from the date of such failure to the date of actual payment (both before and after any relevant judgment or liquidation of the Lessee) at the Default Rate.

5.4 Calculation of Interest

All interest and any other payments under any Lease Document which are of an annual nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

6 Extent of Lessor's Liability

6.1 Quiet Enjoyment

The Lessor undertakes with the Lessee that during the Lease Period it will not interfere with the quiet use, operation, possession and enjoyment of the Ship by the Lessee, otherwise than:

6.1.1 through the acts or omissions of the Lessee or its agents or representatives; or

6.1.2 pursuant to (i) the Lessor's rights under the Transaction Documents (and then subject to any restrictions on the exercise of those rights under the Transaction Documents) or (ii) obligations which may arise under applicable law or regulation or any ruling of any Government Entity or other competent authority or agency which is either binding on the Lessor or any Lessor Group Member or in respect of which compliance by owners of vessels of the same type as the Ship or by banks and other financial institutions or institutions of a similar nature to the Lessor is generally customary.

6.2 Further action

6.2.1 The Lessor further undertakes, if reasonably requested to do so by the Lessee, to take such action as is available to it and which must be performed exclusively by the registered owner and not the operator of the Ship to protect the use, possession and quiet enjoyment of the Ship during the Lease Period by the Lessee from interference by third parties.

6.2.2 All costs properly incurred by the Lessor in respect of any action taken by the Lessor under this clause 6.2 (including any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection therewith which shall be charged at the Lessor's Management Time Cost Rate) will be borne by the Lessee unless such action is required as a result of a failure by the Lessor to comply with its obligations under clause 6.1 and clause 6.2.1 (and which failure does not arise by reason of any breach by the Lessee or any other Transaction Company of its obligations or other failure to comply with or observe the terms of any Transaction Document).

6.3 Lessor's Security Interests

6.3.1 The Lessor:

- (a) warrants that as at the Delivery Date the Ship and the Lessor's interest in the Insurances and any Requisition Compensation will be free of all Lessor's Security Interests; and
- (b) undertakes with the Lessee that it will not create or permit to arise during the Lease Period any such Lessor's Security Interest over the Ship or any part of it or the Lessor's interest in the Insurances and any Requisition Compensation.

6.3.2 If any Lessor's Security Interest arises over the Ship, the Lessor will use its reasonable endeavours to procure the release of any such Lessor's Security Interest of which it is aware, Provided that the Lessor shall not be liable to pay or discharge or remove any such Lessor's Security Interest if such Lessor's Security Interest is being disputed by the Lessor in good faith and adequate reserves for the payment of the applicable amounts have been provided by the Lessor, provided further however that if the Lessee's quiet enjoyment of the Ship is in any way disturbed by reason of the existence or enforcement of any Lessor's Security Interest, the Lessor will promptly take steps to procure the release of any such Lessor's Security Interest and/or the cessation of the disturbance of the Lessee's quiet enjoyment.

6.3.3 If the Lessor fails to procure the release of a Lessor's Security Interest of which it is aware and the existence of which is interfering with the Lessee's quiet enjoyment of the Ship and/or the Ship is arrested, attached, levied upon pursuant to any legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, in each such case arising out of the existence of any Lessor's Security Interest the Lessee shall:

- (a) be entitled to act as the agent for the Lessor to procure the release of that Lessor's Security Interest and/or the release of the Ship from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be reimbursed by the Lessor for all reasonable losses and expenses properly so incurred by the Lessee as a result of the Lessor's breach of clause 6.3.1 or its failure to procure the release of the Lessor's Security Interest or, as the case may be, the Ship, against the production by the Lessee of reasonable supporting evidence for such loss and expenses.

6.4 Limitation on Lessor's liability for quiet enjoyment

The Lessee acknowledges that the undertakings contained in clauses 6.1, 6.2 and 6.3 are the only undertakings by the Lessor to the Lessee in respect of quiet enjoyment and in substitution for, and to the exclusion of, any other covenant for quiet enjoyment which may otherwise have been given or implied by law, all of which are hereby expressly excluded and waived by the Lessee.

6.5 Benefit of Novated Building Contract guarantee and third party warranties

6.5.1 The Lessor assigns and agrees to assign absolutely (without recourse or warranty) to the Lessee the full benefit of all assignable guarantees, warranties and indemnities (whether express or implied) given to the Lessor by the Builder under the Novated Building Contract. Pursuant to the assignment in this clause 6.5 the Lessee shall (after the Delivery Date) be entitled to take such action upon any such warranty or indemnity as assignee of the Lessor against the Builder or any guarantor, manufacturer, repairer or supplier as the Lessee shall see fit, but subject to the Lessee first ensuring that the Lessor is indemnified (and, in the case of any counterclaim by the Builder against the Lessor, secured) to its satisfaction against all Losses thereby incurred or to be incurred.

6.5.2 The Lessor agrees:

- (a) to serve notice on the Builder of the assignment contained in clause 6.5.1 in the form set out in Schedule 9 promptly thereafter; and
- (b) to the extent that any guarantee, warranty or indemnity referred to in clause 6.5.1 is not assignable, if so requested by the Lessee and at the Lessee's cost and expense, the Lessor will use reasonable endeavours to extend to the Lessee the benefit of that guarantee, warranty or indemnity.

6.5.3 Upon the expiry or termination of the Lease Period, the Lessee shall cease to be entitled to any rights under this clause 6.5 and shall (subject to clause 2.7.6) reassign to the Lessor at the expense of the Lessee the benefit of the remainder of any guarantee, warranty or indemnity assigned by the Lessor to the Lessee pursuant to this clause 6.5.

6.6 Limitations on Lessor's Liability

Save in respect of the Lessee's rights under clauses 6.1, 6.2, 6.3 and 6.4, the Lessee acknowledges and agrees that all rights, claims or remedies of the Lessee against the Lessor in relation to the Ship, whether express or implied or arising by operation of law or statute or otherwise (whether in contract or in tort or otherwise), are hereby excluded. In particular, the Lessee acknowledges and agrees that:

6.6.1 the Lessor makes no condition, term, representation or warranty (express or implied) of any kind as to title (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)) seaworthiness, safety, condition, capacity, quality, value, design, construction, durability, operation, performance, description, merchantability, or fitness for use of the Ship or any part thereof or as to the eligibility of the Ship or any part thereof for any particular trade or operation or as to the absence of latent or other defects (whether or not discoverable), or as to the absence of any infringement of any patent, trademark, copyright or intellectual property or other rights in or to the Ship or any part thereof or any other condition, term, representation or warranty whatsoever, express or implied, with respect to the Ship;

- 6.6.2 the Lessee waives all its rights and claims (whether express or implied, statutory or otherwise) in respect of any condition, term, representation, or warranty described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a));
- 6.6.3 to the extent possible under applicable law the Lessee:
- (a) waives all its rights and claims which it may have in tort or otherwise in respect of any of the matters described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
 - (b) agrees that the Lessor will have no greater liability in tort or otherwise than it would have in contract after taking into account the exclusions referred to in this clause 6.6;
- 6.6.4 the Lessee acknowledges that no condition, term, representation or warranty described in clause 6.6.1 has been made by or on behalf of the Lessor in relation to the Ship (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
- 6.6.5 nothing in this clause 6 shall exclude any liability of the Lessor for death or personal injury resulting from negligence falling within Section 1(1) of the Unfair Contract Terms Act 1977.

6.7 Ownership of other vessels

The Lessor and Lessee acknowledge that, during the Lease Period, the Lessor may own vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group. At the Lessee's request, the Lessor will transfer in accordance with clause 21 the Ship and the Sister Ships to another company which does not own any vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group.

6.8 Lessor financial information

The Lessor undertakes that, if requested by the Lessee, it shall deliver to the Lessee within 14 days after the end of June and December in each year during the Lease Period an unaudited balance sheet of the Lessor stating the gross amount of the Lessor's assets, long term liabilities and shareholders funds as at the end of the relevant half year and a profit and loss account showing the items for the relevant half year specified in the pro forma profit and loss account set out in Schedule 11, such amounts to be determined by the Lessor in accordance with the usual procedures and systems of the Lessor's Group and provided in the format set out in Schedule 11. The Lessor shall also provide the Lessee with a copy of its annual audited accounts within 14 days of such accounts being approved by its Board of Directors, and (from time to time) such other information as shall be reasonably requested by the Lessee (and at the Lessee's cost). The Lessee shall keep such information confidential save as otherwise required by law or as necessary for purposes of preparing consolidated accounts of the Lessee and its affiliates.

7 Costs and Indemnity

7.1 Lessor's transaction related expenses

The Lessee shall pay to the Lessor on its written demand, whether or not the Lease Period commences:

- 7.1.1 all expenses of the Lessor (including legal and out-of-pocket expenses) reasonably incurred by the Lessor in connection with the preparation, negotiation and completion of this Agreement and the other Transaction Documents (subject only to any cap on legal expenses which may be separately agreed by the parties) and in relation to the delivery of the Ship, including any costs, charges or expenses (including fees and commissions) of the Lessor in connection with the funding of the Final Instalment, calculated in accordance with clause 7.4.3 below to the extent that such expenses have not been taken into account in accordance with the Financial Schedule in computing the amount of any Rental;

- 7.1.2 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor in connection with any variation of this Agreement and the other Transaction Documents or any waiver or consent required under any of them (but not a variation, waiver or consent requested by the Lessor, unless the Lessor is legally obliged to request and procure such variation, waiver or consent);
- 7.1.3 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor following the occurrence of a Relevant Event in connection with the preservation or enforcement or attempted enforcement of any right conferred upon the Lessor by this Agreement and the other Transaction Documents or in respect of any breach of any representation or warranty or covenant; and
- 7.1.4 any expenses incurred by the Lessor in respect of any Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection with (a) the consideration of any variation, waiver or consent of or under this Agreement and the other Transaction Documents pursuant to clause 7.1.2 and (b) the preservation or enforcement or attempted preservation or enforcement of the Lessor's rights, the arrest or recovery of the Ship or otherwise in respect of any breach pursuant to clause 7.1.3 which for the avoidance of doubt shall be charged at the Lessor's Management Time Cost Rate;
- 7.1.5 all expenses payable under or pursuant to this clause 7.1 shall include any Irrecoverable VAT on such expenses; and
- 7.1.6 all payments under this clause 7.1 shall be made in the currency in which the expenses were incurred by the Lessor.

7.2 Non-payment by Lessee

The Lessee shall indemnify the Lessor on its written demand against any loss, damage, expense or liability which the Lessor or any other Indemnified Person may properly sustain or incur as a direct consequence of any default by the Lessee in payment of an amount which the Lessee has agreed to pay under this Agreement except to the extent that the Financial Schedule provides for the amount to be taken into account in the payment of Rental or to the extent that the Lessor or such other Indemnified Person has already been compensated for any such loss, damage, expense or liability under any other provision of this Agreement.

7.3 Currency indemnity

If any sum payable by the Lessee to the Lessor or any other Indemnified Person under this Agreement or any other Lease Document or under any order or judgment relating to a Lease Document has to be converted from the currency in which the Lease Document provided for the sum to be paid (the "**Contractual Currency**") into another currency (the "**Payment Currency**") for the purpose of:

- 7.3.1 making or lodging any claim or proof against the Lessee, whether in its liquidation, any arrangement involving it or otherwise; or

7.3.2 obtaining an order or judgment from any court or other tribunal; or

7.3.3 enforcing any such order or judgment,

the Lessee shall indemnify the Lessor and/or the applicable Indemnified Person against the loss arising when the amount of the payment actually received by the Lessor and/or the applicable Indemnified Person is converted at the available rate of exchange from the Payment Currency into the Contractual Currency.

In this clause 7.3 the “available rate of exchange” means the rate which the Bank offers to other prime banks at the opening of business (London time) on the Business Day after it receives the sum concerned to sell the Payment Currency to purchase the Contractual Currency for immediate delivery.

Any amount due from the Lessee under this clause 7.3 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Lease Documents and the term “rate of exchange” includes any premiums and costs of exchange payable in connection with the purchase of the Contractual Currency with the Payment Currency.

7.4 General Indemnity

The Lessee shall indemnify and hold harmless on a full indemnity basis the Lessor and each other Indemnified Person against:

7.4.1 any costs, charges or expenses (other than Taxes, to which clause 8 shall apply) which the Lessee has agreed to pay under this Agreement or the other Lease Documents and which are claimed or assessed against or (prior to the occurrence of a Termination Event which is continuing, after consultation with the Lessee) paid by the Lessor or any other Indemnified Person;

7.4.2 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person arising directly or indirectly in any manner out of, or in any way connected with, the condition, testing, design, manufacture, construction, delivery, non-delivery, purchase, importation, export, registration, classification, certification, navigation, ownership, chartering, sub-chartering, employment, management, manning, victualling, provision of bunkers and lubricating oil, possession, repossession, performance, control, use, operation, maintenance, repair, transportation, dry-docking, replacement, refurbishment, modification, service, overhaul, insurance in accordance with the terms of this Agreement, sale or other disposal, return, redelivery, storage, laying-up, loss of or damage to the Ship or otherwise in connection with the Ship, this Agreement and the other Transaction Documents and regardless of:

- (a) whether or not such Losses are attributable to any defect in the Ship or to the design, construction or use thereof or to any reason whatsoever; and
- (b) when the Loss arises;

and, without prejudice to its generality, this clause 7.4.2 covers any such Losses arising out of an Environmental Claim or an Environmental Incident;

- 7.4.3 all Losses (including, without limitation, Broken Funding Costs and all or any Losses in respect of funds borrowed or mobilised by or on behalf of the Lessor, the liquidation of any deposits taken or made by the Lessor, the substitute investment of such funds with a return lower than the cost of such funds, the loss of use of such funds and the prepayment by the Lessor of such funds to the source from which they were borrowed or mobilised) imposed on, suffered or incurred by the Lessor and/or any other Indemnified Person by reason of:
- (a) an Instalment not being paid on the date referred to in the relevant Instalment Request applicable to such Instalment;
 - (b) Delivery occurring other than on the date specified therefor in the Intended Delivery Notice;
- including in relation to the Final Instalment, the cost to the Lessor in borrowing the Final Instalment for the period commencing with the date on which the Final Instalment is borrowed up to and including the Delivery Date (but only if such sum is not included in the calculation of Rentals under the Financial Schedule) or, if Delivery does not occur, up to and including the date on which the Lessor has received back the Final Instalment, such cost to be calculated at LIBOR determined daily for each day during the period described above plus the Margin Rate (as defined in the Financial Schedule) less if any, any Broken Funding Benefits and the Dollar interest paid on the Final Instalment to the Lessor by the bank holding the Final Instalment;
- 7.4.4 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person which result directly or indirectly from claims which may at any time be made on the ground that any design, article or material of or in the Ship or the operation or use thereof constitutes an infringement of patent or copyright or registered design or other intellectual property right or any other right whatsoever;
- 7.4.5 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in preventing or attempting to prevent the arrest, confiscation, seizure, taking in execution, requisition, impounding, forfeiture or detention of the Ship, or in securing or attempting to secure the release of the Ship;
- 7.4.6 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in connection with the sale or disposal or attempted sale or disposal of the Ship pursuant to the terms and conditions of this Agreement including, without limitation, broker's commissions, redelivery costs (if any), marketing expenses, legal costs, storage, insurance and any other expenses of the Lessor incurred pending the sale or disposal of the Ship or otherwise in connection with the sale or disposal of the Ship;
- 7.4.7 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person resulting from the Ship becoming a wreck or obstruction to navigation, including in respect of the removal or destruction of the wreck or obstruction under statutory or other powers; and

- 7.4.8 all Losses which may be imposed on, incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time as a consequence (direct or indirect) of:
- (a) the breach by any person (other than the Lessor and the Bank) of any of its obligations to the Lessor under any of the Transaction Documents provided that any breach by the Lessor or the Bank of its obligations under any of the Transaction Documents shall not be excluded from the ambit of this clause 7.4.8 to the extent that such breach is itself caused by any act or omission of any Transaction Company or any person referred to in (c) below;
 - (b) any of the warranties and representations on the part of any person (other than the Lessor and the Bank) made or repeated to the Lessor in any Transaction Document being untrue or inaccurate in any material respect when made or repeated;
 - (c) any act or omission by any person acting as sales agent of the Lessor under any of the Transaction Documents (including any permitted delegate of such sales agent), the Supervisor or any of its Authorised Representatives (as defined in the Novated Building Contract), in each case, whether acting within or outside their relevant authority or any wilful or reckless misconduct or misfeasance by the Builder, the Lessee or the Supervisor; or
- 7.4.9 all Losses which may be imposed on, suffered or incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time in respect of any premiums, calls, supplementary calls, contributions or other sums payable by the Lessor or any Lessor Group Member in respect of the Insurances or any liability of the Lessor or any other Lessor Group Member by reason of it being or becoming a joint, additional or co-assured under or in respect of any insurance policy, contract or entry in any protection and indemnity or war risks association effected by the Lessee pursuant to clause 13.

7.5 Exclusions

The indemnities contained in clause 7.4 and clause 7.2 shall not extend to any Loss:

- 7.5.1 to the extent that such Loss is caused by Lessor Misconduct or recklessness (with full knowledge of the probable consequences) on the part of the applicable Indemnified Person (or a third party, not being a Transaction Company acting on behalf of the Lessor or other applicable Indemnified Person) which would otherwise seek to claim the benefit of such indemnities or, in circumstances where such Loss arises in connection with a payment owing to an Indemnified Person, if such payment was made in due time but was not accounted for by such Indemnified Person as a result of an error on their part;
- 7.5.2 to the extent that such Loss is caused by any Lessor Breach;
- 7.5.3 to the extent that such Loss constitutes a cost which is expressly to be borne by the Lessor for its own account under any other provision of this Agreement or any other Lease Documents;
- 7.5.4 in respect of which the Lessor or the applicable Indemnified Person has been expressly and specifically indemnified under any other provision of this Agreement;
- 7.5.5 to the extent that such Loss of the Lessor or the applicable Indemnified Person is or (but for operation of paragraph 4.6 of the Financial Schedule) would be taken into account in accordance with the Financial Schedule, in computing the amount of Rental payable by the Lessee under this Agreement;

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- 7.5.6 to the extent that such Loss arises out of or in connection with a Lessor's Security Interest;
 - 7.5.7 to the extent that such Loss would be a loss of profit derived from or arising out of loss of a business opportunity of the Lessor or the applicable Indemnified Person;
 - 7.5.8 to the extent that the event or circumstance giving rise to the Loss occurs after the end of the Lease Period and is not in any way directly or indirectly attributable to, or which occurs as a consequence of or in connection with, any event, circumstance, action or omission which occurred during the Lease Period;
 - 7.5.9 to the extent that such Loss is part of the normal administrative overheads of the Lessor or the applicable Indemnified Person; and/or
 - 7.5.10 to the extent that such Loss constitutes the Purchase Price or any part thereof (excluding any Contribution Payments required pursuant to clause 3.10.2).

In addition, to the extent that the Lessor or other Indemnified Person shall have actually and unconditionally received reimbursement from insurers for a Loss of the Lessor or any other Indemnified Person which has already been satisfied in full by the Lessee then, subject to clause 8.6, the Lessor shall procure that the Lessee is reimbursed for an amount equal to the amount received from the insurers. In addition, in circumstances where the Lessee has indemnified the Lessor or any other Indemnified Person in full in relation to a Loss which may be recoverable by insurance then, provided no Termination Event has occurred and is continuing, and provided the Lessor or such other Indemnified Person is (if requested by it) secured to its satisfaction (acting in good faith) against any Loss it may incur by virtue of the Lessee exercising such rights of subrogation and subject to the rights of insurers, the Lessee shall be subrogated to the claim of the Lessor or such other Indemnified Person in relation to the Loss.

7.6 Conduct of Claims

In connection with the indemnities in favour of any Indemnified Person under this Agreement, other than in relation to any matter which is an Issue under (and as defined in) the Tax Consultation Letter:

- 7.6.1 the Lessor will as soon as practicable notify the Lessee if a claim is made, or if it becomes aware that a claim may be made against the Lessor or any other Indemnified Person which may give rise to a Loss in respect of which the Lessor or any other Indemnified Person is or may become entitled to an indemnity under clause 7.4;
- 7.6.2 a notification under clause 7.6.1 shall give such details as the Lessor or the other Indemnified Person then has regarding the claim or potential claim and any Loss or potential Loss;
- 7.6.3 if the claim or potential claim may give rise to a Loss in respect of which the liability of the Lessor or such other Indemnified Person is fully insured under the protection and indemnity insurances relating to the Ship, the Lessor will act, and will procure that any other Indemnified Person will act, in accordance with the directions of the protection and indemnity club or association in which the Ship is entered in relation to defending, accepting or settling that claim, preserving nevertheless the rights of the Lessor against the Lessee under this Agreement and the other Lease Documents;

- 7.6.4 subject to clause 7.6.1 the Lessor will not, and will procure that no other Indemnified Person will, settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim unless:
- (a) the Lessor is of the opinion, acting in good faith, that the continuance of the proceedings in respect of such claim and/or the non-payment of any court judgment or administrative penalty will result in criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person; or
 - (b) the Lessor and the Lessee do not agree that there are reasonable grounds for disputing such claim or for a successful appeal against such judgment or penalty (as appropriate), whereupon the Lessee shall have the right (subject always to paragraph (a) above) to seek an opinion from leading counsel as to whether there is more than a sixty-five per cent (65%) chance of successfully disputing such claim or for such an appeal to be successful (and if such leading counsel is of that opinion, any costs reasonably incurred by the Lessee in obtaining such opinion shall be reimbursed by the Lessor and the Lessor will not settle the claim or discharge or pay the applicable judgment) provided however that if leading counsel is of the opinion that there is a less than sixty-five per cent (65%) chance of successfully disputing the action or for such an appeal to be successful, then the Lessor shall be entitled to settle the claim or discharge or pay the court judgment or administrative penalty, as the case may be.

It is agreed that if any insurers have made a partial payment in respect of any claim the Lessor shall have no responsibility to the Lessee if the insurers subsequently settle a claim in exercise of their rights of subrogation. The Lessor shall agree not to settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim, if it is secured to its reasonable satisfaction by the Lessee against the amount of such claim, court judgment or administrative penalty and the Lessor is satisfied (in its absolute discretion) that none of the circumstances envisaged in clause 7.6.5(e) below shall apply or arise if the Lessor does not settle the claim or discharge or pay any judgment or penalty in respect thereof;

- 7.6.5 Without prejudice to the provisions of this clause 7.6, the Lessee shall be entitled (subject to the Lessee complying in all respects with its obligations under this Agreement and the other Transaction Documents to which it is a party) to take (at its own cost) such lawful and proper actions as the Lessee reasonably deems fit to defend, avoid or mitigate any Loss or to take such action in the name of the Lessor or other relevant Indemnified Person, provided that the Lessee's ability to take action in the name of the Lessor or such other Indemnified Person shall be subject to:
- (a) the Lessor or such other Indemnified Person first being indemnified and secured to the satisfaction of the Lessor (or, as the case may be, such Indemnified Person), acting reasonably, against all Losses incurred and from time to time reasonably anticipated to be incurred in connection therewith;
 - (b) the ability of the Lessee to commence court proceedings in the name of the Lessor or such other Indemnified Person, or to instigate a counterclaim in the name of the

Lessor or such other Indemnified Person (but not, for the avoidance of doubt, to defend court proceedings brought by a third party which do not involve a counterclaim) being subject to the prior written consent of the Lessor (which consent the Lessor shall not unreasonably withhold but in relation to which the Lessee acknowledges the wish and interest of the Lessor and the Lessor's Group to preserve their reputation as a financial institution, their business interests and their customer relations);

- (c) if court proceedings have been commenced by a third party against the Lessor or such other Indemnified Person as defendant or if, pursuant to sub-clause (b) above, the Lessor gives its consent to the use of its name or the name of the relevant Indemnified Person in court proceedings (whether by way of claim or counterclaim), the Lessor shall permit the Lessee to have the full conduct of the court proceedings, or to instigate a counterclaim in the name of the Lessor or such other Indemnified Person, but the Lessee shall (i) consult with the Lessor and keep the Lessor fully informed in relation to their conduct and have due regard to the wishes of the Lessor in relation to the conduct of such court proceedings acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputations of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations and (ii) give timely notice to the Lessor of any meetings with counsel or attendances at court, and the Lessor and its advisers shall be entitled to attend any such meetings or court attendances;
- (d) in relation to all other matters contemplated by this clause 7.6, the Lessee shall keep the Lessor fully informed and have due regard to the wishes of the Lessor in relation to the use of the Lessor's name or the name of any other Indemnified Person acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputation of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations; and
- (e) notwithstanding sub-paragraph (c) above, the Lessor at any time may notify the Lessee that the Lessor is of the opinion, acting in good faith, that the continuance of such proceedings by the Lessee in the name of the Lessor or the name of any other Indemnified Person is damaging to the reputation of the Lessor or any Lessor Group Member as financial institutions or contrary to the business interests of any of them or will result in any criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person. A certificate signed by a director of the Lessor shall be conclusive as to the correctness of such opinion. If the Lessor so notifies the Lessee, the Lessee shall forthwith cease to be entitled to conduct the court proceedings in the name of the Lessor or the name of any other Indemnified Person, and the Lessor shall be at liberty to conduct, settle or discontinue such proceedings as it sees fit.

Without prejudice to the generality of this clause 7.6 and in particular sub-paragraph (e), the Lessor shall, at the cost of the Lessee, do such acts as the Lessee may reasonably request with a view to assisting the Lessee in taking actions to defend, mitigate or avoid any liability.

7.7 Pass-through of indemnity benefits

Where in this clause 7 an indemnity is expressed to be for the benefit of any person who is not a party to this Agreement the Lessor shall be entitled to indemnify such person on the same terms (and subject in particular to clause 7.6) mutatis mutandis as the indemnities expressed to be for the benefit of such person in this clause 7 and the Lessee shall indemnify the Lessor and hold the Lessor harmless on a full indemnity basis from and against each amount paid or payable by the Lessor to such person under any such indemnity, provided that to the extent this clause 7 purports to impose any obligations on Indemnified Persons other than the Lessor, the Lessor shall have procured the compliance by each such Indemnified Person with those purported obligations.

7.8 Survival of indemnities

The indemnities contained in this clause 7, and each other indemnity contained in this Agreement in favour of the Lessor and the other Indemnified Parties, (including, but not limited to, those contained in clause 7) shall survive any termination or other ending of the Lease Period and any breach of, or repudiation or alleged repudiation by, the Lessee or the Lessor of this Agreement or any of the other Lease Documents.

8 Taxes

8.1 General

The Lessee shall pay on a timely basis and discharge or cause to be paid on a timely basis and discharged, and indemnify promptly and keep the Lessor and each Lessor Group Member indemnified promptly against all and any Taxes which are imposed on or become payable during or in respect of all or any part of the Construction Period or the Lease Period on or in respect of the Ship or any activity in any way relating thereto or any Rental, or other amounts paid under this Agreement or any of the other Transaction Documents but subject to the remaining provisions of this clause 8.

8.2 Withholding taxes

If at any time any applicable law, regulation or regulatory requirement, or any governmental authority, monetary agency or central bank, requires any deduction or withholding from any payment of Rental or other amount due under any of the Transaction Documents:

8.2.1 the Lessee (unless otherwise agreed under any Transaction Document) shall pay, or shall procure the payment of, the full amount of the deduction or withholding in respect of Taxes to the appropriate authority, agency or bank within the time period for payment permitted by law;

8.2.2 if the payment is to be made by the Lessee, the sum due from the Lessee in respect of that payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lessor or, as the case may be, the applicable Lessor Group Member receives on the due date for such payment a net amount equal to the amount which it would have received had no such deduction or withholding been required to be made and the Lessee will promptly deliver to the Lessor copies of appropriate receipts evidencing any deduction or withholding so made; and

8.2.3 if the payment is to be made by any person other than the Lessee, the Lessee shall pay directly to the Lessor such sum (a “**compensating sum**”) as after taking into account any deduction or withholding which is required to be made in respect of the compensating sum, will enable the Lessor or the applicable Lessor Group Member to receive, on the due date for payment, a net sum equal to the sum which the Lessor or, as the case may be, the appropriate Lessor Group Member would have received in the absence of any obligation to make a deduction or withholding.

8.3 Tonnage Tax

In relation to the UK tonnage tax regime contained in Schedule 22 Finance Act 2000:

- (a) The Lessee will provide on an ongoing basis, upon the written request of the Lessor, such information that is in its possession and control as may be properly required to be furnished by the Lessor to HMRC or any Inspector of Taxes regarding the transactions contemplated by the Transaction Documents, including, without limitation, any joint certificate to be provided by the Lessor and the Lessee to the HMRC pursuant to paragraph 93 of Schedule 22 FA 2000;
- (b) The Lessor will enter into any such joint certificate with the Lessee and the Lessee will enter into any such joint certificate with the Lessor and the Lessor and the Lessee will provide to HMRC any information as may be properly required to be furnished by the Lessor in connection with such certificate or such election regarding the transactions contemplated by the Transaction Documents.

8.4 Grossing-up of indemnity payments

8.4.1 If and to the extent that any amount payable to the Lessor or any Lessor Group Member by or on behalf of the Lessee under this Agreement or any of the other Transaction Documents by way of indemnity proves, by reason of that sum being taxable in the hands of the Lessor or, as the case may be, any Lessor Group Member, to be insufficient for the Lessor to discharge the corresponding liability to a third party or to reimburse the Lessor or such Lessor Group Member for the cost incurred by it in discharging the corresponding liability to a third party, the Lessee shall pay to the Lessor or the applicable Lessor Group Member such additional amount as, after taking into account any Tax suffered by the Lessor in respect of that sum, is required to make up the insufficiency.

8.4.2 There shall be taken into account, in determining whether any amount referred to in clause 8.4.1 is insufficient, the amount of any deduction or other relief, allowance or credit received by the Lessor in respect of the Lessor’s corresponding liability to a third party or the cost incurred by the Lessor in discharging the corresponding liability to a third party to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.3 If and to the extent that any amount (the “**indemnity amount**”) constituting (directly or indirectly) an indemnity by the Lessee to the Lessor, but paid by the Lessee under this Agreement or any of the other Transaction Documents to any person other than the Lessor, shall be treated as taxable in the hands of the Lessor the Lessee shall pay to the Lessor such amount (the “**compensating amount**”) as (after taking into account any Tax suffered by the Lessor in respect of the compensating amount) shall reimburse the Lessor for any Tax suffered by it in respect of the indemnity amount.

8.4.4 There shall be taken into account in determining the amount of any compensating amount under clause 8.4.3 the amount and time of payment of any deduction or other relief, allowance or credit available to the Lessor in respect of the Lessor's corresponding liability or Losses in respect of which the indemnity amount is paid to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.5 To the extent that liability arises under clause 8.4.1 which may lawfully be avoided by the Lessee discharging the Lessor's liability directly, then the parties shall endeavour to settle their respective liabilities in this manner.

8.5 Credits etc.

If following the making of any increased payment or compensating sum or compensating amount by the Lessee pursuant to clauses 8.2 or 8.4 the Lessor receives or is granted a credit against, remission for or repayment of any Tax payable by it which is referable to such deduction or withholding or increased payment made by the Lessee and which has not already been taken into account pursuant to clause 8.4.2 or 8.4.4, the Lessor shall:

8.5.1 give to the Lessee a certificate setting out the basis of the computation of the amount of any credit, remission or repayment referred to in this clause 8.5; and

8.5.2 to the extent that it is satisfied that it can do so without prejudice to the retention of such credit, remission or repayment, promptly reimburse the Lessee with such amount as the Lessor shall determine to be such proportion of such credit, remission or repayment as will leave the Lessor, after such reimbursement, in the same net after Tax position as it would have been in had no such deduction or withholding been required to be made,

Provided that:

- (a) the Lessor shall be the sole judge (acting in good faith) of the amount of any such credit, remission or repayment and of the date on which it is received;
- (b) the order and manner in which the Lessor employs or claims Tax credits and allowances available to it shall be determined by the Lessor in its discretion provided always that the Lessor shall, in determining the order in which it employs or uses Tax Credits or allowances available to it, treat the Lessee in no less favourable a way than it treats its other customers in respect of similar transactions of a similar size;
- (c) the Lessor shall not be obliged to disclose to the Lessee any information regarding the Tax affairs or Tax computations of the Lessor or the Lessor's Group; and
- (d) if, following any reimbursement pursuant to this clause 8.5, the credit, remission or repayment in respect of which reimbursement was made is disallowed in whole or in part by any applicable Tax or other authority, the Lessee will pay to the Lessor the amount required to restore the after-Tax position of the Lessor to that which it would have been had adjustment under this clause 8.5.2 not been necessary.

This clause 8.5 applies also to the extent that any credit, remission or repayment is granted to a Lessor Group Member and the Lessor will procure that such Lessor Group Member complies with the obligations of the Lessor, with appropriate modifications, under this clause 8.5.

8.6 Duties and other taxes

The Lessee shall pay all stamp, documentary, registration and other like duties or Taxes (including any such duties or Taxes payable by the Lessor) imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents and shall indemnify the Lessor against any liability arising by reason of any delay or omission by the Lessee to pay such duties or Taxes.

8.7 Non-deductibility

If any amount paid or to be paid by the Lessor pursuant to this Agreement by way of rebate of Rental or reimbursement or otherwise is not fully allowed or will not be fully allowed as a deductible trading expense in computing for Tax purposes the chargeable profits of the Lessor (to the extent that the Lessor shall determine in good faith that the receipt by the Lessor out of which the obligation to make the relevant rebate reimbursement or other payment arises or arose is or will be brought into charge for computing for Tax purposes the chargeable profits of the Lessor) the Lessor shall be entitled to reduce the payment by such amount or, if the Lessor has not done so, the Lessee will pay to the Lessor such additional amount as will put the Lessor in the same after-Tax position as it would have been in had the payment been allowed as a deductible trading expense.

8.8 Deductibility

If a payment is made by the Lessee or the Lessor has reduced the amount of a rebate or reimbursement made by it pursuant to clause 8.7 and the Lessor in fact obtains a deduction for the whole or part of the rebate or reimbursement the Lessor shall pay to the Lessee such additional amount as the Auditors certify will leave the Lessor in the same after-Tax position had the payment pursuant to clause 8.7 not been necessary.

8.9 No double-counting

Notwithstanding the preceding provisions of this clause 8, if:

8.9.1 either a liability to Tax arises, or would have arisen but for an insufficiency of taxable profits, or a deduction for Tax purposes is not available to the Lessor, or an event giving rise to such a liability or non-deduction occurs (which would not have been, or given rise to, such a liability or non-deduction had all of the Assumptions proved to be correct) by reason of which the Lessee is (or would, but for this clause 8.9, be) liable to make a payment under the provisions of this clause 8; and

8.9.2 in consequence of any of the Assumptions proving not to be correct any amount of Rental payable under this Agreement or the amount of the Termination Sum or both is or are adjusted upwards or would be so adjusted but for the provisions of paragraph 4.6 of the Financial Schedule,

the Lessee shall not be liable to make any payments to the Lessor or otherwise in respect of Taxes under this clause 8.

8.10 Exclusion from tax indemnities

The Lessee is not obliged to indemnify the Lessor or any Lessor Group Member under clause 8.1 against:

8.10.1 any Tax liability to the extent that such liability is imposed by way of deduction or withholding from any payment due from the Lessee under this Agreement or any of the other Transaction Documents to the Lessor or any Lessor Group Member in circumstances where clause 8.2 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause);

- 8.10.2 any United Kingdom Value Added Tax (including any interest, penalties or fines thereon) payable by the Lessor or any Lessor Group Member in respect of the Lessor's acquisition of the Ship (other than to the extent that such Value Added Tax arises as a result of an Excluded Event) or any other Value Added Tax whether or not the Lessee is required to make any payment or increased payment in respect thereof under clause 8.11 and, in respect of a non-United Kingdom Value Added Tax, to the extent that the Lessee is already required under this Agreement to make any payment or increased payment in respect thereof; or
- 8.10.3 Taxes which would not have arisen but for any Lessor Breach or any Lessor Misconduct; or
- 8.10.4 any United Kingdom Tax liability which is suffered by the Lessor or any Lessor Group Member by reason of any payment made by or loss suffered by the Lessor or the applicable Lessor Group Member not being fully deductible in computing the chargeable profits for Tax purposes of the Lessor or the applicable Lessor Group Member whether or not the Lessor or the applicable Lessor Group Member is entitled to receive a compensating amount under clause 8.4 or an amount under clause 8.7; or
- 8.10.5 any Taxes to the extent that they would not have arisen but for the reasonably avoidable delay or failure by the Lessor or any Lessor Group Member in the filing of:
- (a) United Kingdom tax returns or any other documents in the United Kingdom or the payment of United Kingdom Taxes assessed on or payable by the Lessor or the applicable Lessor Group Member, or, as the case may be,
 - (b) tax returns in any jurisdiction other than the United Kingdom or any other documents in any jurisdiction other than the United Kingdom or the payment of Taxes in any jurisdiction other than the United Kingdom assessed on or payable by the Lessor or the applicable Lessor Group Member, provided that this clause 8.10.5(b) shall not apply to any failure or delay by the Lessor or the applicable Lessor Group Member prior to the time at which the Lessee, or as the case may be, the relevant Tax authority to whom such Taxes are due to be paid or with whom such returns or other documents are due to be filed, has notified the Lessor in writing of the requirement to pay such Taxes or file such returns or other documents,

and provided that this clause 8.10.5 shall not apply to any delay or failure by the Lessor or the applicable Lessor Group Member which:

- (i) has been consented to or requested by the Lessee or another Transaction Company in writing; and/or
- (ii) arises as a result of a failure by the Lessee promptly when requested to do so to provide the Lessor or the applicable Lessor Group Member with correct, suitable and adequate information which the Lessee has or might reasonably be expected to have or to obtain so as to enable the Lessor or the applicable Lessor Group Member to file the relevant tax return or pay such Taxes; or

- 8.10.6 any Taxes which would not have been imposed but for, or to the extent increased by reason of, an assignment or transfer by the Lessor of its rights or obligations under this Agreement or the other Transaction Documents; or
- 8.10.7 where the Lessee is liable to compensate the Lessor or any Lessor Group Member in respect of the liability under any other provision of this Agreement and has discharged its obligations in respect thereof; or
- 8.10.8 any Corporation Tax attributable to any Rental or Termination Amount or interest actually receivable hereunder by the Lessor or to any other amounts payable to and unconditionally received by the Lessor under this Agreement or pursuant to or in connection with any of the other Transaction Documents or to any sales or other proceeds (including, without limitation, insurance moneys) actually received and retained by the Lessor in respect of the Ship or the Lessor's rights under the Novated Building Contract; or
- 8.10.9 any Tax liability in respect of documentary or similar Taxes in circumstances where clause 8.6 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause).

8.11 VAT

- 8.11.1 Save where expressly provided to the contrary, all payments made under this Agreement and the other Transaction Documents are calculated without regard to VAT. If any such payment constitutes the whole or any part of the consideration for a taxable or deemed taxable supply, the amount of that payment shall be increased by an amount equal to the amount of VAT which is chargeable in respect of the taxable supply in question against delivery of an appropriate VAT invoice provided that the Lessor shall not be liable to pay an amount in respect of VAT until such time as, and to the extent that it (or any member of its VAT group which is the representative member (or equivalent) of such VAT group for VAT purposes (the “**Representative Member**”)) receives a credit for such VAT as “input tax”, as defined in sub-section (1) of section 24 of VATA, under sections 25 and 26 of VATA (or the equivalent in any jurisdiction other than the United Kingdom), in which case such payment shall be made as soon as practicable after the credit is received.
- 8.11.2 If any amount in respect of VAT paid by the Lessor or the Representative Member pursuant to this Agreement or any of the Transaction Documents at any time shall be Irrecoverable VAT the Lessee shall forthwith on demand by the Lessor indemnify the Lessor and keep the Lessor fully indemnified at all times against such Irrecoverable VAT provided that if the Lessor determines that such Irrecoverable VAT subsequently proves to be recoverable and to the extent that no adjustment has been made in the calculation of such Irrecoverable VAT pursuant to the proviso in the definition of “Irrecoverable VAT”, the Lessor shall pay to the Lessee such amount, if any, as the Lessor shall determine will leave the Lessor in no better and no worse a position than the Lessor would have been in if no payment had been made by the Lessee to the Lessor under this clause 8.11.2.
- 8.11.3 If the Lessor makes any supply for VAT purposes pursuant to or in connection with this Agreement or any of the other Transaction Documents or any transaction or document contemplated herein or therein, the Lessee shall (save to the extent that the Lessor is entitled to be indemnified in respect of that VAT by an increased payment under clause

8.11.1 above) at such time as the Lessor certifies to the Lessee that any amount of VAT payable in respect of that supply has not been paid to the Lessor and having duly accounted for such VAT to HMRC at the correct time and having duly claimed bad debt relief in respect of that VAT the Lessor either has not or has not fully received such relief, pay on demand to the Lessor an amount equal to the aggregate of any VAT which is payable in respect of that supply and has not been the subject of bad debt relief together with interest on an amount equal to any VAT payable in respect of the supply at LIBOR ascertained in respect of the date on which such VAT was accounted for to HMRC for the period from that date until the date of the Lessor's certificate or the date upon which bad debt relief is received, provided that if an amount in respect of bad debt relief is subsequently recovered by the Lessor or the Representative Member which is attributable to VAT in respect of which the Lessee has made a payment under this clause 8.11.3 the Lessor shall, or shall procure that the Representative Member shall, pay an amount equal to such recovery to the Lessee to the extent such payment will not prejudice the retention of such VAT bad debt relief.

8.12 VAT mitigation

8.12.1 The Lessor and the Lessee agree to co-operate with a view to minimising any VAT payable by either party under any transaction referred to in clause 8.11 but so that neither party shall be bound to do anything which would not be good business practice and legal or which would involve any adverse consequences to it.

8.12.2 If it subsequently transpires that the Lessor recovers, or obtains a credit for, any VAT in respect of which the Lessor has been indemnified under clause 8.11 the Lessor shall refund to the Lessee such amount as the Lessor shall determine to be such proportion of such credit as will leave the Lessor, after such refund, in the same net position as if would have been had no VAT been required to be accounted for.

8.13 Information

8.13.1 Subject to clause 8.13.2, the Lessee shall provide such evidence, assistance, information and documentation relating to the Purchase Price, the Ship, the use to which the Ship is being put or such other evidence, information or documentation as may be requested by the Lessor and which is or ought reasonably to be available to the Lessee and which is under its control or power to procure, and which the Lessor may require in order for the Lessor to satisfy a legitimate request for information or documentation received from any Tax authority or in order to agree the Lessor's Tax computations or settle any other Tax matter and the Lessee undertakes to co-operate with the Lessor to enable the same to be provided to the relevant Tax authority.

8.13.2 The Lessee and Lessor acknowledge and agree that should either party, or as the case may be, any relevant advisors of either party (“**Advisors**”) determine that it shall be necessary for it, or as the case may be, such Advisors to disclose to any Tax authority such details relating to the transactions contemplated by the Transaction Documents as may be required to be disclosed by such person in accordance with the provisions of Part 7 of Chapter 8 of the Finance Act 2004 or any regulations made pursuant thereto, such person shall be permitted to make such disclosure **SAVE THAT** before making any such disclosure, the Lessor, or, as the case may be, the Lessee shall consult in good faith with the other party as to the requirement to make such disclosure and the terms on which such disclosure shall be made provided that notwithstanding such requirements to consult, any decision as to whether a disclosure is required to be made and the terms of that disclosure shall be made by the person wishing to make the disclosure acting in good faith.

9 Use and Employment

9.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period except as the Lessor may otherwise permit in writing.

9.2 Permitted use

The Lessee shall have the full possession and use of the Ship and the Ship may be employed throughout the world in any lawful trade for which the Ship is suitable subject to (i) the Lessee ensuring that the Ship is insured for the jurisdiction in which it is to operate (in accordance with clause 13) and to (ii) any limitations imposed by insurers and otherwise (iii) subject to and on the terms and conditions of this Agreement.

9.3 Other undertakings concerning use

The Lessee shall, and shall procure that each other Transaction Company shall:

- 9.3.1 avoid the Ship being operated or employed in any manner, trade or business contrary to Environmental Laws and all other laws or regulations, in any such case to the extent that they apply to the Ship, its ownership, operation and management or to the business of the Lessee, or in carrying illicit or prohibited goods or in any manner which would render her liable to condemnation or destruction, seizure, confiscation, penalties, requisition or sanctions or in any manner or trade which would or might reasonably be expected to prejudice the Lessor's ownership of the Ship unless the Lessee, by virtue of the provisions of the Time Charter as at the date hereof, is not entitled to prevent such operation or employment;
- 9.3.2 without prejudice to the generality of clause 9.3.1 above, ensure and/or procure that the Ship is properly used and, in particular, but without limitation, that it shall:
- (a) observe all material recommendations and requirements contained in all handbooks and manuals supplied by or procured from the Builder or the manufacturer or the supplier of components for the Ship relating to the proper use of the Ship; and
 - (b) ensure that the Ship is operated in accordance with the appropriate regulations and recommendations of all competent authorities of the flag state and the jurisdictions in or to which the Ship is employed or trades from time to time pursuant to the terms of this Agreement and of the Classification Society.
- 9.3.3 without prejudice to the generality of clause 9.3.1 above, throughout the Lease Period (and shall procure that any Approved Manager takes all necessary action to):
- (a) procure implementation and maintenance of a safety management system (**SMS**) which complies with the ISM Code, the flag state of the Ship and the Ship's Classification Society, which may from time to time be of mandatory application to the Ship and/or the Lessor and/or the Lessee and/or any other Transaction Company;

- (b) procure the obtaining and maintenance in force at all times of valid certificates evidencing compliance with the requirements of clause 9.3.3(a) above, including, without limitation, a valid Document of Compliance in relation to the Approved Manager and a valid Safety Management Certificate in respect of the Ship as required by the ISM Code;
- (c) provide the Lessor, at its request, with copies of any such Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate upon issuance;
- (d) if and to the extent required pursuant to the ISM Code, keep or procure that there is kept on board the Ship at all times a copy of any such Document of Compliance and the original of any such Safety Management Certificate; and
- (e) ensure that:
 - (i) the Ship has a valid International Ship Security Certificate;
 - (ii) the Ship's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Ship's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place;

9.3.4 without prejudice to the generality of clause 9.3.1 above, in the event of the Ship (and for so long as it is) operating in or into or off-shore from the United States of America or in United States waters, obtain and maintain all Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time and such other documentation as may be required by the US Coast Guard or any other relevant US authority and, if so requested by the Lessor, provide copies of Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time to the Lessor and take all reasonable precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in the flag state or in any jurisdiction in or to which the Ship may be employed or trade from time to time;

9.3.5 not at any time represent or hold out the Lessor as carrying goods or persons on the Ship or being in any way connected or associated with any operation or carriage whether for charter or reward or gratuity or gratuitously which may be undertaken by the Lessee during the Lease Period nor shall the Lessee represent itself as the agent of the Lessor for such purpose;

9.3.6 in the event of hostilities in any part of the world, avoid the Ship entering or trading to any zone which is declared a war zone or excluded area by any government or by the Ship's war risks insurers unless the Lessee has (at its expense) effected special, additional or modified insurance cover necessary to keep the Ship properly insured in accordance with this Agreement notwithstanding such entry into a war zone and, either prior to or promptly after such entry, shall have submitted the same to the Lessor to enable the Lessor to verify that such further insurances do meet such requirements and shall have ensured that all requirements under or pursuant to this Agreement in relation thereto shall have been

complied with and provided further that if the Ship is in a zone when it is declared a war zone or excluded area by the Ship's war risk insurers or any government the Lessee shall forthwith at its own expense effect special, additional or modified insurance as necessary to keep the Ship insured in accordance with this Agreement and shall then notify the Lessor in writing giving details of such insurances.

The requirements of this clause 9.3.6 shall be deemed satisfied if the Ship is held covered under a relevant government programme (by which is meant an insurance or an indemnity programme on terms acceptable to the Lessor, having regard to the insurance requirements set forth in this Agreement, of any member of the European Union and/or the United States of America or any other country approved by the Lessor); and

9.3.7 pay all tolls, dues and other outgoings whatsoever in respect of the Ship and the Insurances and keep proper books of account in respect of the Ship and, as and when the Lessor may so require, make such books available for inspection on behalf of the Lessor.

9.4 Provision of information in respect of the Ship's employment and trade

9.4.1 The Lessee shall procure that the Lessor is advised in writing if the Ship's trading pattern would or may result in a liability being imposed in the United States of America on the Lessor for US Transportation Tax, or any equivalent future Tax notwithstanding that, in such circumstances, it shall in such case be the responsibility of the Lessee to attend to all administrative matters relating thereto and to indemnify the Lessor for any such Tax liability.

9.4.2 At the Lessor's request, the Lessee shall provide the Lessor with such information and copy documents which the Lessor reasonably requests in relation to:

- (a) the Ship, its employment, position and engagements under the Time Charter;
- (b) copies (duly translated into English) of any charters of the Ship notified to and approved by the Lessor in accordance with clause 10.17 including any voyage or engagement which requires the Ship to enter into United States waters or operate in or offshore from the United States of America;
- (c) the amount of hire payable in respect of the bareboat chartering, time chartering or other hiring of the Ship and amount of payments and amounts due to the Ship's master and crew;
- (d) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship and any payments made in respect of the Ship; and
- (e) any towages and salvages,

provided that (in the case of information relating to, and copies of contracts for the chartering or hire of the Ship other than the Time Charter) the Lessee is able to procure that such information is provided or such copies are provided, in each case without breaching any confidentiality covenants on the part of any Guarantor Group Member under such contracts and, if the provision of this information or copies of the applicable charter contracts would, in the opinion of the Lessee (acting reasonably) cause such covenants to be breached, the Lessee delivers to the Lessor an opinion from the Lessee's English counsel setting out the reasons why (in the reasonable opinion of the Lessee's English

counsel) the terms of the proposed charter or sub-charter will not cause the Lessee to be in breach of the covenant in clause 9.2, provided always that if the Lessor is required by its Tax Authority to disclose any such charter or sub-charter the Lessee shall procure in so far as possible that the applicable Guarantor Group Member obtains the consent of its counterparty to such contract for a copy of the contract to be provided to the Lessor's Tax Authority.

9.4.3 The Lessee shall advise the Lessor promptly of any breach of any provisions of this clause 9.4 and shall thereafter keep the Lessor informed of progress of matters in relation thereto.

10 Maintenance and Operation

10.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period until such time as the Ship is sold except as the Lessor may otherwise permit in writing.

10.2 Supply and crewing

Throughout the Lease Period the Lessee shall procure that the Ship is manned, victualled, navigated, operated, supplied, fuelled, maintained and repaired, all at no cost to the Lessor.

10.3 Condition of the Ship

The Lessee shall procure that the Ship and every part thereof is kept in a good and safe condition and state of repair, ordinary wear and tear excepted, and shall ensure that all repairs to or replacements of lost, damaged or worn parts and equipment are effected in such a manner so as not to diminish the value of the Ship and in any event:

10.3.1 consistent with first-class ship ownership and management standards in relation to ships of the Ship's age and type;

10.3.2 so as to maintain the Ship's class, namely "DNV, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V (3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport" with Det norske Veritas (or the equivalent classification with another Classification Society), free of overdue conditions affecting the Ship's class unless waived;

10.3.3 so as to comply with all laws and regulations, including, without limitation, Environmental Laws, and to maintain all certificates, licences and permits applicable to vessels registered in the state of registration for the time being of the Ship being pursuant to clause 12 and to vessels trading to any jurisdiction to which the Ship may trade from time to time in any such case unless waived; and

10.3.4 without prejudice to the foregoing provisions of this clause 10.3, at least to the same standard, on a non-discriminatory basis, as other comparable vessels owned or operated by companies which are Guarantor Group Members.

10.4 Master, officers and crew

The Master, officers and crew of the Ship shall be the servants of the Lessee for all purposes whatsoever. The Lessee shall ensure that the wages and allotments and the

insurance and pension contributions as appropriate of the Master, officers and crew shall be regularly paid and all deductions from their wages in respect of tax liability shall be properly accounted for and the Master shall have no valid claim for disbursements other than those incurred by him in the ordinary course of trading of the Ship.

10.5 Modifications

The Lessee shall procure that no modification is made to the Ship which would:

10.5.1 materially and adversely alter the structure, type or performance characteristics of the Ship unless required by the Classification Society of the Ship from time to time; or

10.5.2 reduce the value of the Ship,

and in any event the Lessee shall require the prior written consent of the Lessor for any modifications which are made to the Ship the cost of which exceeds or will when completed exceed five million Dollars (\$5,000,000).

10.6 Surveys

The Lessee shall procure that the Ship is submitted to such periodical or other surveys as may be required by the Ship's flag state or for classification purposes and shall comply with all conditions affecting the Ship's class of the Classification Society of the Ship from time to time in accordance with their terms unless waived and the Lessee shall supply copies of any survey reports to the Lessor upon request from the Lessor.

10.7 Drydocking

The Lessee shall procure that the Ship is drydocked as often as may be required to ensure that the Ship maintains its classification with its Classification Society and otherwise in accordance with good commercial practice. If the Lessee fails to comply with the requirements of the relevant Classification Society, the Lessor shall have the right to inspect the Ship in accordance with clause 10.14. If so requested by the Lessor, the Lessee shall give the Lessor reasonable prior written notice of any intended drydocking of the Ship.

10.8 Release from arrest

Other than in the circumstances described in clause 6.3.2, the Lessee shall promptly pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given or which may reasonably be expected to give rise to maritime, statutory or possessory liens (other than Permitted Security Interests) on, or claims enforceable against, the Ship or the Insurances or any part thereof. If at any time during the Lease Period any writ or equivalent claim or pleading in admiralty is filed against the Ship or the Insurances or any part thereof, or the Ship or the Insurances or any part thereof is arrested or detained or attached or levied upon pursuant to legal process or purported legal process or in the event of the detention of the Ship in the exercise or the purported exercise of any such lien or claim as aforesaid (other than by reason of a Compulsory Acquisition or by reason of a Lessor's Security Interest), the Lessee shall procure the release of the Ship and the Insurances from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty as soon as reasonably

practicable and in any event within sixty (60) days of receiving notice thereof by providing bail or procuring the provision of security or otherwise as circumstances may require. Subject to the provisions of this Agreement, the Lessor shall cooperate with the Lessee to the extent that the Lessee wishes to make any payment through or requires to take any reasonable steps (other than court proceedings) in the name of the Lessor.

10.9 Manuals and technical records

The Lessee shall procure that:

- 10.9.1 all such records, logs, manuals, technical data and other materials and documents which are required to be maintained in respect of the Ship to comply with any applicable laws or the requirements of the Ship's flag state and Classification Society are maintained;
- 10.9.2 accurate, complete and up-to-date logs and records of all voyages made by the Ship and of all maintenance, repairs, alterations, modifications and additions to the Ship are kept; and
- 10.9.3 following the occurrence of a Termination Event and for as long as it is continuing on reasonable advance notice from the Lessor, the Lessor or its representatives is permitted at any time to examine and take copies of such logs and records and other records.

10.10 Ship's Software

The Lessee shall obtain and maintain and procure that there are obtained and maintained for the benefit of the Lessor, the Lessee, and the Time Charterer and any other person hiring or chartering or operating the Ship from time to time all licences and permits (without liability on the part of the Lessor for the payment of any royalties as may be required from time to time in respect of the Ship's Software) and shall procure that all such licences and permits are granted without any limitation or expiry (or are renewed prior to any such expiry).

10.11 Manager

The Lessee shall procure that no manager of the Ship is appointed which is not an Approved Manager. For the avoidance of doubt this shall not be construed as a prohibition on the appointment of sub-contractors by the Approved Manager, providing that the Approved Manager remains responsible for management of the Ship.

10.12 Safe operation

The Lessee shall take all steps necessary so as to ensure that the Ship should be navigated and operated in a proper, safe and seaman-like manner and in the manner prescribed by any legislation, including Environmental Laws, in force in the state of registration for the time being of the Ship and all other applicable jurisdictions.

10.13 Seaworthiness

Save for periods when the Ship is in dry-dock, the Lessee shall procure that the Ship should at all times be fit to go to sea without serious danger to human life (by reason of the condition, or the unsuitability for its purpose, of either the Ship or its machinery or equipment or any part of the Ship or its machinery or equipment or undermanning or overloading or unsafe or improper loading or any other matter relevant to the safety of the Ship).

10.14 Inspection

The Lessee shall ensure that the Lessor, its surveyors or other persons appointed by it will be permitted to inspect the Ship, upon reasonable notice and without interfering with the Ship's operation. Such inspections shall be without cost to the Lessee unless either such inspection reveals that the requirements of this clause 10 are not then being complied with in all material respects or it is made after the occurrence of a Termination Event that is continuing, in which case it shall be at the cost of the Lessee.

10.15 Ship-related expenses

The Lessee shall procure that, in relation to the operation of the Ship, at no time is the Lessor's credit pledged to pay for any costs of maintenance, repair, operation or use of the Ship or in relation to any of the other matters listed below and the Lessee shall pay or procure that there is paid within any applicable grace or credit period all costs, charges and expenses arising during or in respect of the Lease Period, from the purchase, exportation, importation, registration, ownership, chartering, sub-chartering, possession, control, use, operation, maintenance, repair, replacement, refurbishment, overhaul, insurance, storage, redelivery, dry-docking or disposal of the Ship or any modification to or any change or alteration in the Ship and otherwise howsoever in connection with the Ship, except:

10.15.1 for Taxes, to which clause 8 shall apply;

10.15.2 for the Purchase Price of the Ship pursuant to the Novated Building Contract; or

10.15.3 to the extent that such items are already the subject of indemnification, either under clause 7 or under the Financial Schedule.

While the Lessee's liability to pay ultimately the amount due in respect of any such costs, charges or expenses is not diminished, the Lessee may delay or refrain from paying any such costs, charges or expenses while it is contesting them in good faith by appropriate steps and provided that adequate reserves have been made to meet such liability in case the Lessee's contest ceases or is unsuccessful, for whatever reason and provided that such delay or withholding does not, in the reasonable opinion of the Lessor, carry with it any material risk of arrest, forced sale, loss, confiscation or forfeiture of the Ship or any interest therein.

The Lessee will also not hold out the Lessor as being involved in the operation of the Ship.

If a claim is made against the Lessor for payment of any amounts referred to in this clause 10.15, the Lessee shall produce to the Lessor such evidence as it shall reasonably require of the due payment of any sums referred to in this clause.

10.16 Notification of certain events

The Lessee shall, immediately upon the same coming to its attention and to the best of its then current knowledge, notify the Lessor by fax (confirmed forthwith by letter) of:

10.16.1 any casualty of the Ship which is or is likely to give rise to a loss or cost of five million Dollars (US\$5,000,000) or more;

10.16.2 any occurrence as a result of which the Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;

- 10.16.3 any requirement made by any insurer or Classification Society or by any competent authority which is not complied with within any applicable time period for compliance stipulated by such authority;
- 10.16.4 any arrest or detention of the Ship, any exercise or purported exercise of any lien on the Ship or its Earnings or any requisition of the Ship for hire;
- 10.16.5 any Environmental Claim made against the Lessor of which it is or becomes aware or in connection with the Ship, or any Environmental Incident or Environmental Claim in an amount in excess of one million Dollars (\$1,000,000) made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.6 any claim for breach of the ISM Code or the ISPS Code being made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.7 any other matter, event or incident, actual or threatened, the effect of which will or is reasonably likely to lead to the ISM Code or the ISPS Code not being complied with;
- 10.16.8 any claims made in connection with a bodily injury to a third party involving amounts in excess of an amount of one million Dollars (\$1,000,000) or its equivalent in any other currency;
- 10.16.9 any Security Interest (other than a Permitted Security Interest) arising over the Ship or the Insurances or Requisition Compensation; and
- 10.16.10 any other event in respect of the Ship or the Insurances or Requisition Compensation which the Lessee expects to involve the Lessor in any loss or liability,
- and the Lessee shall keep the Lessor advised in writing on a regular basis and in such detail as the Lessor shall require of the response to any of those events or matters by the Lessee or the applicable Transaction Company or any other person.

10.17 Restrictions on chartering

The Lessee shall not, without the prior written consent of the Lessor acting reasonably (which shall be subject to the Lessor being satisfied with the information or documentation or opinion provided in accordance with clause 9.4.2):

- 10.17.1 let the Ship on demise charter;
- 10.17.2 let the Ship on or enter into any time or consecutive voyage charter in respect of the Ship to the Original Purchaser or any other person who has at any time had a right to acquire the Ship from the Builder;
- 10.17.3 put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed five million Dollars (US\$5,000,000) (or the equivalent in any other currency) unless either:
- (a) that person has first given to the Lessor and in terms satisfactory to it a written undertaking not to exercise any lien on the Ship or its earnings for the cost of such work or for any other reason; or
 - (b) the cost of such work is covered by insurances; or

(c) the Lessee establishes to the reasonable satisfaction of the Lessor that it has sufficient funds to pay for the cost of such work; and

10.17.4 knowingly permit the Time Charterer to enter into any sub-charter of or for the Ship which would breach the terms of the covenant in clause 10.17.2.

11 Equipment

11.1 General

The following provisions of this clause 11 shall apply at all times during the Lease Period and until such time as the Ship is sold.

11.2 Use of Equipment

The Lessee shall have the use of all outfit, equipment, furnishings, furniture and fittings, spare and replacement parts belonging to the Ship, and the same or their substantial equivalent shall be returned to the Lessor on redelivery in good order and condition, ordinary wear and tear excepted, and except for changes and alterations properly made as permitted under this Agreement.

11.3 Renewal of Equipment

The Lessee shall procure that, at no cost to the Lessor, from time to time during the Lease Period such items of equipment forming part of the Ship as shall be damaged, worn or lost are replaced, renewed or substituted in such manner as not to diminish in any material adverse way the value of the Ship. Title to any part replaced, renewed or substituted shall remain with the Lessor until the part which replaced it or the new or substituted item of equipment becomes the property of the Lessor or is replaced, renewed or substituted by an item of equipment which at that time becomes the property of the Lessor. The Lessee shall ensure that title to any such new item of equipment shall be free of all Security Interests and shall vest in the Lessor upon fitting.

11.4 Additional equipment

At any time any necessary additional equipment may be fitted so as to render the Ship available for any purpose for which the Lessee may require to use or operate the Ship, subject always to clause 9.3, or as required by any Classification Society, subject to no permanent structural damage or reduction in value thereby being caused to the Ship by reason of its installation or subsequent removal. Any additional equipment so fitted shall be considered the property of the Lessee who may remove such additional equipment at any time before the expiration of the Lease Period unless (i) it is agreed between the Lessor and the Lessee that any such equipment shall remain on the Ship after redelivery in which event such equipment shall as from redelivery become the property of the Lessor, or (ii) such additional equipment is required by any Classification Society. The cost of fitting or removing any equipment together with the cost of making good any damage caused by such fitting or removal shall be payable in full by the Lessee.

12 Title and Registration

12.1 General

The following provisions of this clause 12 shall apply at all times during the Lease Period until such time as the Ship is sold.

12.2 Title and ownership

The Ship shall belong to the Lessor and title to and ownership of the Ship shall remain vested in the Lessor. The Lessee shall have no right, title or interest in or to or any option or any right to acquire title to or any proprietary interest in or to any part of the Ship except the rights expressly set out in this Agreement.

12.3 Approved Flag States

12.3.1 As at the date of this Agreement (but subject always to clause 12.3.2 and to the following states or countries satisfying and continuing to satisfy the criteria set out in clause 12.5 below), the Lessor agrees that any of Hong Kong, the Marshall Islands, the United Kingdom, Liberia, Bermuda or the Bahamas is acceptable to the Lessor as a state or country in which the Lessor agrees the Ship may be registered.

12.3.2 If the Lessor gives notice to the Lessee that any of the above mentioned states or countries falls within the restrictions or circumstances set out in clause 12.5 below, the applicable state or country shall cease to be an Approved Flag State for the purposes of this Agreement.

12.4 Registration

The Lessee agrees at its expense (and, in relation to clause 12.4.1 below, the Lessor agrees to provide all requisite assistance to the Lessee so as to enable the Lessee) to:

12.4.1 subject to clause 12.3.2 and to the criteria set out in clause 12.5 below, procure that at Delivery the Ship is, and thereafter throughout the Lease Period remains, registered in the name of the Lessor under the laws and flag of an Approved Flag State at the applicable time; and

12.4.2 (subject to clause 12.5 below) procure throughout the Lease Period that the registration of the Ship is maintained under the laws and flag of an other Approved Flag State and shall not knowingly do or suffer to be done anything whereby such registration may be forfeited or imperilled; and

12.4.3 pay, and indemnify the Lessor from and against, all registration and other charges and fees that may from time to time be payable in respect of such registration.

12.5 Reflagging

12.5.1 The Lessor may require the Lessee (at its cost and expense) to re-register the Ship under the laws and flag of any other state or jurisdiction (including, but not limited to, the Approved Flag States referred to in clause 12.3 above) in the event that (a) it becomes unlawful, impossible, impracticable or (in the opinion of the Lessor, acting in good faith) undesirable (including, without limitation, by reason of change of legal or political circumstances) for the Lessor to continue to be registered as the owner of the Ship under

the laws and flag of its then current register or (b) if classification inspections for vessels registered under the laws and flag of the state in which the Ship is registered at the relevant time are no longer undertaken by a classification society which is a member of IACS.

- 12.5.2 The Lessee, upon not less than 15 days written notice to the Lessor (or such shorter period as the Lessor may agree, such agreement not to be unreasonably withheld) and provided that no Relevant Event has occurred and is continuing, may elect to re-register the Ship in a state listed in clause 12.3.1 or any other state or country approved by the Lessor, such approval not to be unreasonably withheld or delayed, subject to:
- (a) the Ship being registered in the name of the Lessor, free from Security Interests other than Permitted Security Interests in the applicable register in such flag state;
 - (b) inspections of the Ship required by the proposed new flag state continuing to be undertaken by a classification society which is a member of IACS;
 - (c) it being possible to obtain a legal opinion satisfactory to the Lessor in its discretion in relation to the laws of such proposed flag state as to the validity and enforceability of the Lessor's ownership interest in the Ship contemplated by the Transaction Documents;
 - (d) the Lessor's liability as owner of the Ship not increasing as a result of such change of flag; and
 - (e) the right of the Lessor to treat the applicable state or country as being unacceptable in the future in accordance with clause 12.5.1 above.
- 12.5.3 The Lessor agrees, at the request and cost of the Lessee, promptly to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee to re-register the Ship in any Approved Flag State.
- 12.5.4 All costs and expenses (including legal costs and expenses and Taxes thereon and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any re-registration pursuant to clause 12.5 shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand. The provisions of clause 12.4 shall, with any necessary modifications, apply following any re-registration.
- 12.6 Name, colours etc.**
- 12.6.1 The Ship shall be painted in such colours and display such funnel insignia as the Lessee may from time to time lawfully require. The Lessee shall notify the Lessor of any intended change in the name of the Ship. At the request and cost of the Lessee, the Lessor agrees to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee in relation to any registration formalities required in connection with a change of the Ship's name.
- 12.6.2 All costs and expenses (including legal costs and expenses and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having

been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any registration formalities required in connection with a change of the Ship's name shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

12.7 Encumbrances

The Lessee shall not (save pursuant to the express powers conferred by this Agreement):

- 12.7.1 attempt or hold itself out as having any power to sell, charge or otherwise encumber or to sell or otherwise dispose of the Ship or any interest therein; or
- 12.7.2 let the Ship otherwise than as provided in this Agreement; or
- 12.7.3 create, incur, suffer or permit to exist any Security Interest (other than Permitted Security Interests) on or over the Ship, its earnings or on or over the Insurances,

and agrees to carry a properly certified copy of this Agreement with the Ship's papers and to exhibit the same to any person having business with the Ship which might give rise to any Security Interest thereon other than Permitted Security Interests.

12.8 Protection of Lessor

The Lessee shall seek to avoid anything being done which jeopardises the rights of the Lessor in the Ship or any part thereof and/or seek to avoid any omission which would prevent those rights from being exercised or enjoyed.

12.9 Notice of Lease

The Lessee shall place and keep or procure that there is placed and kept prominently displayed in the control room of the Ship throughout the Lease Period a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space of not less than six (6) inches wide by nine (9) inches high, substantially reading as follows:

“ NOTICE OF OWNERSHIP AND LEASE ”

“This Ship is owned by Peony Leasing Limited (the “Lessor”) and is subject to a lease agreement between the Lessor and Seaspan Finance I Co. Ltd (the “Lessee”). Neither the Lessee nor any manager, nor the master of the Ship nor any servant or agent of any of them have any right, power or authority whatsoever to contract on behalf of the Lessor or to pledge the credit of the Lessor or the involvement of the Lessor in any liability whatsoever and none of the Lessee, any manager, the master of the Ship and any other person has any right, power or authority to create, incur or permit to be imposed upon this Ship any Security Interest whatsoever except for general average, crew's wages or salvage”

or in such other form as the Lessor may reasonably require from time to time.

- 12.9.1 The Lessee shall not remove or cover up such notice, and will not place or permit to be placed any other notice affecting the ownership of the Ship or otherwise relating to the rights of the Lessor in or on the Ship or any part thereof save as is expressly permitted or required by the Transaction Documents without the prior written consent of the Lessor.

13 Insurances

13.1 General

The Lessee undertakes with the Lessor to procure that the following provisions of this clause 13 are complied with at all times during the Lease Period and, thereafter, until the Ship is sold, either by the Lessee or by any Guarantor Group Member to whom the Lessee delegates its rights and duties as sales agent in accordance with clause 2.8.9, except as the Lessor may otherwise permit. The Lessee confirms that throughout the Lease Period until the Ship is sold, the Ship shall be in every respect at the risk of the Lessee.

13.2 Maintenance of Insurances

The Ship shall be kept insured at no cost to the Lessor against:

- 13.2.1 fire and usual marine risks (including excess risks) and war risks;
- 13.2.2 protection and indemnity risks (including pollution risks and excess war protection and indemnity risks), on “full entry” terms; and
- 13.2.3 in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner or operator of vessels of a similar age, condition and type as the Ship and which may be requested by the Lessor from time to time (other than (i) the amount of any deductible, and (ii) loss of earnings/hire).

13.3 Terms of Insurances

Such Insurances shall be effected:

- 13.3.1 in Dollars or such other currency as the Lessor and the Lessee may agree;
- 13.3.2 in the case of fire and usual marine risks and war risks (on an agreed value basis) in an amount equal to the greater of (i) 120% of the highest Termination Sum applicable to the period for which the insurances are renewed and (ii) the market value of the Vessel;
- 13.3.3 in the case of protection and indemnity risks (including pollution liability risks), in an amount equal to the highest amount in respect of which cover is in accordance with customary insurance market practice taken out by prudent owners or operators of vessels of a similar type, size, age, condition and flag as the Ship with protection and indemnity risks associations that are members of the International Group of Protection and Indemnity Associations (but in the case of pollution risks, for a minimum amount of one billion Dollars (\$1,000,000,000) or where cover for such risks is not available in such an amount, such lesser amount as is the best level of cover available in the market at the applicable time); and
- 13.3.4 on terms approved under clause 13.19, but subject to a minimum requirement of the scope of coverage of that provided by the Norwegian Marine Insurance Plan 1996 or as provided by the equivalent full conditions forms of other nationality (so far as can be reasonably obtained in the market at the applicable time); and
- 13.3.5 through brokers and with insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in war risks and protection and indemnity risks associations, in each case approved under clause 13.19.

13.4 Further protection for Lessor

In addition to the terms set out in clause 13.3, the Insurances effected under such clause shall:

- 13.4.1 name (or be amended to name) the Lessor as additional assured (in the case of the Insurances referred to in clause 13.2.1) and (in the case of Insurances referred to in clause 13.2.2 and war risks insurance if such risks are insured against by entry of the Ship in a war risks association) either as an assured with limited rights on “misdirected arrow” conditions in accordance with the usual terms of the club or association or (at the option of the Lessor) as a joint member for its rights and interests and, as between the Lessor and the Lessee, without the Lessor being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such Insurances and the Lessee hereby agrees to promptly indemnify the Lessor against any liability the Lessor may have for premiums, calls or other assessments in respect of any such Insurances;
- 13.4.2 in the case of the Insurances in respect of marine risks and war risks, be endorsed by way of a loss payable clause to the effect that:
- (a) payment of a claim for a Total Loss will be made to the Lessor (who shall, upon receipt thereof, apply the same in accordance with clause 14.3);
 - (b) payment of a claim for an amount which equals or exceeds the threshold amount attributable to a Major Casualty amount shall be paid to the Lessor and, subject to no Relevant Event then having occurred which is continuing (after which such sums shall be applied in accordance with clause 14.3) shall be applied as follows:
 - (i) the sum received by the Lessor shall be paid over to the Lessee or any other applicable Transaction Company subject to the Lessor receiving evidence satisfactory to the Lessor that all loss and damage resulting from the casualty has been properly made good and repaired and that all repair accounts and other liabilities connected with the casualty have been paid by the Lessee or by any other Transaction Company; and
 - (ii) the insurers with whom the fire and usual marine risks and war risks insurances are effected may in the case of any Major Casualty, and with the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed) make payment on account of the repairs which are being carried out; and
 - (c) as long as no Relevant Event has occurred and is continuing, payment of any other claim shall be made to the Lessee or, as applicable, such other Transaction Company, who shall apply the same in or towards making good the loss and fully repairing all damage in respect whereof such payment shall have been made and after the occurrence of a Relevant Event and whilst it is continuing and following notification by the Lessor to the approved brokers, payment of any such claim shall be made to the Lessor; and
 - (d) in the case of the Insurances in respect of protection and indemnity risks, be endorsed by way of a loss payable clause to the effect that moneys payable thereunder shall be paid in reimbursement of the assured which has settled the liability to which the relevant claim relates or, if so agreed by the relevant insurers,

be paid directly to the person to whom was incurred the liability in respect of which the relevant money was paid unless and until the Lessor, following the occurrence of a Relevant Event which is continuing, shall direct that they shall be paid to the Lessor whereupon they shall be paid to the Lessor.

13.5 Renewals

- 13.5.1 As soon as possible, but in any case not less than seven (7) days before the expiry of any of the policies, entries or contracts forming part of the Insurances or if there is a change in the insurers and/or markets through whom the Insurances are placed, the Lessee shall notify the Lessor of the names of the brokers (or other insurers) and any protection and indemnity and/or war risks association through or with whom such Insurances are proposed to be renewed and (if any material change is proposed) of the proposed terms and amounts of renewal. The Lessee shall also promptly notify the Lessor of any material change in the information notified to the Lessor pursuant to this clause 13.5.1 and shall provide the Lessor with particulars of such changes. If at any time the terms and amounts on and for which the Insurances are proposed to be renewed or the identity of the broker or war or protection and indemnity risks associations with whom the Insurances are proposed to be renewed are not approved by the Lessor, as contemplated by clause 13.19, the Lessor shall notify the Lessee promptly in writing of the withdrawal of its approval, and the Lessee shall procure that the Insurances are renewed or replaced on terms satisfactory to the Lessor.
- 13.5.2 Before the expiry of any Insurances the Lessee shall procure that such relevant Insurances are renewed and shall confirm to the Lessor that such renewals have been effected or shall procure that such confirmation is given to the Lessor before the expiry of any such Insurances.
- 13.5.3 Promptly after each such renewal, the Lessee shall procure that the Lessor is provided with the details of the terms and conditions and amounts on which and for which such Insurances have been renewed.
- 13.5.4 If, after renewal and after review by the Lessor of the terms and conditions of renewal, the Lessor advises the Lessee that the terms and conditions of such Insurances as renewed, do not conform with the requirements of this clause 13 (which advice shall specify the particular discrepancies) then, after consultation with the Lessor, the Lessee shall ensure that any such discrepancies are corrected promptly.

13.6 Custody of Policy Documents/Loss Payable Clauses

The Lessee shall procure that there shall be deposited with the brokers and/or insurers through which the Insurances are arranged from time to time copies of all slips, cover notes, policies certificates of entry or other instruments of insurance from time to time issued in connection with such of the Insurances referred to in this clause 13 as are effected through such brokers and/or the war risks and protection and indemnity association approved in accordance with clause 13.19 and shall also procure that, in the case of the Insurances referred to in clause 13.2.1, the interest of the Lessor shall be endorsed on the relevant cover note or policy and, in the case of the protection and indemnity Insurances referred to in clause 13.2.2, the interest of the Lessor shall be endorsed on the relevant certificate of entry or policy, in each case in addition to incorporation of the relevant loss payable clause and the Lessee shall procure that the Lessor shall be furnished with copies of the relevant cover note or policy or certificate of entry or policy, duly endorsed.

13.7 Letters of undertaking

In relation to all Insurances effected from time to time under and in accordance with this clause 13, the Lessee shall ensure that all brokers and/or insurers and any protection and indemnity or war risks associations in which the Ship is entered, in each case being approved under clause 13.19, provide the Lessor with letters of undertaking:

- 13.7.1 in the case of an approved broker, in such form as represents the then current market practice in the insurance market in which the approved broker operates and any professional association of which that approved broker is a member; and
- 13.7.2 in the case of a protection and indemnity association, having regard to the current market practice and the practices prescribed by the International Group of Protection and Indemnity Associations or, if the relevant protection and indemnity association is not a member of the International Group of Protection and Indemnity Associations but has otherwise been approved by the Lessor in accordance with clause 13.19, the current practice of that association (and which will for all purposes provide for notification to the Lessor prior to the cancellation of any such entry); and
- 13.7.3 in the case of a war risks association, having regard to the current market practice in the insurance market in which such association operates.

13.8 Fleet Cover

If any of the Insurances referred to in clause 13.2.1 and/or 13.2.2 form part of a fleet cover, the Lessee will procure that (a) any letter of undertaking referred to in clause 13.7 is amended to provide that the relevant brokers shall undertake to the Lessor that they shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (b) that the applicable policy documents are endorsed to the effect that the applicable insurers shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (c) that the Lessor receives other comfort that this will not occur.

13.9 No material adverse alteration

The Lessee shall comply with the terms and conditions of the Insurances and shall not do and shall ensure that there is no act or omission which would give rise to a right to cancel any Insurances or render any Insurances, or any policy or policies or certificate or certificates of entry invalid, void, or unenforceable or render any sum paid out under any policy or policies or certificate or certificates of entry or the Insurances evidenced thereby repayable in whole or in part. The Lessee will not make, and shall procure that no material alteration is made to the terms of any of the Insurances without the prior written consent of the Lessor.

13.10 Operation outside terms of Insurances

The Lessee will take all steps necessary so that:

- 13.10.1 the Ship is not operated in any way inconsistent with the provisions or warranties of or implied in, or in contravention of the cover provided by, any Insurance taken out in accordance with this clause 13;

- 13.10.2 the Ship is not engaged in any voyage or to carry any cargo not permitted by any Insurance, in each case without first obtaining the consent (if necessary) of the insurers to such operation or engagement and complying with such requirements as to extra premium or otherwise as the insurers may prescribe; or
- 13.10.3 all requisite certificates of financial responsibility and/or other consents, licences, approvals or authorisations as may from time to time be required are obtained and maintained if the Ship is likely to be operating in or into or off-shore from the United States of America.
- 13.11 Payment of premiums and calls**
- The Lessee shall procure that (taking account of any applicable grace period) all premiums, calls, contributions or other sums of money from time to time due in respect of any Insurance are paid punctually and in full.
- 13.12 Notification of Total Loss**
- The Lessee shall procure that the Lessor is notified of:
- 13.12.1 the levy of any distress on the Ship or its arrest, detention, seizure, condemnation as prize, Compulsory Acquisition or requisition for title or use; and
- 13.12.2 (save in the case of Compulsory Acquisition or requisition for title or use or any capture, seizure, arrest, detention or confiscation of the Ship by any government, or by persons acting or purporting to act on behalf of any government) any accident, casualty or other event which has caused or resulted in or is likely to cause or result in the Ship being or becoming a Total Loss.
- 13.13 Settlement of claims**
- 13.13.1 The Lessee shall do all things necessary and provide all documents, evidence and information to enable the Lessor to collect or recover any moneys which at any time become due and payable to the Lessor or otherwise under in respect of the Insurances.
- 13.13.2 Subject to the Lessee having provided any necessary security in a timely manner so as to prevent the actual or continued arrest of the Ship and subject also to clause 7.6 and provided that no Termination Event or Mandatory Prepayment Event shall have occurred and be continuing, the Lessor agrees that the Lessee shall have the right to settle, compromise or abandon any claim under the Insurances for Total Loss or in respect of a Major Casualty or to give notice of abandonment of the Ship to the insurers and/or to claim a constructive Total Loss upon the prior written approval of the Lessor (such approval not to be unreasonably withheld or delayed) but that the Lessor itself shall not settle, compromise or abandon any such claim without reference to the Lessee prior to the occurrence of any Termination Event or Mandatory Prepayment Event. After the occurrence of any Termination Event or Mandatory Prepayment Event while it is continuing or after termination of leasing of the Ship to the Lessee pursuant to clause 18.1 or, as the case may be, clause 18.2 the Lessor alone shall have the right to settle, compromise or abandon any claims under the Insurances and/or give notice of abandonment of the Ship to the Insurers and/or claim a Constructive Total Loss.

13.14 P & I Guarantee

The Lessee shall arrange for the execution and delivery of all guarantees and indemnities as may from time to time be required by the Ship's P & I Club or war risks association.

13.15 Additional Insurance

Nothing in this clause 13 shall prohibit the Lessee from placing additional insurance on the Ship at its own expense and for its sole benefit provided however that:

- 13.15.1 such insurance shall not prejudice the Insurances or recovery thereunder or exceed the amount permitted by warranties or other conditions contained in the Insurances without the written consent of the insurers of the Insurances;
- 13.15.2 where the written consent of the insurers as referred to in clause 13.15.1 is required, the Lessee shall procure that there shall be promptly furnished to the Lessor a copy of such consent and, in all cases, with particulars of any additional insurance effected including copies of any cover notes or policies; and
- 13.15.3 any insurance payments received by the Lessor arising solely from additional insurance effected by the Lessee under this clause 13.15 less amounts due (if any) by the Lessor in respect of Taxes in relation to the sums received shall be paid by the Lessor to the Lessee promptly after receipt thereof.

13.16 No Security Interest

The Lessee shall not, and shall procure that no other Transaction Company nor the Time Charterer will, create or permit to exist any Security Interest over or in respect of the Insurances save for the approved brokers' or insurers' right of set off and lien for unpaid premiums to the extent permitted by clause 13.8, and save for any security interest created by the Lessee in favour of the Security Trustee pursuant to and in accordance with the Proceeds Deed.

13.17 Provision of copies of communications

At the Lessor's request the Lessee shall procure that there is provided to the Lessor at the time of each such communication, copies of all material written communications between the Lessee, or any other Transaction Company and:

- 13.17.1 the approved brokers; and
 - 13.17.2 the approved protection and indemnity and/or war risks associations; and
 - 13.17.3 the approved insurance companies and/or underwriters;
- which relate directly or indirectly to:

- (a) the Ship and the obligations of the Lessee or any other Transaction Company relating to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls and all communication relating to

non-payment of premiums or calls and cancellation of any of the Insurances or relating to the imposition of any material new or modified condition, warranty, exclusion or qualification or the material alteration of the Insurances; and

- (b) any credit arrangements made between the Lessee or any other Transaction Company and any of the persons referred to in paragraphs 13.17.1 to 13.17.3 relating wholly or partly to the effecting or maintenance of the Insurances.

13.18 Provision of information

The Lessee shall procure that there shall be provided promptly any information reasonably required for the purpose of the Lessor obtaining or preparing any report from a reputable international independent marine insurance broker or adviser appointed by the Lessor as to the adequacy of the Insurances effected or proposed to be effected, and the Lessee shall, promptly upon demand, indemnify the Lessor in respect of reasonable fees incurred by or for the account of the Lessor in connection with one such report prepared immediately prior to Delivery and at annual intervals thereafter, but only following either any material change to the terms of any of the Insurances or a change in the identity of the approved brokers, the approved protection and indemnity and/or war risks association or the approved insurance companies and/or underwriters.

The Lessee shall also, on the Lessor's request (not more frequently than annually and, in case of a policy period of more than 12 months, not more than once in each policy period), provide copies of all policy documents and certificates of entry relating to the Insurances which are in the possession of the Lessee, its agents or managers or the approved brokers.

13.19 Approval process

At all times the Lessor's approval must be obtained in relation to placement and renewal of Insurances, particularly with respect to requirements as to amounts and terms of insurance and identity of brokers and insurers. The Lessor will act promptly and will not act unreasonably in relation to giving its approval in relation to these matters, and will give its approval to any insurer which has (and maintains) a credit rating of not less than A- with Standard & Poor's (or equivalent rating with another first class rating agency).

13.20 Insurance review

From time to time during any period of insurance cover the Lessor may review the terms of and identity of brokers, insurance companies and underwriters and war risks or protection and indemnity associations through which the Ship is insured under this clause 13. Such review shall be made in consultation with the Lessee and shall be undertaken at least three (3) months prior to the date for renewal of such insurance cover. After consultation, the Lessee shall implement such modifications as the Lessor may reasonably request in order to seek to ensure that such insurances at all times cover all risks which may customarily and generally be covered in transactions similar to that covered by this Agreement and that the terms of such insurances and the identity of brokers, underwriters, insurance companies and associations will continue to be approved by the Lessor, as provided for in clause 13.19.

13.21 Innocent Owner's Insurance/Contingent Liability Insurance

Nothing contained in this clause 13 shall affect the Lessor's right to take out innocent owner's or contingent liability insurance in relation to the insurances of the Ship for its own account, and the Lessor shall be so entitled.

13.22 Wreck Removal

In the event of the Ship becoming a wreck or obstruction to navigation, the Lessee (in addition to any other obligation it may have under clause 7) shall indemnify and hold harmless the Lessor against all costs, expenses, payments, charges, losses, demands, any liabilities, claims, actions, proceedings (whether civil or criminal) penalties, fines, damages, judgments, orders or other sanctions which may be incurred by, or made or asserted against the Lessee by reason that the Ship shall have become a wreck or obstruction to navigation (including, without limitation) in respect of the removal or destruction of the wreck or obstruction under statutory powers but only to the extent that such has not been recovered from the Ship's insurers.

14 Loss, Damage, Requisition and Salvage

14.1 Risk

Throughout the Lease Period and until such time as the Ship is delivered to a purchaser the Lessee shall bear the full risk of:

14.1.1 any Total Loss of or any other damage to the Ship howsoever arising; and

14.1.2 subject to clause 6.1 any other occurrence of whatever kind which deprives the Lessee of the use, possession or enjoyment of the Ship.

14.2 Payments on Total Loss or Compulsory Acquisition

If the Ship becomes a Total Loss after the Delivery Date, on the Total Loss Payment Date the Lessee will pay to the Lessor the amounts pursuant to and determined in accordance with clause 18.4. Any Total Loss Proceeds or any Requisition Compensation actually and unconditionally received by the Lessor following a Total Loss or Compulsory Acquisition will be applied in accordance with clause 14.3.

14.3 Application of Total Loss Proceeds

All Net Total Loss Proceeds and Requisition Compensation received by the Lessor shall be retained in full by the Lessor and shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to nought point nought one per cent. (0.01%) of the Net Total Loss Proceeds;

SECOND: in payment to the Lessor of amounts equal to all or any part of the Termination Amount as at the date of the receipt by the Lessor of the Net Total Loss Proceeds which have not, on or before the date of application of the Net Total Loss Proceeds, been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

14.4 Payments to Lessee

Any payment to the Lessee under “FOURTH” of clause 14.3 shall be made reasonably promptly but in any event within five (5) Business Days following the date of actual and unconditional receipt by the Lessor of the Net Total Loss Proceeds and the determination by the Lessor of the application thereof in accordance with clause 14.3.

14.5 Continuation of Lease Period

Notwithstanding that the Ship has become a Total Loss, the Lessee shall continue to pay Rental under this Agreement until all sums due by the Lessee to the Lessor under clause 14.2 have been paid in full. The Lease Period will end on the date on which all sums due under clause 14.2 have been paid provided however that if the Net Total Loss Proceeds are insufficient to satisfy the amounts to be retained by the Lessor pursuant to the applications in “FIRST”, “SECOND” and “THIRD” set out in clause 14.3, the provisions of clause 5.3 shall apply.

14.6 Damage claims

Moneys, other than Total Loss Proceeds, received by the Lessor in respect of claims for repairable damage to the Ship shall be applied in the manner described in clause 13.4.2(b).

14.7 Sale of Ship after Total Loss

If the insurers of the Ship have:

14.7.1 satisfied or admitted in full their obligations under the Insurances; and

14.7.2 waived any rights they have in the Ship,

the Lessor shall as soon as practicable after the Total Loss Payment Date use all reasonable endeavours to sell the Ship and such sale shall, save for the foregoing obligation as to timing, be concluded in accordance with the provisions of clause 2.9.

14.8 Abandonment

14.8.1 If no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee has the sole right to determine whether or not a case has arisen for the giving of notice of abandonment to abandon the Ship to the insurers and/or claim a constructive Total Loss.

14.8.2 The Lessor authorises the Lessee to give such a notice if it so determines.

14.8.3 The Lessor will upon the request and at the cost of the Lessee promptly execute all such documents as may be required to enable the Lessee to abandon the Ship to the insurers and/or to claim a constructive Total Loss. The Lessor will give to the Lessee all reasonable assistance in processing such a claim Provided that any costs reasonably incurred by the Lessor pursuant to this clause 14.8.3 shall be reimbursed by the Lessee to the Lessor promptly following the Lessor’s demand.

14.9 Salvage and towage

All salvage and towage and all proceeds from derelicts will be for the benefit of the Lessee, subject to the prior right of the Lessor to retain from those proceeds any sums due and payable to it under this Agreement, and the cost of repairing any damage occasioned in the course of salvage or towage shall be borne by the Lessee.

14.10 Requisition for hire of the Ship

If the Ship is requisitioned for hire by any governmental or other competent authority during the Lease Period then, if and only for so long as such requisition for hire does not constitute a Compulsory Acquisition:

- 14.10.1 the leasing of the Ship under this Agreement shall continue (subject always to the provisions of clauses 17 and 18) for the remainder of the Lease Period and the Lessee shall remain fully responsible for the due compliance with all its obligations under this Agreement other than such obligations which the Lessee is unable to comply with by virtue of such requisition;
- 14.10.2 if no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee shall be entitled during the Lease Period as between the Lessor and the Lessee to all requisition hire paid to the Lessor or to the Lessee by such governmental or other competent authority or by any person acting by the authority of the same on account of such requisition, but subject always to any right of set-off which the Lessor may have in respect of amounts due and unpaid under the terms of this Agreement and the other Lease Documents;
- 14.10.3 as soon as practicable after the end of any requisition for hire, and whether that requisition shall end during or after the expiry or termination of the Lease Period, the Lessee shall cause the Ship to be put into the condition required by this Agreement;
- 14.10.4 the Lessor shall be entitled to all compensation payable by the relevant governmental or other competent authority, or by any person acting by the authority of the same, in respect of any change in the structure, state or condition of the Ship arising during the period of requisition for hire (and such compensation shall be paid to the Lessee by way of rebate of Rental unless a Termination Event or Mandatory Prepayment Event shall have occurred and be continuing in which event the Lessor shall be entitled to apply such compensation in or towards discharge of any and all amounts which are then owing to the Lessor under any of the Lease Documents or any of the other Transaction Documents); and
- 14.10.5 should the Ship be under requisition for hire at the end of the Lease Period:
 - (a) the leasing of the Ship under this Agreement shall nevertheless be terminated at the end of the Lease Period (unless otherwise agreed between the Lessor and the Lessee) but without prejudice to the accrued rights of the parties including, without prejudice to the generality of the foregoing, the obligations of the Lessee under clause 15 (as modified by paragraph (b) below), and the Lessor shall (for so long as it remains the owner of the Ship) be entitled to receive and retain any requisition hire payable in respect of the period from the expiry or termination of the Lease Period it being agreed however that, subject to the Lessee having paid to the Lessor

in full all amounts due by it under the Transaction Documents and under the Sister Ship Transaction Documents and to the Lessor first having retained out of such requisition hire such amount as it certifies as representing its continuing costs of owning and managing the Ship (including Lessor's Management Time at the Lessor's Management Time Cost Rate), the Lessor shall upon the eventual sale of the Ship pay to the Lessee by way of rebate of Rental any remaining surplus amount of such requisition hire; and

- (b) without prejudice to clause 14.10.3 the Lessee shall, if it is prevented by reason of the requisition for hire from re-delivering the Ship under clause 15, be relieved from its obligations so to do, but shall consult with the Lessor as to the most convenient method of enabling the Lessor to obtain redelivery of the Ship when the Ship is released from such requisition.

The Lessor shall be under no obligation to provide to the Lessee, or to any other person, any replacement for the Ship or any part thereof should the Ship or any part thereof be lost, damaged, the subject of Compulsory Acquisition, seized, or requisitioned for hire or use, nor shall the Lessor have any liability or responsibility whatsoever in respect thereof (unless and to the extent that the same results from any Lessor Breach).

15 Redelivery

15.1 Redelivery procedure

- 15.1.1 As soon as reasonably practicable following the termination of the leasing of the Ship under this Agreement (other than pursuant to clause 14.5), or upon the ending of the Lease Period by effluxion of time, the Lessee at its own expense shall redeliver the Ship to the Lessor safely afloat in accordance with this clause 15 (but subject to the rights of the Time Charterer) and in any event before the fifth anniversary of Delivery.
- 15.1.2 Upon the ending of the Lease Period by effluxion of time or upon the termination of the leasing of the Ship under this Agreement (other than a termination pursuant to clause 14.5 or any termination where the Lessee is not acting as sales agent of the Lessor) the Lessee, at its own expense, shall deliver the Ship safely afloat to a purchaser of the Ship who satisfies the requirements of clause 2.7 at such location (including without limitation, at sea) as shall be mutually agreed between the Lessee (as agent of the Lessor) and the purchaser upon completion of the sale of the Ship in accordance with clause 2.7 (and such delivery by the Lessee shall be deemed to have satisfied the obligation of the Lessee to redeliver the Ship to the Lessor) and subject to the rights of the Time Charterer.
- 15.1.3 Upon the termination of the leasing of the Ship under this Agreement where the Lessee is not acting as sales agent of the Lessor, the Lessee, at its own expense, shall redeliver the Ship safely afloat to the Lessor at a safe port worldwide to be designated by the Lessor acting reasonably and bearing in mind the location and trading pattern of the Ship as at the time of any required redelivery.

15.2 Redelivery condition

The Lessee shall ensure that on any redelivery of the Ship to the Lessor in accordance with clause 15.1.3 above and on any deemed redelivery to the Lessor in accordance with clause 15.1.2 above where the purchaser of the Ship so requires:

- 15.2.1 the Ship shall be in class free of conditions not complied with in accordance with their terms and overdue recommendations affecting the Ship's class;

- 15.2.2 the Ship shall be in no worse structure, state and condition as at Delivery (fair wear and tear alone excepted) and have installed the machinery and equipment installed thereon at Delivery or replacements or substitutions therefor made in accordance with the terms of this Agreement;
- 15.2.3 the last consignment of containers carried on board the Ship shall have been unloaded;
- 15.2.4 the Ship shall be free of Security Interests other than any Lessor's Security Interest; and
- 15.2.5 the Ship shall be free of any charter or other contract of employment or affreightment other than the Time Charter in circumstances where the Time Charterer's rights under the QEL are subsisting.

The Lessee shall further ensure that, prior to re-delivery, all arrears of wages of the Master and crew of the Ship are fully paid.

15.3 Redelivery survey

- 15.3.1 In case only of redelivery of the Ship consequent upon termination of the Lease Period where the Lessee is not acting as sales agent or upon the expiry of the Lessee's sales agency rights pursuant to clauses 2.8.2 or 2.8.3, at or about the time of redelivery, a survey shall be made to determine the state and condition of the Ship, unless the Lessor agrees that no such survey is required or the Ship is to be sold.
- 15.3.2 The Lessee and the Lessor shall each appoint surveyors to be present at such survey and the surveyors present shall determine the state and condition of the Ship and shall identify the repairs or work necessary to place the Ship at the date of redelivery in the class and the structure, state and condition referred to in clause 15.2.
- 15.3.3 The surveyors referred to in clause 15.3.2 shall both be acting as experts, not arbitrators and, in case of disagreement, the matter shall be resolved pursuant to clause 29.
- 15.3.4 All proper costs occasioned by any such survey including the costs of the said surveyors appointed by the Lessee and the Lessor and, if appointed, the cost of the senior surveyor of the Ship's Classification Society shall be payable by the Lessee.

15.4 Consumable stores

All consumable stores, unused lubricating oils and bunkers on board the Ship at the time of redelivery shall be purchased by the Lessor from the Lessee and sold by the Lessor to the purchaser of the Ship. The price payable by the Lessor to the Lessee pursuant to this clause 15.4 will be the same as the price received at the same time by the Lessor from the purchaser of the Ship for those items.

15.5 Continuing performance of obligations

From the end of the Lease Period until the Ship has been sold in accordance with clause 2, the Lessee shall, at no cost to the Lessor, but subject to the Lessor permitting the Lessee continued possession of the Ship, continue to perform all its obligations under this Agreement other than its obligations to pay Rental and, in particular, it shall continue to perform its undertakings under clauses 9 to 14.

15.6 Ship's Software Licences on Redelivery

The Lessor shall be entitled to require that the Lessee grant or procure the grant (to the extent reasonably achievable) in favour of the Lessor or, as the Lessor may stipulate, a purchaser for or subsequent charterer of the Ship a licence to use all Ship's Software which may be necessary or desirable to be used for the maintenance and operation of the Ship, provided that this requirement shall not apply to (i) obsolete software which has been replaced by alternative or updated software or (ii) other software which the Lessee may satisfy the Lessor (acting reasonably) was not in use regularly during the last voyage or engagement of the Ship prior to redelivery and which is no longer required or desirable for the safe or efficient operation of the Ship.

16 Standby Lender Review and Standby Loan Transaction

16.1 Review

- 16.1.1 During the Standby Lender Review Period, the Lessor shall procure that the Standby Lender carries out a review of (i) the creditworthiness of the Lessee and the Guarantor and, (ii) the security value of the Ship as at such time in order for the Standby Lender to determine in its sole and absolute discretion whether it is prepared to enter into the Standby Loan Transaction upon the expiry of the Lease Period.
- 16.1.2 Such Standby Lender Review shall be carried out by the Standby Lender:
- (a) in good faith;
 - (b) in accordance with its then current procedure for reviewing the creditworthiness of its customers of similar standing as the Lessee and the Guarantor; and
 - (c) applying its then current general credit criteria and the same criteria in the same manner as the Lessor would apply to the assessment of the creditworthiness of its customers of similar standing as the Lessee and the Guarantor.
- 16.1.3 Following the Standby Lender Review, the Standby Lender shall determine in its sole and absolute discretion whether or not it is able to enter into the Standby Loan Transaction and the Lessor shall notify the Lessee as soon as possible after the Standby Lender has conducted its review and reached its conclusions (and in any event such notification to be given by the Review Notification Date).
- 16.1.4 The Lessee acknowledges that neither the Lessor nor the Standby Lender shall be obliged to reveal any details of the credit procedure or the criteria applied (as referred to in clauses 16.1.2(b) and (c) above) or the reasons for the decision made by the Standby Lessor under this clause 16.1 but if the Lessor notifies the Lessee that the Standby Lender Review has not been satisfactory, the Lessor agrees to enclose with such notification a certificate signed by a director of the Lessor to the effect that the Standby Lender Review has been carried out by the Standby Lender in accordance with clause 16.1.2.

16.2 Standby Loan Transaction

In the event that the Lessor notifies the Lessee pursuant to clause 16.1.3 that the Standby Lender is willing to enter into the Standby Loan Transaction, and the Lessee notifies the Lessor in writing within fourteen (14) Business Days of the Review Notification Date that it wishes to enter into the Standby Loan Transaction (each of which notifications must be given in respect of the Ship and all of the Sister Ships, but not some only), and subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction for the Ship on the Lease Period End Date.

17 Termination, Mandatory Prepayment and Further Novation Events

17.1 Termination Events

The Lessor and the Lessee agree that it is a fundamental term and condition of this Agreement that none of the following events shall occur during the Construction Period or the Lease Period and that the occurrence of any of the following events shall constitute a repudiatory breach of this Agreement and shall be a Termination Event for the purpose of this Agreement, whether it occurs during the Construction Period or the Lease Period:

- 17.1.1 any instalment of Rental or any other sum payable to the Lessor under this Agreement or under any of the other Lease Documents is not paid when due in accordance with the terms of the applicable document (and in the case of a sum payable on a due date, remains unpaid for three (3) Business Days after the due date for payment thereof and in the case of a sum payable on demand, remains unpaid for five (5) Business Days after the date of service by the Lessor of a written demand for payment thereof);
- 17.1.2 any of the Insurances required to be placed and maintained in clause 13 are placed or renewed on terms which do not comply with the provisions of clause 13;
- 17.1.3 at any time, any of the Insurances required to be maintained under clause 13 either lapse before the time of scheduled renewal without being renewed within three (3) days of so lapsing in accordance with the requirements of clause 13 or are cancelled or rendered invalid, void or unenforceable or any sums recovered under any of such Insurances are or become repayable in whole or in part;
- 17.1.4 the Guarantor fails to comply with its obligations under clause 5.3 of its Guarantee;
- 17.1.5 any Transaction Company fails to comply with any other term or condition of this Agreement or any other Transaction Document and:
 - (a) that failure would or may be likely, in the reasonable opinion of the Lessor, to have a material adverse effect on the rights of the Lessor under the Lease Documents or the ability of the relevant Transaction Company to perform any of its obligations under the Transaction Documents; and
 - (b) if such failure is remediable then, within thirty (30) days (or such longer period as the Lessor may specify or agree) after receipt by the Lessee of a written notification from the Lessor of that failure, the relevant Transaction Company shall have failed to remedy that failure;
- 17.1.6 any representation or warranty made by any Transaction Company in any of the Transaction Documents is or proves to have been incorrect in any material respect when made and, in case such incorrectness is remediable, within thirty (30) days after receipt by

the Lessee of a written notification from the Lessor of such failure (or such longer period as the Lessor may specify or agree) the relevant Transaction Company shall have failed to remedy it;

- 17.1.7 any of the following occurs in relation to any Financial Indebtedness of any of the Guarantor, the Lessee or (at any time prior to Delivery) the Replacement Purchaser which is owed to any Lessor Group Member (herein, “**BOS Financial Indebtedness**”), and would have, or is reasonably likely to have, a material adverse effect on the Lessee’s ability to perform under this Agreement and/or the Guarantor’s ability to perform under the Guarantee:
- (a) any BOS Financial Indebtedness of any such person is accelerated following an event of default and not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Security Interest securing any BOS Financial Indebtedness of any such person becomes enforceable;
- 17.1.8 any of the following occurs in relation to (i) any Financial Indebtedness where the principal amount then outstanding or capable of becoming due thereunder (or for which the Guarantor is otherwise liable) exceeds in aggregate \$25,000,000 in the case of a Guarantor or (ii) any Financial Indebtedness of the Lessee or (at any time prior to Delivery) the Replacement Purchaser:
- (a) any Financial Indebtedness of any such person is not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Financial Indebtedness of any such person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (c) a lease, hire purchase agreement or charter creating any Financial Indebtedness of any such person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any event of default, howsoever described; or
 - (d) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of any such person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (e) any Security Interest securing any Financial Indebtedness of any such person becomes enforceable;
- 17.1.9 any of the following occurs in relation to the Lessee or any Transaction Company (other than, following Delivery, the Replacement Purchaser):
- (a) it becomes unable to pay its debts as they fall due within the meaning of section 123(1)(e) of the Insolvency Act 1986;

- (b) a winding-up or administration order is made, provided however that, in case only of an order for winding-up, the occurrence of such event shall not constitute a Termination Event if such winding-up has commenced as part of a process of a fully-solvent reorganisation, previously approved by the Lessor, which shall not affect either the timing or amount of any amount payable under this Agreement or any other Transaction Document to the Lessor or the ability of the relevant Transaction Company to perform all its obligations, or the Lessor's ability to exercise its rights, under this Agreement or any of the other Transaction Documents;
- (c) an administrative or other receiver, trustee or liquidator is appointed over all or a part of the assets of the relevant Transaction Company; or
- (d) a petition for the winding-up of the relevant Transaction Company is presented or an application is made for an administration order in relation to the relevant Transaction Company (pursuant to Section 9 of the Insolvency Act 1986) if such petition or application is not withdrawn, discharged or dismissed within thirty (30) days or is not otherwise being contested in good faith by appropriate proceedings;
- (e) the relevant Transaction Company makes, proposes or otherwise threatens an arrangement for the benefit of all or any class of its creditors or an arrangement or composition with or for the benefit of all or any class of its creditors or convenes a meeting with all or any class of its creditors with a view to a composition or arrangement for the benefit of its creditors generally; or
- (f) the relevant Transaction Company ceases or suspends or threatens in writing to cease or suspend to carry on its business;

17.1.10 any litigation, arbitration or administrative action or proceeding is commenced against any Transaction Company (other than, following Delivery, the Replacement Purchaser) or any of its property, undertakings or assets before any court, arbitrator or administrative agency or authority which, if adversely determined, would, or would be reasonably likely to have, a material adverse effect on the financial condition or business or operations of the relevant Transaction Company and, in each case, on its ability to perform its obligations under the Transaction Documents unless:

- (a) the relevant Transaction Company demonstrates in writing to the Lessor (who shall act reasonably in considering such matters) to the Lessor's satisfaction, that such litigation, arbitration or administrative action or proceeding is or may reasonably be considered to be vexatious or frivolous or is unlikely to be adversely determined; or
- (b) it is dismissed or irrevocably stayed within sixty (60) days of commencement;

17.1.11 any event or circumstance occurs as referred to in clause 17.1.9 in relation to any Transaction Company (other than, following Delivery, the Replacement Purchaser) in any jurisdiction other than England and Wales;

17.1.12 any Transaction Company (other than, following Delivery, the Replacement Purchaser) ceases or suspends carrying on its business or a part of its business which, in the reasonable opinion of the Lessor, is or may be likely to be material in the context of this Agreement;

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- 17.1.13 the Guarantor transfers or disposes of, or threatens in writing to transfer or dispose of, a substantial part of its business (otherwise than in the normal course of business or for full consideration in money or money's worth);
 - 17.1.14 the Guarantee shall for any reason not be in full force and effect or shall be declared to be null and void, or (as applicable) the Guarantor shall contest the validity or enforceability of the Guarantee in writing or deny in writing that it has any further liability under the Guarantee;
 - 17.1.15 any Transaction Company repudiates in writing any material provision of a Transaction Document (other than the Time Charter) to which it is a party, or gives notice in writing of its intention to do so;
 - 17.1.16 without the Lessor's prior written consent, either of the Lessee or (at any time prior to Delivery) the Replacement Purchaser ceases to be owned (whether directly or indirectly) by the Guarantor;
 - 17.1.17 any condition precedent stipulated in clauses 3.1 to 3.3 is waived on a temporary basis and is not fulfilled to the satisfaction of the Lessor by the time stipulated in such waiver;
 - 17.1.18 the Ship is subject to any form of execution, attachment, arrest, sequestration or distress, except in relation to a Permitted Security Interest created by the Lessor or a Lessor Security Interest and the Lessee fails to procure the release of the Ship within sixty (60) days, or such longer period to which the Lessor may agree unless such event is covered by the Insurances in which case the relevant period is the period covered by such insurances;
 - 17.1.19 after Delivery the registration of the Ship is cancelled or terminated otherwise than in accordance with the terms of this Agreement or as a consequence of any act or omission of the Lessee or any other Transaction Company and is not re-instated within fifteen (15) days after the receipt by the Lessee of a written notification from the Lessor regarding remedy of that breach; or
 - 17.1.20 a Termination Event occurs and is continuing under any of the Sister Ship Lease Agreements.

17.2 Mandatory Prepayment Events

Each of the following shall be a Mandatory Prepayment Event for the purpose of this Agreement:

- 17.2.1 any of the Transaction Documents (other than the Time Charter) or any provision thereof (i) for any reason is not or ceases to be in full force and effect other than in accordance with its terms or (ii) is declared null and void or (iii) any of the parties to a Transaction Document (other than the Time Charter) shall contest the validity or enforceability of any Transaction Document (other than the Time Charter) or repudiates in writing any Transaction Document (other than the Time Charter) or any of its obligations thereunder or gives notice in writing of its intention to do so;
- 17.2.2 any consent necessary to enable any Transaction Company to comply with any provision of a Transaction Document (other than the Time Charter) is not granted, expires without being renewed or is revoked and that failure (in the sole opinion of the Lessor, acting in good faith) would have a material adverse effect on the rights of the Lessor under the Transaction Documents (other than the Time Charter) or the ability of any Transaction

Company to perform its material obligations under the Transaction Documents (other than the Time Charter) and the Lessee and the Lessor have negotiated in good faith for a period of thirty (30) days to agree an alternative means to continue the transaction contemplated by this Agreement and have been unable to do so;

17.2.3 there shall occur an Environmental Incident in circumstances where the Lessor believes, acting reasonably, that the Lessor is or will be held to be liable to third parties as a result thereof and either (i) such liability will or could, in the reasonable opinion of the Lessor, reasonably be expected to exceed the limit of the Ship's protection and indemnity insurance, or (ii) the Ship's protection and indemnity insurers have disclaimed or notified in writing an intention to disclaim liability as regards the Lessor;

17.2.4 there occurs a Change of Law or other change of circumstances which will result in the Lessor incurring:

- (a) a liability arising out of its ownership of the Ship which it does not have as at the date of this Agreement; or
- (b) an increase in liability arising out of its ownership of the Ship over and above that liability which it has as at the date of this Agreement,

which liability or increase in liability does not entitle the Lessor to increase the Rental pursuant to the Financial Schedule and is material in the context of the Lessor's maximum existing liabilities arising out of its ownership of the Ship from time to time prior to the date of that Change of Law or other change of circumstances and where, in either case, following consultation with the Lessee as to such liability or increased liability and the matters referred to below:

- (i) the Lessor and the Lessee have endeavoured to mitigate or eliminate that liability or increased liability and have failed to do so prior to commencement of the applicable Change of Law; and
- (ii) that liability or increased liability is not covered by insurance or other security which is, in the opinion of the Lessor acting reasonably, satisfactory having regard to the amount of that liability or increased liability; and
- (iii) that liability or potential liability is not removed or terminated by the Lessee moving the Ship to, and if necessary keeping the Ship in, a location or locations where that liability or increased liability would not be incurred or ensuring that the Ship does not enter into any location where that liability or increased liability would be incurred; or

17.2.5 there occurs a Change of Law as a result of which it becomes unlawful for (a) the Lessor to own and/or lease the Ship and/or continue to exercise its rights and/or perform its obligations under any Transaction Document or (b) any Transaction Company to continue to exercise its rights and/or perform its obligations under any Transaction Document (other than the Time Charter).

17.3 Further Novation Events

Each of the following shall be a Further Novation Event for the purpose of this Agreement:

17.3.1 any Termination Event or Mandatory Prepayment Event occurs prior to the Delivery Date;

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- 17.3.2 the Delivery Date does not occur on or before the Commitment Expiry Date;
- 17.3.3 if (a) the Ship is rejected by the Lessor upon the request of the Supervisor or (b) the Novated Building Contract is terminated or rescinded for any reason or becomes capable of immediate termination or rescission in accordance with article VIII thereof or (c) consequent upon a total loss of the Ship as envisaged by article XVII of the Novated Building Contract unless the Lessor is satisfied in its reasonable opinion that the Ship can be rebuilt in accordance with the specification by the Commitment Expiry Date or (d) the Builder becomes entitled to terminate or rescind the Novated Building Contract or the Builder purports to rescind or terminate the Novated Building Contract under article XI thereof;
- 17.3.4 the Lessee fails to pay when due any Contribution Payment due to the Lessor under clause 3.10 of this Agreement;
- 17.3.5 prior to the Delivery Date the Builder makes a claim against the Lessor under the Novated Building Contract (unless the claim arises as a result of Lessor Misconduct) and:
- (a) such claim is not settled in a manner acceptable to the Lessor acting reasonably on the earlier of the Delivery Date and the date falling thirty (30) days after the making of that claim; and
 - (b) the Lessor is not secured to its reasonable satisfaction in respect of any Loss it may suffer as a direct result of that claim;
- 17.3.6 prior to the Delivery Date the Supervisor commences proceedings against the Builder under the Novated Building Contract and the Lessor has not given its consent to such proceedings pursuant to clause 4.9 of the Supervision Agreement;
- 17.3.7 the Supervisor is in breach of any of its obligations to the Lessor pursuant to the Supervision Agreement or the Supervisor is otherwise acting outside the scope of its authority under the Supervision Agreement in a manner materially detrimental to the rights and interests of the Lessor;
- 17.3.8 the Refund Guarantor fails to comply with any of its obligations under the Refund Guarantee; or
- 17.3.9 the conditions precedent to the Lessor's obligation to make payment of any Instalment or to Delivery are not fulfilled or waived and such failure has, or in the reasonable opinion of the Lessor, is reasonably likely to have a material adverse effect upon the Lessor, or its rights and/or obligations and liabilities in respect of the Ship or under this Agreement and the other Transaction Documents.

18 Lessor's Rights on a Termination Event, Mandatory Prepayment Event or Further Novation Event

18.1 Termination rights

On, or at any time after the repudiation of this Agreement by the Lessee, including the occurrence of any Termination Event (and provided that the same is continuing), the Lessor may by notice to the Lessee, (i) if such repudiation or Termination Event occurs after the Delivery Date, accept such repudiation by the Lessee of this Agreement and shall terminate the Lease Period or (ii) if such repudiation or Termination Event occurs prior to

Delivery, may accept its entitlement to terminate its obligation to acquire and lease the Ship to the Lessee pursuant to this Agreement, and immediately, or on such date as the Lessor shall specify, may terminate its obligation to lease the Ship to the Lessee (whereupon the provision of clause 18.3.2 shall apply).

18.2 Mandatory prepayment

On or at any time after the Delivery Date following the occurrence of a Mandatory Prepayment Event (and provided that the same is continuing):

- 18.2.1 the Lessor may notify the Lessee that the Lessor has elected to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.5 but without reference to a notice period; and
- 18.2.2 on the applicable Lease Termination Date, the Lessee will pay to the Lessor the amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4 as at the required date of that payment; and
- 18.2.3 with effect on and from the date of the payment by the Lessee of all amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's obligations pursuant to the Financial Schedule; and
- 18.2.4 notwithstanding anything else to the contrary in this Agreement, the Lease Period will continue until and end on the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 18.6.

18.3 Further Novation

- 18.3.1 At any time after the occurrence of a Further Novation Event (other than a Termination Event) or at any time after the occurrence of a Mandatory Prepayment Event which occurs before the Delivery Date and in each case whilst such event is continuing:
 - (a) the Lessor may by notice to the Lessee elect (prior to the Delivery Date) to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.2 but without reference to a notice period; and
 - (b) if the Lessor makes an election under paragraph (a) above, the Lessor shall, as contemplated by clause 2.3, give notice to the Replacement Purchaser under clause 6.1 of the Novation Agreement and to the Refund Guarantor pursuant to the Refund Guarantee.
- 18.3.2 On or at any time following the occurrence of a Termination Event which occurs before the Delivery Date and whilst it is continuing, if the Lessor elects to exercise its rights under clause 18.1 following the occurrence of such Termination Event the Lessor shall, as contemplated by clause 2.3, give a notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

18.4 Payments on the Termination Date after the occurrence of a Termination Event, Mandatory Prepayment Event, Further Novation Event or a Total Loss

- 18.4.1 In the event that:
 - (a) the Lessor has become entitled to treat this Agreement as having been repudiated and the obligation of the Lessor to acquire and lease the Ship to the Lessee or, as the case may be, the Lease Period shall have terminated pursuant to clause 18.1; or

- (b) a Mandatory Prepayment Event shall have occurred after Delivery and the Lessor has issued a notice to the Lessee pursuant to clause 18.2.1; or
- (c) a Mandatory Prepayment Event shall have occurred prior to Delivery or a Further Novation Event shall have occurred and the Lessor has issued a notice to the Lessee pursuant to clause 18.3.1(a); or
- (d) a Total Loss of the Ship shall have occurred after Delivery,

the Lessee will be liable to pay to the Lessor, on the applicable Termination Date or, as the case may be, the Total Loss Payment Date:

- (i) an amount equal to the aggregate of:
 - (A) any amounts of Rental, any Broken Funding Costs and other moneys then due and payable under any of the Lease Documents or any of the other Transaction Documents; and
 - (B) the amount of any Losses in respect of which the Lessee agreed to indemnify the Lessor pursuant to clause 7.4 (but, for the avoidance of doubt, not including any loss of profit) incurred by the Lessor in connection with that termination which are unpaid; and
- (ii) by way of agreed compensation and not as a penalty, the amount of the Termination Amount as at the date of that termination.

18.4.2 The Lessor agrees with the Lessee that in circumstances where the obligation to lease Ship has terminated or, as the case may be, where the Lease Period has terminated and in each case the Lessor has received payment in full of all amounts owing to the Lessor under any of the other Lease Documents in cleared funds and without conditions attached, if the amounts received by the Lessor exceed the total of all the amounts owed to the Lessor, the Lessor shall pay an amount equal to the excess to the Lessee by way of a rebate of Rental.

18.5 Lessor's rights to retake possession

On or at any time after the Termination Date following (i) a termination of the Lease Period pursuant to clause 18.1 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (ii) the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (iii) where the Lessee was appointed as sales agent pursuant to clause 2.8.1 but such appointment is terminated pursuant to clause 2.8.3, following the termination of the Lessee's appointment as sales agent; in each case the Lessor shall (as between the Lessor and the Lessee) be entitled to retake possession of the Ship in accordance with the provisions of clause 15.2. The Lessee agrees that the Lessor, for that purpose only, may put into force and exercise all its rights and entitlements at law and may enter upon any premises belonging to or in the occupation or under the control of the Lessee where the Ship is located.

18.6 Sale of the Ship following the Termination Date

At any time following termination of the Lease Period pursuant to clause 18.1 or following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 and following any other Termination Date in circumstances where the Lessor has become entitled to retake possession of the Ship in accordance with clause 18.5, the Lessor, (provided it is not prevented by law from doing so), shall use reasonable endeavours to sell the Ship. The Lessor will notify the Lessee as soon as reasonably practicable of any proposed sale or auction of the Ship by it and of the terms of that sale.

18.7 Application of payments on sale or further renovation

18.7.1 In the event of a sale of the Ship following a termination pursuant to clause 18.1 after Delivery, the Net Sale Proceeds will be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.2 In the event of a sale of the Ship following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 after Delivery, the Net Sale Proceeds shall be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.3 In the event of the renovation by the Lessor of its rights and obligations under the Novated Building Contract to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement following the occurrence of (i) a Further Novation Event, or (ii) a Mandatory Prepayment Event prior to Delivery or (iii) a Termination Event prior to Delivery, any moneys received from the Replacement Purchaser pursuant to clause 6.3 of the Novation Agreement or from the Refund Guarantor pursuant to the Refund Guarantee (either before or after such renovation) or from the Builder pursuant to the Novated Building Contract (either before or after such renovation) shall be applied by the Lessor in accordance with clause 2.10 as if those moneys were Net Sale Proceeds.

18.8 Continuation of obligations and storage until sale

Following termination of the Lease Period pursuant to clause 18.1 or 18.2 the Lessee will:

18.8.1 continue to comply with its obligations under this Agreement until the earlier of the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 or the date on which the Ship is redelivered to the Lessor in accordance with clause 15; and

18.8.2 pay, or reimburse, to the Lessor on demand all Losses suffered by the Lessor in connection with recovering possession of and in moving, storing, insuring and maintaining the Ship and in carrying out any works or modifications required to cause the Ship to conform with the provisions of clause 15.2 until such time as the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8.

18.9 Failure to perform insurance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 13, the Lessor, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event:

18.9.1 following notification to the Lessee, may effect and thereafter maintain all such Insurances as the Lessor in its sole discretion may think fit in order to procure compliance with such provisions; or

18.9.2 alternatively, at the Lessee's risk, may require the Ship to remain in, or to proceed to and remain in, a port designated by the Lessor until such provisions are fully complied with.

18.10 Failure to perform maintenance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 10, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within fifteen (15) days after receipt of that notification, arrange for the carrying out of such repairs, changes or surveys as are required in order to procure compliance with such provisions.

18.11 Failure to protect Lessor's rights

If the Lessee fails to comply with any of its material obligations pursuant to clause 12.8, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within 15 days after receipt of that notification, take any such measures as may be required for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.12 Failure to Prevent or Release from Arrest

If the Lessee fails to comply with any of the provisions of clause 10.8, the Lessor without being in any way obliged to do so, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, may, pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.13 Costs of Remedying Defaults

Without prejudice to the Lessor's rights under each of clauses 7.1, 7.2, 7.3 and 7.4, all Losses of whatsoever nature (including without limitation, Taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Lessor in connection with the exercise by the Lessor of any of its powers under clauses 18.9, 18.10, 18.11, and/or, as the case may be, 18.12 and interest on all such Losses from the date on which the same were suffered, incurred or paid by the Lessor until the date of receipt or recovery thereof (both before and after any relevant judgment) at the Default Rate shall be repayable by the Lessee to the Lessor on demand.

19 Representations and Warranties

19.1 General

The Lessee represents and warrants to the Lessor as follows:

19.2 Status

The Lessee is duly incorporated and validly existing under the laws of the Marshall Islands.

19.3 Share capital and ownership

The Lessee is a wholly-owned direct Subsidiary of the Guarantor.

19.4 Corporate powers

The Lessee has the corporate capacity, and has taken all corporate action and obtained all consents, if any, necessary for it:

19.4.1 to execute this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party; and

19.4.2 to make all the payments and perform all the obligations contemplated by, and to comply with this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party.

19.5 Consents in force

All the consents referred to in clause 19.4 remain in force and nothing has occurred which makes any of them liable to revocation.

19.6 Legal validity

The Lease Documents and the Transaction Documents to which the Lessee is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration) constitute the Lessee's legal, valid and binding obligations enforceable against the Lessee in accordance with their respective terms.

19.7 No conflicts

The execution by the Lessee of each Lease Document and each Transaction Document to which it is or is to be a party and its compliance with each Lease Document and each Transaction Document to which it is or is to be a party will not involve or lead to a contravention in any material respect of:

19.7.1 any law or regulation; or

19.7.2 the Bye-laws and Articles of Incorporation of the Lessee; or

19.7.3 any contractual or other obligation or restriction which is binding on the Lessee or any of its assets.

19.8 No Relevant Events

No Relevant Event has, to the Lessee's knowledge, occurred and is continuing.

19.9 No litigation

Except as disclosed to the Lessor in writing, and to the best of the Lessee's knowledge and belief, no legal or administrative action involving the Lessee has been commenced or taken which is likely to have a material adverse effect on the ability of the Lessee to perform its obligations under this Agreement.

19.10 Free of Security Interests

Other than Permitted Security Interests, the Novated Building Contract is and, at the Delivery Date, the Ship and the Insurances will be free from all Security Interests.

19.11 Completeness of Transaction Documents

The copy of each Transaction Document delivered to the Lessor before the date of this Agreement is a true and complete copy and, no amendments or additions to any Transaction Document have been agreed nor have the parties to any Transaction Document waived any of their respective rights under the Transaction Documents.

19.12 Compliance with certain undertakings

At the date of this Agreement, the Lessee is in compliance with clause 20.1.

19.13 Taxes paid

The Lessee has paid all Taxes applicable to, or imposed on or in relation to the Lessee and its business.

19.14 Information

To the best knowledge and belief of the Lessee:

19.14.1 all information which has been provided in writing to the Lessor by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement and any other Transaction Document is true and not misleading and does not omit any material fact or consideration taking into account the circumstances in which the information was provided; and

19.14.2 copies of all relevant documents supplied to the Lessor in relation to this Agreement, the other Transaction Documents and transactions contemplated thereby are true and complete copies of the originals of such documents.

19.15 Absence of withholding taxes

All payments to the Lessor by the Lessee under the Lease Documents may be made in full, free of any deduction or withholding in respect of Tax.

19.16 No Stamp Taxes

There are no stamp, documentary, registration or other like duties or Taxes imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents other than in respect of Slavenburg registrations at Companies House in England and Wales.

19.17 Filings

All registrations or filings required in connection with the enforceability of any Transaction Documents against the Lessee have been made or will be made within any applicable required period and (if applicable) the Lessee shall promptly file particulars of any Security Interest it grants or creates under the Transaction Documents in its Register of Mortgages and Charges.

19.18 Pari Passu

The obligations of the Lessee under the Transaction Documents to which it is a party rank pari passu with all other unsecured indebtedness of the Lessee, other than indebtedness mandatorily preferred by law.

19.19 Choice of law

The choice by the Lessee of English law to govern the Lease Documents and its submission to the jurisdiction of the English courts as contemplated in each of the Lease Documents are valid and enforceable.

19.20 Ship's condition at Delivery

In relation only to Delivery, the Ship will then comply with all requirements of this Agreement including as to its ownership, condition, insurance, class and employment.

19.21 No Money Laundering

In relation to the performance and discharge of its respective obligations and liabilities under this Agreement and the other Transaction Documents, the Lessee confirms that it is acting for its own account and that the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities).

19.22 Reservations

The representations and warranties of the Lessee in this clause are subject to:

- 19.22.1 the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court;
- 19.22.2 the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting or limiting the rights of creditors;
- 19.22.3 the time-barring of claims under any applicable limitation acts;
- 19.22.4 the possibility that a court may strike out provisions for a contract as being invalid for reasons of oppression, undue influence or similar reasons; and
- 19.22.5 any other reservations or qualifications of law expressed in any legal opinions obtained by the Lessor in connection with the Lease Documents.

19.23 Inconsistency

To the extent of any inconsistency between warranties and declarations in any other Transaction Documents and those in this Agreement, those in this Agreement shall prevail.

20 General Undertakings

The Lessee undertakes with the Lessor to comply with the following provisions of this clause at all times until the end of the Lease Period except as the Lessor may otherwise permit.

20.1 Status

20.1.1 The Lessee will maintain its separate corporate existence as a corporation under the laws of the Marshall Islands.

20.1.2 The Lessee will not make a tonnage tax election for the purposes of section 82 of and Schedule 22 of the Finance Act 2000.

20.2 Information provided to be accurate

All financial and other information which is provided to the Lessor in writing by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement or any of the other Transaction Documents will be true and not misleading and will not omit any material fact or consideration.

20.3 Provision of financial statements

The Lessee will send, or procure that there be sent, to the Lessor no later than 90 days after the end of the first half of each financial year of each relevant company, in the case of unaudited financial statements, and no later than 180 days after the end of each financial year of each relevant company in the case of audited annual accounts:

20.3.1 unaudited consolidated financial statements in respect of the first half financial year of each Guarantor;

20.3.2 the unaudited annual accounts of the Lessee; and

20.3.3 the consolidated audited annual accounts of the Guarantor and its Subsidiaries.

20.4 Form of financial statements

All accounts (audited and unaudited) delivered under clause 20.3 will:

20.4.1 be prepared in accordance with all applicable laws and generally accepted accounting principles in the principal place of business of the company concerned (or, as the case may be, generally accepted accounting principles in the jurisdiction adopted by a company for the purposes of the preparation of its accounts), consistently applied;

20.4.2 give a true and fair view of the state of affairs of each such company at the date of those accounts and of its profit for the period to which those accounts relate; and

20.4.3 fully disclose or provide for all significant liabilities of each such company.

20.5 Consents

The Lessee will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Lessor of, all consents required:

20.5.1 for the Lessee to perform its obligations under any Transaction Document to which it is a party;

20.5.2 for the validity, enforceability, priority or admissibility in evidence of any such Transaction Document;
and the Lessee will comply with the terms of all such consents.

20.6 Maintenance of Security Interests

The Lessee will:

20.6.1 at its own cost, do and procure that each other Transaction Company will do, all that it reasonably can to ensure that any Transaction Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and

20.6.2 without limiting the generality of clause 20.6.1, at its own cost, promptly register, file, record or enrol any Transaction Document to which it is a party with any court or authority in all relevant jurisdictions, pay any stamp, registration or similar tax in all relevant jurisdictions in respect of any Transaction Document to which it is a party, give any notice or take any other step which, in the opinion of the Lessor, is or has become necessary or desirable for any Transaction Document to which it is a party to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

20.7 Notification of litigation

The Lessee will provide the Lessor with details of any legal or administrative action involving the Lessee, any other Transaction Company (other than, following Delivery, the Replacement Purchaser), the Ship or any Transaction Document to which it is a party promptly after it becomes aware that such action has been instituted or it becomes apparent to the Lessee that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of the Lease Documents.

20.8 Principal place of business

The Lessee will forthwith notify the Lessor if it has a place of business in any jurisdiction which would require a Lease Document to be registered, filed or recorded with any court or authority in that jurisdiction.

20.9 Confirmation of no default

The Lessee, within five (5) Business Days after service by the Lessor of a written request (such notices to be served no more frequently than is reasonable), will serve on the Lessor a notice which is signed by an authorised signatory of the Lessee and which:

20.9.1 states that no Relevant Event has occurred; or

20.9.2 states that no Relevant Event has occurred, except for any specified event or matter, of which all material details are given.

20.10 Notification of default

The Lessee will notify the Lessor as soon as the Lessee becomes aware of:

20.10.1 any adjustment to the Contractual Delivery Date;

20.10.2 the occurrence of any Relevant Event; and

20.10.3 any matter which indicates that any Relevant Event may have occurred, and will keep the Lessor fully up-to-date with all developments.

20.11 Pari passu

The Lessee will ensure that at all times its liabilities under this Agreement and the other Lease Documents to which it is a party rank at least pari passu in all respects with all its other unsecured liabilities from time to time (apart from liabilities mandatorily preferred by law).

20.12 Provision of information

The Lessee will provide or procure that there is provided to the Lessor, reasonably promptly, such information (i) with respect to the compliance by the Lessee with the terms of this Agreement and each of the other Transaction Documents to which the Lessee is party and (ii) with respect to the compliance by each of the other Transaction Companies with the terms of the other Transaction Documents to which they are respectively party, or (iii) with respect to the Ship, as the Lessor from time to time may reasonably request.

20.13 Negative undertakings

The Lessee will not:

20.13.1 carry on any business other than the leasing in and chartering out of the Ship and each Sister Ship and matters reasonably incidental thereto (as contemplated by the Transaction Documents); or

20.13.2 enter into any form of amalgamation, consolidation, merger or de-merger or any form of reconstruction or reorganisation; or

20.13.3 save by, or as permitted by, the Transaction Documents and the Sister Ship Transaction Documents, transfer, lease, charge or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation.

20.14 Title; negative pledge

The Lessee will:

20.14.1 not attempt or hold itself out as having any power to sell, transfer or otherwise dispose of or abandon the Ship or any shares or interest therein;

- 20.14.2 hold the legal title to, and own the entire beneficial interest in all its assets, free from all Security Interests and other interests and rights of every kind, except for those created by or contemplated to be created pursuant to any of the Transaction Documents and Sister Ship Transaction Documents and (in the case of the Ship and Sister Ships only) except for Permitted Security Interests; and
- 20.14.3 save as contemplated by the Transaction Documents and Sister Ship Transaction Documents, not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

20.15 No amendment to any Transaction Document

The Lessee will not agree or purport to agree and will procure that no other Transaction Company will agree or purport to agree to any amendment or supplement to, or variation of, or waive or fail to enforce, any Transaction Document to which the Lessee or, as the case may be, such other Transaction Company is a party, unless the Lessee, or as the case may be, the applicable Transaction Company acting reasonably considers that the amendment, supplement, variation, or waiver will not prevent the fulfilment by the Lessee or the other Transaction Companies of their respective obligations to the Lessor, and will not adversely affect any of the rights, interests, benefits, powers and remedies of the Lessor under the Lease Documents.

21 Assignments, transfers and sale of the Ship

21.1 Assignment and/or transfer by Lessor

The Lessor may assign all (but not part) of its rights and/or transfer all (but not part) of its obligations under this Agreement and the other Lease Documents together with a contemporaneous transfer of its rights, title and interests in the Ship:

- 21.1.1 without the prior consent of the Lessee where the assignment or transfer is to a Lessor Group Member which is resident in the United Kingdom for the purpose of the charge to corporation tax and which carries on the trade of leasing subject only to:

- (a) the Lessor giving the Lessee not less than thirty (30) days prior written notice of such assignments or transfer;
- (b) the Lessor Parent Support Letter being in full force and effect and, simultaneously with such assignment or transfer, extended or reissued to cover such assignee or transferee; and
- (c) the transferee for the time being remaining a Lessor Group Member; and

- 21.1.2 to the Replacement Purchaser in the circumstances contemplated by clause 18.3 of this Agreement and clause 7 of the Novation Agreement; and

- 21.1.3 to any other person after the occurrence of any Termination Event which is continuing; or

- 21.1.4 to any person other than those contemplated in clause 21.1.1 to 21.1.3 above with the prior written consent of the Lessee,

Provided that:

- (a) any transferee under this clause 21.1 shall assume all of the Lessor's obligations;
- (b) no costs, charges or expenses (including stamp duties payable in respect of any transfer) shall be payable by the Lessee; and
- (c) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessee under this Agreement and the other Transaction Documents to which the Lessor and Lessee are respectively party shall be calculated as if no such assignment or transfer had taken place.

21.2 Transfer by Lessee

Subject to no Relevant Event having occurred and then continuing, the Lessee may transfer all (but not part) of its rights and obligations under this Agreement and the other Transaction Documents:

21.2.1 to any other Guarantor Group Member without the prior written consent of the Lessor; or

21.2.2 to any other person (subject to clause 21.2.3 below) with the prior written consent of the Lessor.

21.2.3 Any intended transfer by the Lessee pursuant to clause 21.2.1 or 21.2.2 shall be subject to the further conditions that:

- (a) the Lessee shall give thirty (30) days prior written notice to the Lessor (or such shorter period as the Lessor may agree (acting reasonably)) of any intended transfer;
- (b) the Lessor shall not be subject to any material additional expense or any liability or increased liability as a result thereof (which is not indemnified against by the Lessee and guaranteed by the Guarantor or secured to the Lessor's satisfaction where the same is in the nature of a liability which is capable of being so indemnified, guaranteed or secured);
- (c) the Lessor is satisfied that, following the proposed transfer, the Guarantee, General Assignment and any other security then held by the Lessor in respect of the Lessee's obligations under this Agreement will remain in full force and effect as security for the obligations of the proposed transferee, or the Lessor is satisfied that such Guarantee, General Assignment and other security will be replaced on terms and in accordance with arrangements satisfactory to the Lessor; and
- (d) the intended transfer will not invalidate or result in any adverse effect on the Lessor's claim to UK Capital Allowances;

21.2.4 Following any transfer pursuant to clause 21.2.1 or 21.2.2:

- (a) the Lessee shall reimburse the Lessor in respect of all Losses, costs, charges or expenses (including stamp duties payable in respect of any transfer) properly incurred by the Lessor in connection with any transfer by the Lessee pursuant to this clause 21.2;

- (b) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessor under this Agreement and the other Transaction Documents shall be calculated as if no such transfer had taken place; and
- (c) in the case of any transfer pursuant to clause 21.2.1 the Guarantor shall guarantee to the Lessor the obligations of the transferee on terms satisfactory to the Lessor.

21.2.5 The Lessor agrees to assist the Lessee, upon the request of the Lessee, to restructure any security granted to the Lessor in respect of the Lessee's obligation to pay the Termination Amount to the Lessor in connection with any transfer of rights and obligations pursuant to this clause 21.2.

21.2.6 All costs and expenses (including legal costs and expenses and the relevant fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which will be charged at the Lessor's Management Time Cost Rate) in connection with any such restructuring shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

21.3 Sale of the Ship

During the Lease Period the Lessor will not sell, transfer, assign or otherwise dispose of the legal title to, or beneficial interest in, the Ship, or agree so to do, except as expressly contemplated by this Agreement or the other Transaction Documents.

22 Increased Costs

22.1 Increased costs

22.1.1 This clause 22 applies, otherwise than where a payment is made in respect of the effect of a Change of Law in accordance with the provisions of the Financial Schedule, if at any time the Lessor notifies the Lessee that it considers that as a result of:

- (a) any Change of Law; or
- (b) the effect of complying with any regulation which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Lessor or any Lessor Group Member has incurred or will incur an "increased cost".

22.2 Meaning of "increased cost"

In this clause 22, "increased cost" means, in relation to the Lessor:

22.2.1 the cost or additional cost referred to in clause 22.1 above; or

22.2.2 an additional or increased cost incurred directly as a result of, or in connection with, the Lessor having entered into, or being a party to, the Transaction Documents or funding, maintaining or performing its obligations under the Transaction Documents; or a reduction

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- in the amount of any payment to the Lessor or any Lessor Group Member under any of the Transaction Documents or in the effective return which such a payment represents to the Lessor or on its capital; or
- 22.2.3 an additional or increased cost of funding all or maintaining all or any of the Lessor's expenditure under the Novated Building Contract or the Supervision Agreement or (as the case may require) the proportion of that cost attributable to the funding or maintaining of such expenditure; or
- 22.2.4 a liability to make a payment, or interest or the reduction in any amount payable or in the rate of return foregone, which is calculated by reference to any amounts received or receivable by the Lessor under this Agreement or any of the Transaction Documents; or
- 22.2.5 for the avoidance of doubt, any increased costs which relate to the implementation of the matters set out in the Basel II Accord.
- 22.3 Payment of increased costs**
- The Lessee shall pay to the Lessor the amounts which the Lessor from time to time notifies the Lessee that it has determined is necessary to compensate it for the increased cost.
- 22.4 Mitigation and consultation**
- 22.4.1 If circumstances arise which would result in notification under clause 22.1 then, without limiting the rights of the Lessor under clause 22.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or might be considered likely in the Lessor's opinion to:
- (a) have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;
 - (b) involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or
 - (c) involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.
- 23 Funding Problems**
- 23.1 Funding problems**
- If the Lessor notifies the Lessee that LIBOR cannot be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR:
- 23.1.1 the Lessor shall give notice thereof to the Lessee; and
- 23.1.2 the Lessor and the Lessee shall meet to discuss the matter in good faith and, unless within 30 days of the giving of such notice the Lessor and the Lessee arrive, by negotiation in good faith, at an alternative basis reasonably acceptable to the Lessor and the Lessee for continuing the Lessor's funding of its purchase of the Ship and/or continuing the leasing of the Ship under this Agreement and determining LIBOR (and any alternative basis agreed

in writing shall be retroactive to and effective from the commencement of the relevant period and shall continue until LIBOR can be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR), the Lessee shall indemnify the Lessor for its cost of funds from whatever source the Lessor may reasonably select, and for reasonable periods, in any such case following consultation with the Lessee.

24 Illegality, etc

24.1 Illegality

This clause 24 applies if the Lessor notifies the Lessee that it has become, or will with effect from a specified date, become:

24.1.1 unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or

24.1.2 contrary to, or inconsistent with, any regulation,

for the Lessor to continue to lease the Ship to the Lessee under this Agreement.

24.2 Termination

The Lessor is entitled either in its notice to the Lessee pursuant to clause 24.1 or by a subsequent notice, to terminate the Lease Period either immediately or at a future specified date being in any such case not earlier than the date on which it becomes unlawful, prohibited or contrary to, or inconsistent with, any regulation for the Lessor to continue to lease the Ship to the Lessee under this Agreement, but for the avoidance of doubt no Termination Fee shall be payable by the Lessee in such circumstances.

24.3 Manner of termination

A termination under clause 24.2 will be deemed to be a voluntary termination of the Lease Period in accordance with clauses 2.3 or 2.6 (notwithstanding that the Lessor shall not have received 30 days' notice) and the provisions of clauses 2.4 to 2.13 shall apply to that termination.

24.4 Mitigation

If circumstances arise which would result in notification under clause 24.1 then, without limiting the rights of the Lessor under clauses 24.2 and 24.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or, in the Lessor's opinion, might be considered likely to:

24.4.1 have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;

24.4.2 involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or

24.4.3 involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.

25 Release from Arrest: Lessor's and Lessee's Vessels

25.1 Release from arrest: Lessor's vessels

Other than the Ship or the Sister Ships or any other vessel owned by the Lessor and leased to a company which is owned by the Guarantor, if any vessel which is for the time being owned (in whole or in part) by or leased to any Lessor Group Member shall at any time have a writ or equivalent claim or pleading in admiralty filed against it or be arrested, attached or levied upon pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, and which arises out of the use or operation of the Ship or the Sister Ships or any other vessel owned in whole or in part by or leased or chartered to the Lessee or to any Transaction Company or other Guarantor Group Member or to any other company owned by the Guarantor with any other company, or otherwise by reason of the act or omission of any of the Lessee or any Transaction Company or other Guarantor Group Member, except where that lien or claim arises as a result of any Lessor Misconduct or the equivalent in relation to a Lessor Group Member (but excluding for this purpose any act or omission relating to the operation of the Ship or the Sister Ships or any other vessel owned by any Lessor Group Member and leased or chartered to the Lessee or any Transaction Company or any other Guarantor Group Member for which the Lessee or such Transaction Company or other Guarantor Group Member is responsible pursuant to this Agreement or the relevant leasing or chartering contracts):

25.1.1 the Lessee forthwith upon receiving notice thereof at its expense shall procure the release of such vessel from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty by providing bail or procuring the provision of security or otherwise as the circumstances may require; and

25.1.2 the Lessee shall be responsible for discharging each and every liability in connection with any such process, claim, lien or other action.

Without prejudice to the generality of the other indemnities contained in this Agreement or any of the other Transaction Documents, should any such other vessel owned (in whole or in part) by or leased or chartered to any Lessor Group Member and leased or chartered by it (otherwise than to the Lessee or any other Transaction Company or Guarantor Group Member) be arrested, detained, attached or levied upon or be the subject of or have a writ or equivalent claim or pleading in admiralty filed against it in such circumstances, the Lessee shall indemnify the Lessor against all Losses imposed on, suffered or incurred or expended by the Lessor and/or such Lessor Group Member in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty, together with any costs and expenses (including the provision of any guarantee or bond) or other outgoings which may be suffered or paid by the Lessor and/or any Lessor Group Member in releasing such vessel from any such arrest, seizure, custody, detention, attachment or distress.

25.2 Release from arrest: Lessee's vessels

If:

25.2.1 the Ship or the Sister Ships or any other vessel owned or operated by any Guarantor Group Member or any company owned by the Guarantor, at any time has a writ or equivalent claim or pleading in admiralty filed against it or is arrested, attached or levied upon

pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature in each such case arising out of the use or operation of any other vessel for the time being owned by any Lessor Group Member and leased or chartered by it otherwise than to the Lessee or any Transaction Company or to any other Guarantor Group Member or to any company owned by the Guarantor; and

- 25.2.2 should the charterers of such other vessel (being in that situation under obligations to the Lessor or the Lessor Group Member equivalent to those assumed by the Lessee under clause 25.1) fail to fulfil those obligations,
- Provided that the Lessee shall first have given prior notice thereof to the Lessor and, to the extent practicable, consulted with the Lessor or such Lessor Group Member as far in advance as is reasonable in all the circumstances, the Lessee shall:
- (a) be entitled to act as agent for the Lessor or the Lessor Group Member to procure release of the Ship or the Sister Ships or such other vessel (as the case may require) from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
 - (b) be entitled to be indemnified by the Lessor or the Lessor Group Member against claims made on the Lessee by the charterers of such other vessel in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty and all losses and expenses reasonably and properly so incurred by it.

26 Confidentiality

26.1 Confidentiality

At all times during the Lease Period, each of the Lessor and the Lessee shall keep confidential and shall not, without the prior written consent of the other:

- 26.1.1 issue any press release or make any other public announcement or statement in relation to the transactions evidenced by this Agreement and the other Transaction Documents; or
 - 26.1.2 disclose to any other person (i) the financial details of this Agreement or any other Transaction Document or the transactions contemplated by this Agreement or any other Transaction Document or any other agreement entered into after the date of this Agreement by the Lessor or the Lessee in connection with this Agreement or any other Transaction Document or (ii) any information provided pursuant to any of the Transaction Documents; or
 - 26.1.3 release copies of drafts of this Agreement or any other Transaction Document which disclose or reveal the identity of the parties (or any of them),
- the information contemplated by clauses 26.1.1 to 26.1.3 above being “ **Confidential Information** ”
- Provided that the parties shall be entitled, without any such consent, to disclose such Confidential Information:
- (a) if the same is already known to the receiving person at the time of disclosure as shown by the receiving person’s files and records immediately prior to that disclosure or is developed by the receiving person independently of such disclosure; or

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- (b) in connection with any proceedings arising out of or in connection with this Agreement or any of the other Transaction Documents; or
 - (c) if required to do so by an order of a court of competent jurisdiction whether in pursuance of any procedure for discovery of documents or otherwise; or
 - (d) if it is reasonably believed by such party to be disclosable pursuant to any applicable law, stock exchange regulations or by a governmental order, decree, regulation or rule; or
 - (e) to any fiscal, monetary, tax, governmental or other competent authority; or
 - (f) to the auditors, legal or professional or insurance advisors, underwriters or brokers of the Lessee or the Lessor who (A) shall have a need to have such knowledge of the same in connection with carrying out work related to the transaction contemplated by this Agreement and the other Transaction Documents and (B) shall be advised of the confidential nature of any such information supplied to them and shall be instructed to maintain the confidentiality of any information supplied to them; or
 - (g) in any manner contemplated by any of the Transaction Documents; or
 - (h) if the same is in the public domain or shall become publicly known otherwise than as a result of a breach by such party or by the receiving person or any other person to whom disclosure is made of this clause 26.1; or
 - (i) if the same is acquired independently from a third party without breach of that third party's obligations of confidentiality; or
 - (j) in the case of the Lessee, to any director, officer, employee, agent or representative of any Guarantor Group Member, the Time Charterer or the Approved Manager and its Affiliates, and, in the case of the Lessor, any director, officer, employee, agent or representative of any Lessor Group Member provided that in each case the Lessee or the Lessor shall procure that the party to whom such disclosure is made shall comply with the requirements of this clause,

provided that if the Confidential Information is provided by a party on the basis that it is to be kept confidential, but the party providing the information discloses it to another person on a non-confidential basis, then the receiving parties shall no longer be obliged to treat such information as confidential.

26.1.4 The Lessor and the Lessee shall be responsible for ensuring that where Confidential Information is disclosed to persons under clause 26.1.3 such persons shall keep the information confidential and shall not disclose or divulge the same to any unauthorised person.

27 Notices

27.1 General

Unless otherwise specifically provided, any notice under or in connection with this Agreement shall be given by letter or fax; and references in this Agreement to notices in writing and notices signed by particular persons shall be construed accordingly.

27.2 Addresses for communications

A notice shall be sent:

to the Lessee:

Seaspan Finance I Co. Ltd
Unit 2
7th Floor Bupa Centre
141 Connaught Road West
Hong Kong F4 0000
China

Fax No: +852 2450 1689
Attn: Gerry Wang

with a copy to:

Seaspan Management Services Limited
c/o 2600-200 Granville Street
Vancouver, BC
Canada V6C 1S4

Fax No: +604 648 9351 / +604 676 2296
Attn: Gerry Wang

to the Lessor:

Peony Leasing Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Fax No: +44 20 7012 9455
Attn: Head of Structured Marine Finance

or to such other address as the relevant party may notify the other.

27.3 Effective date of notices

Subject to clauses 27.4 and 27.5:

27.3.1 a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is received;

27.3.2 a notice which is sent by fax shall be deemed to be served, and shall take effect, upon the confirmed despatch by the sender.

27.4 Service outside business hours

However, if under clause 27.3 a notice would be deemed to be served:

27.4.1 on a day which is not a business day in the place of receipt; or

27.4.2 on such a business day, but after 5 p.m. local time,

the notice shall be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

27.5 English language

Any notice under or in connection with this Agreement shall be in English.

27.6 Meaning of “notice”

In this clause “ **notice** ” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

28 Supplemental

28.1 Rights cumulative, non-exclusive

The rights and remedies which this Agreement and the other Transaction Documents give to the Lessor are:

28.1.1 cumulative;

28.1.2 may be exercised as often as appears expedient; and

28.1.3 shall not, unless this Agreement or any Transaction Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

28.2 Severability of provisions

If any provision of this Agreement or any Transaction Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of this Agreement or that Transaction Document or of the provisions of any other Transaction Document.

28.3 Variations, waivers etc.

A document shall only be effective to vary, waive, suspend or limit any provision of this Agreement or any Transaction Document, or the Lessor’s or the Lessee’s rights or remedies under such a provision or the general law, if the document is signed, or specifically agreed to in writing by the Lessor and the Lessee.

28.4 Counterparts

This Agreement and any Transaction Document may be executed in any number of counterparts and one such counterpart executed by each of the parties thereto and, provided that all parties sign, each executed counterpart duly executed and delivered shall be deemed an original but taken together they shall constitute one instrument.

28.5 Set-off

The Lessee authorises the Lessor without prejudice to any of the Lessor's rights of set-off at law, in equity or otherwise, at any time after the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event and whilst it is continuing to set-off or withhold from any sum or sums expressed in the Lease Documents to be payable to the Lessee by the Lessor any amount due and payable but unpaid to the Lessor from the Lessee under the Lease Documents. The Lessor shall not be obliged to exercise any right given to it by this clause 28.5. The Lessor shall notify the Lessee upon the exercise or purported exercise by the Lessor of any right of set-off or withholding.

28.6 Further Assurance

As soon as practicable after any such request by the Lessor and at its own expense, the Lessee shall execute, sign, perfect and do any and every such further assurances, document, act or thing as is, in the reasonable opinion of the Lessor:

28.6.1 necessary to carry out the transactions contemplated by this Agreement and the other Transaction Documents; or

28.6.2 necessary to protect or enforce any of the Lessor's rights under this Agreement or the other Transaction Documents or title of the Lessor in the Ship.

28.7 Time of the essence

Subject to any periods of grace provided for by or referred to in this Agreement and the other Transaction Documents, time shall be of the essence as regards performance by the Lessee of its obligations under this Agreement and the other Transaction Documents.

28.8 Entire Agreement

As at the date of this Agreement, the Transaction Documents constitute the entire agreement between the parties in relation to the leasing of the Ship by the Lessor to the Lessee and supersedes all previous proposals, agreements and other written or oral communications in relation thereto.

28.9 Third party rights

With the exception of Indemnified Persons, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed. However, notwithstanding any term of this Agreement to the contrary, no variation of this Agreement, and no release or compromise of any liability hereunder and no termination by the Lessor of the leasing of the Ship or of its obligation hereunder to lease the Ship shall require consent or approval of any third party.

29 Law and Jurisdiction

29.1 English law

This Agreement shall be governed by, and construed in accordance with, English law.

29.2 Exclusive English jurisdiction

Subject to clause 29.3, the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and the Lessee irrevocably designates, appoints and empowers WFW Legal Services Limited of 15 Appold Street, London EC2A 2HB to receive for it and on its behalf service of process issued out of the English courts in connection with any such dispute.

29.3 Choice of forum

Clause 29.2 is for the exclusive benefit of the Lessor which reserves the rights:

29.3.1 to commence proceedings in relation to any matter which arises out of or in connection with this Agreement in the court of any country other than England which has jurisdiction in respect of that matter; or

29.3.2 to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

29.4 Lessee rights unaffected

Nothing in this clause 29 shall exclude or limit any right which the Lessor may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

29.5 Meaning of “proceedings”

In this clause 29, “**proceedings**” means proceedings of any kind, including an application for a provisional or protective measure.

THIS AGREEMENT has been executed by the parties to it on the date stated at the beginning of this Agreement.

Schedule 1
Financial Schedule

(see attached)

Schedule 2
Description of Ship

The Ship to be constructed by the Builder under the Novated Building Contract with Builder's Hull No. 1854 to the following approximate principal specifications as at the date of this Agreement and subject to alteration pursuant to any amendment to the Novated Building Contract in accordance with the terms and conditions of this Agreement and the other Lease Documents.

Length overall	268.5m
Length between perpendiculars	254.3m
Breadth (moulded)	35.0m
Depth (moulded) to upper deck	19.5m
Draught (design), moulded	11.0m
Classification Society	Det norske Veritas
Class	DNC, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V(3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport

Schedule 3
Part A - Form of Lessor Parent Support Letter (Lessee)

[On Bank of Scotland plc notepaper]

To: [Lessee]

2007

Dear Sir/Madam,

[•] Limited (the “Subsidiary”)
UK Finance Lease for Samsung Hull no. [•] (the “Ship”)

We refer to the Lease of even date herewith between the Subsidiary and yourselves (the “**Lessee**”) relating to the Ship (the “**Lease**”). Terms defined in the Lease shall have the same meanings when used in this letter.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Lessee under the Transaction Documents.

In consideration of the Lessee agreeing to lease the Ship from the Subsidiary we confirm that throughout the term of the Transaction Documents we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Lessee arising from the Transaction Documents.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Lessee under the Transaction Documents, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Lessee and, if the Lessee so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Transaction Documents are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Lessee and so as to ensure that the Lessee shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Transaction Documents to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Without prejudice to or limitation of our other statements and undertakings in this letter, and our contractual obligations and liabilities in respect of the foregoing, nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Transaction Documents.

This letter is intended to create legal relations between us and will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

The Letter is confidential and shall not be disclosed to any party save as permitted by clause 26 of the Lease.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Part B - Form of Lessee Parent Support Letter (Builder)

[On Bank of Scotland plc notepaper]

To: Samsung Heavy Industries Co. Ltd.,
34th Floor, Samsung Life Insurance Seocho Tower
1321-15 Seoul
South Korea

2007

Dear Sir/Madam,

[•] Limited (the “Subsidiary”)
Samsung Hull no. [•] (the “Ship”)

We refer to the Novation Agreement to be entered into on or about the date hereof between (among others) the Subsidiary and yourselves (the “**Builder**”) pursuant to which the Subsidiary will become the new buyer of the Ship under a Shipbuilding Contract dated [•] 2007 originally between Seaspans Corporation and the Builder. Such novated Shipbuilding Contract is herein referred to as the “**Contract**”.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Builder under the Contract.

We further confirm that throughout the term of the Contract we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Builder arising from the Contract.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Builder under the Contract, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Builder and, if the Builder so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Contract are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Builder and so as to ensure that the Builder shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Contract to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Contract.

This letter will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Schedule 4
Lessee's Condition Precedent Documents

Part A

Lessor's Conditions Precedent to the First Instalment

The following are the documents and actions referred to in clause 3.1.1 as conditions precedent to the obligations of the Lessor under this Agreement and the payment of the First Instalment pursuant to the Novated Building Contract and the Novation Agreement:

- 1 An original of this Agreement, the Novation Agreement, the Supervision Agreement, the Refund Guarantee, the Guarantee, the QEL, the General Assignment, the Indexation Relief Letter, the Tax Consultation Letter and the Non Discrimination Letter and each other Transaction Document to which the Lessor is or is then to be a party (and each notice or document required to be delivered by each such Transaction Document), each duly signed by all parties thereto.
- 2 Copies of the certificate of incorporation and constitutional documents of the Lessee, the Guarantor and the Supervisor.
- 3 Copies of resolutions of the directors and, if necessary for the purposes of obtaining the opinions referred to in paragraph 12 in form and substance satisfactory to the Lessor, the shareholders of the Lessee, the Guarantor and the Supervisor or equivalent documents authorising the execution of each of the Transaction Documents to which any of them is or is to be a party and authorising named persons to give all notices under this Agreement and each Transaction Document.
- 4 The original of any power of attorney under which any Transaction Document is executed on behalf of the Lessee, the Guarantor and the Supervisor.
- 5 Copies of any governmental or other third-party consents, licences, approvals, registrations and filings (“ **Consents** ”) necessary for any matter contemplated by the Lease Documents and for the legality, validity, enforceability, and admissibility in evidence and effectiveness thereof having been obtained or effected and remain in full force and effect, including, but not limited to, such Consents required to make any payment under any Transaction Document or evidence that no such Consents are required.
- 6 Certified true copies of the Building Contract, the Time Charter and all of the other Transaction Documents to which the Lessor is not a party which have been executed at such time and all documents to be delivered pursuant to each of such documents each duly signed by all parties.
- 7 Evidence reasonably acceptable to the Lessor of the amounts of all payments already made by the Original Purchaser under the Building Contract to the Builder together with details relating to each payment including what the payment was for and the date on which payment was made, and an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement.

-
- 8 Documentary evidence that the novation of the Building Contract contemplated in the Novation Agreement has or, simultaneously with the Lessor's obligations referred to in clause 3.1.1 becoming effective, shall become effective.
 - 9 Receipt by the Lessor of any fees, costs and expenses payable by the Lessee which are due for payment on or prior to the date for the payment of the First Instalment and which are not rentalised in the Financial Schedule.
 - 10 Documentary evidence that the agents for service of process in England appointed by the Lessee, the Guarantor, the Supervisor and the Time Charterer (as applicable) in relation to all Transaction Documents have accepted such appointment.
 - 11 Opinions from:
 - (a) Kim & Chang as special Korean legal counsel in relation to the Builder and the Refund Guarantor and the execution of the Novation Agreement by the Builder and the Refund Guarantee by the Refund Guarantor, and as to matters of Korean law;
 - (b) Cozen O'Connor, as special Marshall Islands legal counsel in relation to the Lessee, the Guarantor, this Agreement, the Novation Agreement, the Guarantee, and as to matters of Marshall Islands law,
 - (c) Conyers, Dill & Pearman, as special Bermudan legal counsel in relation to the Supervisor, the Supervision Agreement and as to matters of Bermudan law;
 - (d) Halpern Law Office, as special Japanese legal counsel in relation to the Time Charterer, the QEL and as to matters of Japanese law; and
 - (e) The Lessor's insurance advisers, Marsh, in respect of the insurance provisions of this Agreement and insurance arrangements with respect to the Ship and the Sister Ships generally,
each in form and substance satisfactory to the Lessor.
 - 12 If the Lessor reasonably requires, in respect of any of the documents referred to above which may be provided in a language other than English, a certified English translation prepared by a translator approved by the Lessor.
 - 13 The Lessee has confirmed that the conditions precedent to its obligations set out in Schedule 5 have been satisfied or waived by the Lessee.
 - 14 Completion of all relevant money laundering compliance checks by the Lessor in respect of the Lessee, the Replacement Purchaser, the Guarantor and any other relevant company, in accordance with the Lessor Group's current procedural requirements.

Part B

Lessor's Conditions Precedent to each Instalment

The Lessor shall have received each of the following, in form and substance satisfactory to the Lessor:

- 1 evidence that the relevant Instalment has fallen due for payment under the terms of the Novated Building Contract and the Novation Agreement, which evidence shall be constituted by notice from the Builder to the Supervisor (and copied to the Lessor) in accordance with clause 7.2 of the Novation Agreement;
- 2 evidence as to the amount of the relevant Instalment and the account to which it is to be paid, which evidence shall be constituted by an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement;
- 3 if the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, the other Lease Amounts and the amount of the Instalments previously paid, cause the Maximum Commitment to be exceeded, the Lessor shall have received the required amount to be paid by the Lessee to the Lessor as a Contribution Payment under clause 3.10 within the time permitted under clause 3.10;
- 4 confirmation from a duly authorised officer of each of the Lessee, the Replacement Purchaser, the Guarantor and the Supervisor that there has been no change in the constitutive documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended and in full force and effect; and
- 5 receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clause 3.2 of this Agreement have been satisfied.

Part C

Lessor's Conditions Precedent to the Final Instalment

The following are the documents referred to in clause 3.3.1:

- 1 An Intended Delivery Notice in accordance with the terms of this Agreement;
- 2 The commercial invoice of the Builder addressed to the Lessor in respect of the Final Instalment payable under the Novated Building Contract;
- 3 Drafts of the Builder's Certificate and the Protocol of Delivery and Acceptance together with drafts of certain of the other documents referred to in article VII of the Novated Building Contract and evidence that, at Delivery, originals of all these documents (where applicable, signed for the Builder) will be delivered to, or to the order of, the Lessor;
- 4 Evidence that the obligations of the Lessee under clauses 10.10, 13.2 and 13.3 of this Agreement will be complied with, as from Delivery;
- 5 Confirmation from the Supervisor that the Ship has been constructed in compliance with the terms of the Novated Building Contract and any minor works identified by the Supervisor in the Intended Delivery Notice which are to be rectified by the Builder after the Delivery Date; and
- 6 If the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, and the other Lease Amounts and the amount of the Instalments previously paid cause the Maximum Commitment to be exceeded, receipt by the Lessor of the required amount to be paid as a Contribution Payment under clause 3.10 within the period of time permitted by clause 3.10.

Part D

Lessor's conditions precedent to Delivery

The following are the documents referred to in clause 3.3.2:

- 1 Duly executed originals of the documents specified in Part C paragraph 3 of this Schedule;
- 2 Evidence that the Ship is duly registered under a flag referred to in clause 12.3 in the name of the Lessor;
- 3 Evidence that the Ship has been granted the classification referred to in clause 10.3.2 free of overdue conditions affecting the Ship's class unless waived;
- 4 Copies of any Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate and all other documents required at that time for the Ship pursuant to the ISM Code and ISPS Code;
- 5 Evidence that the obligations of the Lessee in relation to Insurances under clauses 13.2 and 13.3 of this Agreement have been complied with;
- 6 If so requested by the Lessor, an insurance report, paid for by the Lessee, from an independent adviser selected by the Lessor (subject to prior agreement on their fee) confirming that the Ship's Insurances comply with the requirements of clause 13;
- 7 Copies of any consents which are required to be obtained and maintained in respect of the Ship and its operation;
- 8 The certificate of delivery and acceptance in the form of schedule 7 to this Agreement duly signed by the Lessee, and a copy of the protocol of delivery and acceptance in the form required by the Time Charter signed by the Time Charterer;
- 9 Confirmation from a duly authorised officer of each of the Lessee, the Supervisor and the Guarantor that there has been no change in the constitutional or organisational documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended in full force and effect and that all the Transaction Documents to which they are a party remain in full force and effect;
- 10 Receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clauses 3.2 and 3.3 of the Lease Agreement have been satisfied;
- 11 Confirmatory opinions each confirming that the opinions expressed in the legal opinions issued pursuant to paragraph 14 of Part A of Schedule 4 need not be altered or modified in any way or, as the case may be, supplemental opinions in respect of any matters in respect of which such confirmations cannot be given in form and content acceptable to the Lessor; and

-
- 12 An opinion from counsel selected by the Lessor in the proposed flag state for the Ship, in relation to the registration of the Ship, in form and content acceptable to the Lessor.

General Note

- 1 All copies of documents to be provided under any part of this Schedule 4 must be certified to be true, complete and up-to-date as at the date of certification, and must be certified by an authorised signatory of the person providing such copies.
- 2 In the event that any of the representations and warranties on the part of any of the Lessee, the Replacement Purchaser, the Supervisor, the Time Charterer and/or the Guarantor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 5
Lessee's Pre-Delivery Condition Precedent Documents

The following are the documents referred to in clause 3.4:

- 1 An original of each Transaction Document to which the Lessor or the Lessor Parent is a party duly executed by the Lessor or, as the case may be, the Lessor Parent;
- 2 Copies of resolutions of the directors of the Lessor authorising execution of each of the Transaction Documents to which it is a party by the persons signing them;
- 3 Certified copies of any power of attorney under which any Transaction Document is executed on behalf of the Lessor; and
- 4 Evidence of the due execution by the Bank of the Lessor Parent Support Letter given in favour of the Lessee in a form satisfactory to the Lessee (acting reasonably).

Schedule 6
Form of Instalment Request

To: [•] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB
Attention: Head of Structured Marine Finance

Dated: [•]

Dear Sirs

Lease Agreement (the “Lease Agreement”) dated [•] 2007 relating to Samsung Hull No. [•]

We refer to the Lease Agreement and give you notice that the expected date for the [•] Instalment of the Purchase Price is [•] .

We further notify you that the payments due on that date [is/are] as follows:

[•]

We confirm that no Relevant Event has occurred which is continuing.

Words and expressions defined in the Lease Agreement shall have the same meanings when used in this Instalment Request.

For and on behalf of
[Lessee]

Schedule 7
Form of Certificate of Delivery and Acceptance

Pursuant to a lease agreement (the “**Lease**”) dated [•] 2007 made between (i) [•] Limited (the “**Lessor**”) and (ii) [•] (the “**Lessee**”) in respect of the m.v. “ [•] ” (the “**Ship**”), registered under the laws and flag of [•] with Official Number [•] and on the basis of the confirmation given by the Lessee in this Certificate, the Ship was delivered by the Lessor to the Lessee, and accepted by the Lessee from the Lessor, at [•] hours [GMT]/[BST] on [•] at [•] under, and in accordance with the terms and conditions of, the Lease.

The Lessee confirms that as at the date of this Certificate:

- (a) no Relevant Event has occurred and is continuing; and
- (b) the representations and warranties set out in clause 19 of the Lease are true and correct as if each was made with reference to the facts and circumstances existing at the date of this Certificate.

Dated: [•]

For and on behalf of
[Lessee]

Schedule 8
Form of Intended Delivery Notice

To: [•] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB
Attention: Head of Structured Marine Finance

Dated : [•]

Dear Sirs

m.v. “[•]” - Lease Agreement dated [•] 2007 (the “Lease”)

We refer to the Lease. Words and expressions defined in the Lease shall have the same meaning when used in this notice.

The Supervisor hereby advises you that the anticipated date of Delivery is [•] and confirms that the Ship is built in accordance with the Novated Building Contract [subject only to []]*.

The Lessee hereby requests the Lessor to take delivery of the Ship on that date, to make all necessary arrangements to fund the Final Instalment of the Purchase Price and to lease the Ship to the Lessee pursuant to the Lease (subject to any revised or replacement notice which may be served on the Lessor if the anticipated date of Delivery is postponed). The Lessee confirms that:

- (a) no Relevant Event has occurred and is continuing, either now or at the anticipated Delivery Date;
- (b) each of the representations and warranties contained in clause 19 of the Lease is true and correct by reference to the facts and circumstances now existing, and will be true and correct by reference to the facts and circumstances existing on the anticipated Delivery Date**.

Yours faithfully

for and on behalf of
[•], as Lessee

for and on behalf of
[•] as Supervisor

* [any qualifications disclosed to and agreed by the Lessor to be inserted] .

** In the event that any of the representations and warranties on the part of the Lessee or the Supervisor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 9
Form of Notice of Assignment of Builder Warranties

To: [Samsung]

Dated: []

m.v. “[•]”

[•] Limited (the “**Lessor**”), of which the principal mailing address is currently c/o Bank of Scotland Structured Asset Finance Limited, PO Box 39900, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB, the Lessor of the vessel currently under construction with yourselves (the “**Builder**”) having Builder’s Hull No. [•] (the “**Ship**”) **GIVES NOTICE** that by an assignment dated [] 2007 made by the Lessor in favour of [•] (the “**Assignee**”) we have assigned to the Assignee absolutely the full benefit of all guarantees, warranties and indemnities of every kind (the “**Warranties**”) to which we are entitled now or at any later time to, in or in connection with a Building Contract dated [•] (the “**Building Contract**”) made between the Builder and Seaspan Corporation, in respect of the construction and sale of the Ship as novated from Seaspan Corporation to the Lessor by a Novation Agreement dated [] 2007 (the “**Novation Agreement**”) and made between (i) the Builder, (ii) Seaspan Corporation, (iii) the Lessor and (iv) [•] (the Building Contract, as novated and amended by the Novation Agreement, the “**Novated Building Contract**”).

The Assignee is entitled, as from the Delivery Date, to exercise and enforce all rights in respect of the Warranties including without limitation the right to receive damages and other sums in connection with the Novated Building Contract (but subject always to any express provisions in the Novation Agreement) and the Lessor shall, unless the Lessor notifies the Builder in writing to the contrary, have no further responsibility or liability in respect of such matters.

The Lessor instructs the Builder to comply with the instructions contained in this notice until otherwise notified by both the Lessor and Assignee. Until such time the instructions contained herein are irrevocable.

This notice is governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice by delivering a copy endorsed as set out below to the Lessor and the Assignee.

For an on behalf of
[Lessor]

To: [•] Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London EC2M 3YB
Attention: Head of Structured Marine Finance

cc: [Lessee]

m.v. “[•]”

We hereby acknowledge receipt of the notice set out above and hereby confirm:

- 1 our agreement to the assignment referred to therein; and
- 2 that we have not received any other notice of assignment in respect of the same matter.

For and on behalf of
[Samsung]

Dated :

Schedule 10
Standby Loan Transaction Characteristics

Borrower:	a company in the Guarantor Group
Guarantor:	the Guarantor will guarantee the obligations of the Borrower in the same form as the Guarantee (but subject to such amendments to the financial covenants therein as may be determined during the Lessor Standby Lender Review)
Lender:	Bank of Scotland plc
Amount:	an amount equal to the Final Rental under the Lease Agreement
Currency:	US Dollars
Maturity Date:	the loan shall be fully repaid by the seventh (7th) anniversary of the Lease Period End Date
Interest:	US\$[1/3] month LIBOR plus Margin, payable [monthly/quarterly]
Margin:	110 bps
Repayments:	the repayments will be [monthly/quarterly] and calculated so as to amortise to a final principal repayment on the Maturity Date of an amount equal to 30% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)
Security:	in addition to the Guarantee referred to above, the Borrower shall grant to the Lender a mortgage over the Ship, an assignment over the earnings, insurances and requisition compensation, and such other Security as may be required by the Lessor, all in a form satisfactory to it
Documentation:	to be prepared by the Lender's legal counsel, based on the appropriate Loan Market Association form but adapted to reflect the provisions of the Lease Agreement (particularly in the case of representations and warranties, operational covenants, undertakings and indemnities, and events of default)
Costs:	for the account of the Borrower

The following additional provisions shall apply to any Standby Loan Transaction entered into pursuant clause 2.14:

-
- Amount:** an amount equal to the relevant Termination Sum under the Lease Agreement plus, in the case of any termination under clause 2.2.1(a), all further amounts to be advanced under the Standby Loan Agreement during the Construction Period in respect of the Contract Price
- Repayment:** the repayments will be calculated so as to amortise initially to an amount as at the original Lease Period End Date equal to 80% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)

Standby Lender Review: the Standby Lender Review referred to in clause 16 of the Lease Agreement shall continue to apply (mutatis mutandis) and, in the event of an adverse determination by the Lender, the Lender shall be entitled to require a repayment of the standby loan on the original Lease Period End Date

Schedule 11

Specimen Profit and Loss Account for Lessor

(referred to in clause 6.8)

[LESSOR NAME]
PROFIT AND LOSS ACCOUNT
FOR THE [YEAR] [[•] MONTHS] ENDED [date]

	[period]	[period]	
	Note	\$000	\$000
INCOME FROM FINANCE LEASES		[•]	[•]
Administrative expenses		([•])	([•])
OPERATING PROFIT		[•]	[•]
Interest payable and similar charges		([•])	([•])
PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION		[•]	[•]
Tax on profit on ordinary activities		([•])	([•])
PROFIT FOR THE FINANCIAL PERIOD		[•]	[•]

**Specimen Balance Sheet for Lessor
(referred to in clause 6.4)**

**[LESSOR NAME]
BALANCE SHEED AS AT [date]**

	<u>Note</u>	<u>200[•] \$000</u>	<u>200[•] \$000</u>
CURRENT ASSETS			
Debtors amounts falling due:			
within one year		[•]	[•]
after one year		<u>[•]</u>	<u>[•]</u>
Total Debtors		[•]	[•]
CREDITORS: amounts falling due within one year		<u>([•])</u>	<u>([•])</u>
NET CURRENT ASSETS		[•]	[•]
CREDITORS: amounts falling due after more than one year			
PROVISIONS FOR LIABILITIES AND CHARGES		<u>([•])</u>	<u>([•])</u>
NET ASSETS		<u>[•]</u>	<u>[•]</u>
CAPITAL AND RESERVES			
Called up equity share capital		[•]	[•]
Profit and loss account		<u>[•]</u>	<u>[•]</u>
EQUITY SHAREHOLDERS' FUNDS		<u>[•]</u>	<u>[•]</u>

LESSOR

SIGNED by)
)
for and on behalf of) /s/ Keith Roderick Glasscoe
) Keith Roderick Glasscoe
PEONY LEASING LIMITED)
in the presence of:)

Jus Lyall
Norton Rose LLP SE1
Associate

LESSEE

SIGNED by)
)
for and on behalf of) /s/ Hanno Erwes
) Hanno Erwes
SEASPAN FINANCE I CO. LTD.) Attorney-In-Fact
in the presence of:)

Dated December 27, 2007

PEONY LEASING LIMITED (1)
as Lessor

and

SEASPAN FINANCE I CO. LTD. (2)
as Lessee

LEASE AGREEMENT
in respect of one 4520 TEU container carrier
to be built at Samsung Heavy Industries Co.,
Ltd
with Hull No. 1855

 **NORTON ROSE**

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THIS AGREEMENT is made on December 27, 2007,

BETWEEN

- (1) **PEONY LEASING LIMITED**, a company incorporated in England and Wales with company number 4442275 and whose registered office is at PO Box 39900, Level 7, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB (the “**Lessor**”); and
- (2) **SEASPAN FINANCE I CO. LTD.**, a corporation incorporated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the “**Lessee**”).

BACKGROUND

This Agreement sets out the terms and conditions on which the Lessor will acquire and lease to the Lessee, and the Lessee will take on lease, the Ship.

IT IS AGREED as follows:

1 Interpretation

1.1 Definitions

Subject to clause 1.6, in this Agreement:

“**Adjustment Date**” has the meaning given to that term in the Financial Schedule;

“**Adjustment Period**” has the meaning given to that term in the Financial Schedule;

“**Agreed Form**” in relation to any document, means that document in form, substance and terms approved in writing by the Lessor and the Lessee and any other Transaction Company which is a signatory thereto or otherwise in accordance with any such other approval procedure detailed in any relevant provision of this Agreement and any Lease Document;

“**Approved Flag State**” means each of the states described in clause 12.3.1 together with any other state or country approved by the Lessor pursuant to clause 12.5.2;

“**Approved Manager**” means Seaspan Management Services Limited of Clarendon House, 2 Church Street, Hamilton, HM11, Bermuda, or such other company as the Lessor may from time to time approve (such approval not to be unreasonably withheld or delayed, and such approval to be given in the case of any first class ship manager/operator nominated by the Lessee);

“**Arrangement Fee**” has the meaning given to such term in the Financial Schedule;

“**Assumptions**” has the meaning given to such term in the Financial Schedule;

“**Auditors**” means KPMG or such other firm of appropriately qualified accountants as may be the Lessor’s auditors from time to time;

“**Bank**” means Bank of Scotland plc a company incorporated in Scotland with company number SC 327000 and having its registered office at The Mound, Edinburgh, EH1 1YZ;

“ **Broken Funding Benefits** ” has the meaning given to such term in the Financial Schedule;

“ **Broken Funding Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Builder** ” means Samsung Heavy Industries Co., Ltd., a company incorporated in Korea with its principal place of business at 34th Floor, Samsung Life Insurance Seocho Tower 1321-15, Seocho-Dong, Seocho-Gu, Korea;

“ **Building Contract** ” means the contract dated 3 December 2007 for construction of the Ship signed by the Guarantor (as “Buyer”) and the Builder;

“ **Business Day** ” means a day (other than a Saturday or Sunday) on which banks are open for business in London, New York, Hong Kong, Vancouver and (during the Construction Period only) Seoul;

“ **Buyer’s Supplies Reimbursement Amount** ” means the amount payable by the Lessor to the Supervisor pursuant to clause 4.5(a) of the Supervision Agreement;

“ **CAA** ” means the Capital Allowances Act 2001;

“ **Capital Commitment Fee Letter** ” means the letter so called issued or to be issued in respect of the capital commitment fee relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Certificate of Delivery and Acceptance** ” means the certificate in the form of schedule 7 to be executed by the Lessee upon the delivery of the Ship in accordance with clause 3.11;

“ **Certificate of Financial Responsibility** ” has the meaning attributed to it in clause 9.3(d);

“ **Change of Law** ” means, in each case after the date of this Agreement:

- (a) the implementation, introduction, abolition, withdrawal or variation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by the Bank of England, the European Union or any central bank or tax, fiscal, revenue, monetary, governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (b) any change in any interpretation, or the introduction or making of any new or further interpretation, or any new or different interpretation of any applicable law, regulation, practice or concession or official directive, ruling, request, notice, guideline, statement of policy or practice statement by any court, tribunal, governmental, local, international, national or other competent authority or agency or the Bank of England, the European Union or any central bank or tax, fiscal, revenue or monetary authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary); or
- (c) compliance with any new or different request or direction from the Bank of England, the European Union or any central bank, tax, fiscal, regulatory monetary, revenue,

governmental, local, international, national or other competent authority or agency (whether or not having the force of law but in respect of which compliance by banks or other financial institutions or institutions of a similar nature to the Lessor in the relevant jurisdiction is generally customary);

“ **Classification Society** ” means Det Norske Veritas, the American Bureau of Shipping, Germanischer Lloyd or the Lloyds Register of Shipping or, with the prior written approval of the Lessor, any other classification society which is a member of IACS;

“ **Commitment Expiry Date** ” means 28 July 2012 or such later date as the Lessor may agree;

“ **Commercially Burdensome** ” has the meaning given to such term in clause 2.2.2;

“ **Compulsory Acquisition** ” means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Ship by any Government Entity or other competent authority, whether de jure or de facto but shall exclude requisition for use or hire not involving a requisition for title;

“ **Construction Period** ” means the period commencing on the Effective Date and ending on the earlier of (i) the Delivery Date or (ii) the date on which any further novation referred to in clause 2.3 occurs;

“ **Contract Price** ” means eighty two million eight hundred and eleven thousand Dollars (US\$82,811,000) as the same may be adjusted from time to time in accordance with the provisions of the Novated Building Contract;

“ **Contribution Payment** ” means a payment by the Lessee to the Lessor in accordance with clause 3.10 by way of capital contribution to the Lessor’s Total Expenditure of an amount in Dollars equal to the aggregate amount by which the aggregate of Lessor’s Total Expenditure already paid by the Lessor and the amount next due in respect of the Lessor’s Total Expenditure would otherwise exceed the Maximum Commitment on the date on which such next payment in respect of Lessor’s Total Expenditure is to be incurred;

“ **Contribution Payment Request** ” means a notice given by the Lessor to the Lessee under clause 3.10.2 of this Agreement;

“ **Corporation Tax** ” has the meaning given to such term in the Financial Schedule;

“ **Default Rate** ” means the rate of interest determined by the Lessor, and certified by it to the Lessee, to be the aggregate of:

(a) two per cent (2%) per annum; and

(b) LIBOR;

“ **Delivery** ” means the time at which the Lessor delivers the Ship to the Lessee pursuant to clause 3, and “ **Delivered** ” shall be construed accordingly;

“ **Delivery Date** ” means the date on which Delivery occurs (anticipated to be 28 July 2011);

“ **Dollar Equivalent** ” has the meaning given to such term in the Financial Schedule;

“ **Dollars** ” and “ **\$** ” means the lawful currency from time to time of the United States of America and in respect of all payments to be made under this Agreement, means immediately available, freely transferable funds;

“ **Economically Burdensome** ” has the meaning given to such term in the Financial Schedule;

“ **Effective Date** ” means the date on which the conditions specified in clause 3.1.1 and, if payment of an Instalment is being made simultaneously with or immediately after the novation of the Building Contract, clause 3.2 are satisfied and the novation of the Building Contract takes effect in accordance with clause 3 of the Novation Agreement;

“ **Environmental Approval** ” means any permit, licence, certificate, filing, consent, authorisation, or any other approval required at any time by any Environmental Law;

“ **Environmental Claim** ” means any claim by any person which arises out of or in connection with an Environmental Incident or an alleged Environmental Incident or any breach of, or non-compliance with, or which otherwise relates to any Environmental Law or Environmental Approval and, for the purposes of this definition, “ **claim** ” includes any threatened claim which may reasonably be considered as likely to develop into an actual claim;

“ **Environmental Incident** ” means:

- (a) any release, discharge or emission of Environmentally Sensitive Material from the Ship other than any of the foregoing which the Lessee, acting reasonably, considers not to be material in the context of this Agreement and which is not reasonably likely to give rise to an Environmental Claim; or
- (b) any incident in which Environmentally Sensitive Material is released, discharged or emitted from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or is reasonably likely to be arrested, attached, detained or enjoined and/or the Ship and/or the Lessee or any Manager and/or any sub-lessee, time charterer, operator or other manager is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released, discharged or emitted otherwise than from the Ship and in connection with which the Ship is actually and/or is reasonably likely to be arrested and/or where the Lessee or any Manager and/or any operator, time charterer, or other manager of the Ship is at fault or expressly alleged to be at fault or otherwise liable to any legal or administrative action;

“ **Environmental Law** ” means any or all laws applicable or relating to pollution or contamination or protection of the environment, to the generation, manufacture,

processing, distribution, use or misuse, treatment, storage, disposal, carriage or holding of Environmentally Sensitive Material or to actual or threatened emissions, releases, spillages or discharges of Environmentally Sensitive Material;

“ **Environmentally Sensitive Material** ” means liquefied natural gas, oil, oil products and any other element or substance whether natural or artificial and whether consisting of gas, liquid, solid or vapour (including any chemical, gas or other hazardous or noxious substance) which is or is capable of becoming polluting, toxic, hazardous, harmful or damaging to mankind or the environment or any living organism;

“ **Excluded Event** ” means any of:

- (a) a Change of Law or a change in GAAP; or
- (b) any action or inaction effected or required under or pursuant to any provision of this Agreement or the other Transaction Documents; or
- (c) anything requested or consented to by the Lessee or any Guarantor Group Member; or
- (d) any failure by the Lessee or any Guarantor Group Member to supply information reasonably requested by the Lessor or required to be given under the Transaction Documents; or
- (e) any act or omission of any party to the Transaction Documents or their affiliates (other than the Lessor or any Lessor Group Member);

“ **Financial Indebtedness** ” means, in relation to a person (the “debtor”), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility made available to the debtor;
- (d) under a lease or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

but excludes any liability under a fully non-recourse project finance facility;

“ **Financial Schedule** ” means the financial schedule set out in Schedule 1;

“ **Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Further Novation Event** ” means any of the events or circumstances described in clause 17.3;

“ **Further Novation Notice** ” means a notice which the Lessor (as new purchaser) may issue to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement or, as the case may be, a notice which the Builder may issue to the Lessor and the Replacement Purchaser pursuant to clause 6.2 of the Novation Agreement;

“ **General Assignment** ” means the assignment dated on or about the date hereof pursuant to which the Guarantor and the Lessee (as assignors) assign to the Lessor (as assignee) the benefit of (i) the Time Charter and any other earnings of the Ship, (ii) the Insurances, and (iii) any Requisition Compensation;

“ **Government Entity** ” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant;

“ **Guarantee** ” means the guarantee issued or to be issued by the Guarantor in favour of the Lessor in respect of the obligations of, the Lessee, the Manager, the Supervisor and the Replacement Purchaser under the Transaction Documents;

“ **Guarantor** ” means Seaspan Corporation, a company incorporated in the Republic of the Marshall Islands with its principal office at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F4 000, People’s Republic of China;

“ **Guarantor Group** ” means each of the Guarantor and any company which is a Subsidiary of the Guarantor from time to time;

“ **Guarantor Group Member** ” means as at the date hereof and from time to time any member of the Guarantor Group;

“ **HMRC** ” means H.M. Revenue & Customs;

“ **Holding Company** ” in relation (i) to a company incorporated in England and Wales, has the meaning given in Section 736 Companies Act 1985 and (ii) in relation to a company or other person incorporated or formed outside England and Wales means a company or other person of which such company is the Subsidiary;

“ **IACS** ” means the International Association of Classification Societies;

“ **ICTA** ” means the Income and Corporation Taxes Act 1988;

“ **Indemnified Person** ” means the Lessor, the Bank, any other Lessor Group Member and their respective officers, directors, secondees, agents and employees;

“ **Indexation Relief Letter** ” means the letter so called issued or to be issued in respect of indexation relief relating to this Agreement addressed by the Lessor to the Lessee;

“ **Instalment** ” means each instalment of the Purchase Price, being:

- (a) the instalment of the Contract Price payable on the date upon which the Novation Agreement becomes effective, referred to as the “First Instalment” in article II.4(a) of the Novated Building Contract, in an amount of \$17,702,200 (the “ **First Instalment** ”);

-
- (b) the instalment of the Contract Price payable on any date between 19 December 2007 and 31 December 2007, referred to as the “Second Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$56,827,700, together with such additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the date of the Second Instalment (the “**Second Instalment**”); and
 - (c) the instalment of the Contract Price referred to as the “Delivery Instalment” in article II.4(b) of the Novated Building Contract, in an amount of \$8,281,100, together with such other additional amounts representing any increase in the Contract Price pursuant to the provisions of the Building Contract due upon the Delivery Date (the “**Final Instalment**”),

or such other dates (up to the Commitment Expiry Date) or amounts (subject to the Maximum Commitment) to be agreed by the Lessor and the Lessee or, as the case may be, the Lessor and the Supervisor;

“**Instalment Date**” means the date for the payment of each Instalment and the expressions “**First Instalment Date**”, “**Second Instalment Date**”, and “**Final Instalment Date**” shall be construed accordingly (the Instalment Date relating to the date for the payment of the Final Instalment being the Delivery Date);

“**Instalment Request**” means a notice to be sent by the Lessee to the Lessor requesting the payment of an instalment in the form of Schedule 6;

“**Insurances**” means:

- (a) all policies and contracts of insurance, including entries of the Ship in any protection and indemnity or war risks association, which are from time to time in place or taken out or entered into or which are required to be put in place or taken out or entered into in respect of the Ship or otherwise in relation to it pursuant to clause 13; and
- (b) all benefits, rights and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and claims of whatsoever nature,

provided however that this shall not include any policies and contracts of insurance which are or may be effected by the Lessor as referred to in clause 13.21 or by the Lessor pursuant to clause 18.9 following the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event;

“**Intended Delivery Notice**” means a notice addressed by the Lessee and the Supervisor to the Lessor, substantially in the form of Schedule 8;

“**Irrecoverable VAT**” has the meaning given to such term in the Financial Schedule;

“**ISM Code**” means the International Safety Management Code (including the guidelines on its implementation) adopted by the International Maritime Organisation Assembly as Resolutions A. 741(18) and A. 788(19) and incorporated into SOLAS as the same may be

amended or supplemented from time to time and all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or may in the future be issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code;

“ **ISPS Code** ” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation Assembly as the same may have been or may be amended or supplemented from time to time;

“ **Lease Amounts** ” means the amounts payable by the Lessor pursuant to clause 3.7 of this Agreement;

“ **Lease Documents** ” means this Agreement, the Certificate of Delivery and Acceptance, the Novated Building Contract, the Refund Guarantee, the QEL, the Guarantee, the Indexation Relief Letter, the Novation Agreement, the Supervision Agreement, the Tax Consultation Letter, the Non Discrimination Letter, the General Assignment, the Pooling Benefits Letter, the Capital Commitment Fee Letter, the Pre-Tax Loss Letter, the Technical Note Letter and any other document, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of any of the foregoing and to which the Lessor is a party and any other documents, notice, letter or instrument designated as a Lease Document by the Lessor and the Lessee;

“ **Lease Period** ” means the period during which the Lessee is entitled under the terms of this Agreement to possession and use of the Ship commencing on the Delivery Date and ending on the earlier of:

- (a) the Lease Period End Date; and
- (b) the date of termination of the leasing of the Ship under this Agreement;

“ **Lease Period End Date** ” means the date falling four years and three hundred and sixty days after the Delivery Date;

“ **Lease Rental Date** ” has the meaning given to such term in the Financial Schedule;

“ **Lease Termination Date** ” means the date on which the leasing of the Ship by the Lessor to the Lessee terminates under this Agreement, being:

- (a) the Lease Period End Date; or
- (b) where the leasing of the Ship ends following the occurrence of a Total Loss, the Total Loss Payment Date; or
- (c) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) by virtue of the fact that the leasing of the Ship pursuant to this Agreement has become Economically Burdensome, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(a), being a date not less than five (5) Business Days after service of that notice; or
- (d) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) for any reason other than that specified in paragraph (c) above, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(b) being a date no less than thirty (30) days after service of that notice; or

-
- (e) where the leasing of the Ship ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (f) where the leasing of the Ship ends pursuant to clause 18.2, by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
 - (g) where the leasing of the Ship ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee by the Lessor pursuant to clause 24.1;

“ **Lessor** ” includes the successors and permitted assigns and transferees of the Lessor;

“ **Lessor Breach** ” means any breach by the Lessor or any Lessor Group Member and their respective agents, assigns, directors, officers, secondees and servants (each a “ **Lessor Party** ”) of its obligations, warranties or representations to the Lessee under the Transaction Documents to which the relevant Lessor Party is a party, but excluding any breach resulting from any act or omission of:

- (a) the Lessee, any Transaction Company or any person which derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of a Lessor Party;
- (b) a Lessor Party, that arises as a result of the failure of the Lease or any Transaction Company to duly and punctually perform all its obligations under any Transaction Document; or
- (c) a Lessor Party, that arises as a result of a breach of any of the express representations or express warranties of the Lessee or any Transaction Company;

“ **Lessor Group Member** ” means any member of the Lessor’s Group other than the Lessor;

“ **Lessor Misconduct** ” means any act or omission of the Lessor or any Indemnified Person, (excluding any act or omission of the Lessee or any Transaction Company, or any Person who derives its rights through the Lessee or any Transaction Company, acting in any capacity on behalf of the Lessor or any Indemnified Person) which constitutes:

- (a) wilful misconduct;
- (b) reckless misconduct with:
 - (i) the intent to cause damage; or
 - (ii) actual knowledge that damage would probably result;

“ **Lessor Parent Support Letters** ” means the letters issued or, as the context may require, to be issued by the Bank:

- (a) in favour of the Lessee in the form set out in Schedule 3A; and
- (b) in favour of the Builder in the form set out in Schedule 3B,

and, in the singular, means either of them; and

“ **Lessor’s Group** ” means the Lessor and its ultimate Holding Company and any company which is a Subsidiary of such Holding Company from time to time;

“ **Lessor’s Legal Costs** ” has the meaning given to such term in the Financial Schedule;

“ **Lessor’s Management Time** ” means the amount of time which any director or employee of the Lessor or any Lessor Group Member (other than those employees whose functions are of an administrative or clerical nature) spends or anticipates in good faith will be spent in connection with the taking of any actions, the consideration of any requests and/or the entering into of any discussions by the Lessor in accordance with this Agreement and the other Transaction Documents as shall be notified to the Lessee by the Lessor (provided however that this shall not include time spent on routine transactional management or on administrative or clerical matters);

“ **Lessor’s Management Time Cost Rate** ” means £300 per hour plus RPI, or as otherwise notified by the Lessor to the Lessee from time to time, acting reasonably;

“ **Lessor’s Security Interest** ” means any Security Interest on the Ship, its earnings, the Insurances or any Requisition Compensation which arises as a result of:

- (a) any claim against or affecting the Lessor that is not related to, or does not arise directly or indirectly as a result of, the transactions contemplated by this Agreement or any of the other Transaction Documents; or
- (b) any act or omission of the Lessor which is unrelated to or does not arise directly or indirectly as a result of the transactions contemplated by this Agreement and the other Transaction Documents; or
- (c) any Taxes imposed upon the Lessor other than those in respect of which the Lessor or any other Indemnified Person is required to be indemnified against by the Lessee or by any other person under this Agreement or under any of the other Transaction Documents;

“ **Lessor’s Total Expenditure** ” means:

- (a) for the purposes of paragraph (a) of the definition of Maximum Commitment, all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and, in respect of amounts payable in any other currency, means the Dollar Equivalent of such amounts; and
- (b) for the purposes of paragraph (b) of the definition of Maximum Commitment, the aggregate of all amounts paid or payable by the Lessor in respect of the Purchase Price and the Lease Amounts for the Ship and each of the Sister Ships (as such expressions are defined in, as the case may be, this Agreement or the relevant Sister Ship Lease Agreement);

“ **Lessor’s Underwriting Fee** ” has the meaning given to that term in the Financial Schedule;

“ **LIBOR** ” has the meaning given in the Financial Schedule;

“ **Losses** ” means any and all losses, costs, charges, expenses, fees, interest, commissions, payments, demands, claims, actions, proceedings, liabilities, penalties, fines, judgments, damages, orders, liens, salvage and general average or other sanctions other than Taxes, and except also those excluded by clause 7.5, and the expression “Loss” shall be construed accordingly;

“ **Major Casualty** ” means a casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$5,000,000 or the equivalent in another currency;

“ **Manager** ” means the Approved Manager or any Replacement Manager;

“ **Mandatory Prepayment Event** ” means any of the events or circumstances described in clause 17.2;

“ **Maximum Commitment** ” means each of:

- (a) \$85,811,000 in respect of the Lessor’s Total Expenditure on the Ship; and
- (b) \$400,000,000 in aggregate in respect of the Lessor’s Total Expenditure on the Ship and each of the Sister Ships,

in each case exclusive of any United Kingdom Value Added Tax payable under the law in force in the United Kingdom at the date of this Agreement, Provided however that:

- (i) during the period between the date of this Agreement and 31 December 2007, the Maximum Commitment under paragraph (b) above shall be limited to an aggregate of \$226,000,000; and
- (ii) if any Sister Ship Lease Agreement terminates (the “ **Terminated Lease** ”) pursuant to clauses 2.2 or 2.5 thereof prior to the date on which Delivery shall have occurred under this Agreement and all of the other Sister Ship Agreements (as “ **Delivery** ” is defined therein), for the purposes of paragraph (b) of the definition of Lessor’s Total Expenditure there shall be disregarded all amounts paid by the Lessor under the Terminated Lease by way of Purchase Price and Lease Amounts (as defined therein);

“ **Net Sale Proceeds** ” means in relation to a sale of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the amount of the consideration actually and unconditionally received by the Lessor from a purchaser of the Ship upon such sale and any non-refundable deposit paid to or for the account of the Lessor by a person acquiring or proposing to acquire the Ship under a contract or offer to purchase the Ship or other agreement to acquire the Ship which has been withdrawn, terminated or cancelled or has lapsed;

after deducting:

- (i) any VAT for which the Lessor is required to account in respect of such sale; and
- (ii) the Lessor’s costs and out-of-pocket expenses, excluding Recoverable VAT on such expenses, properly incurred in connection with such sale (including but not limited to brokers’ commissions, legal fees, registration fees and stamp duties) or properly incurred in recovering possession of or in moving, insuring, maintaining, laying up or dry-docking the Ship and in carrying out any repairs, works or modifications required to restore the Ship to the condition required by this Agreement or required pursuant to any sale and purchase agreement in respect of the Ship;

“ **Net Total Loss Proceeds** ” means, in relation to a Total Loss of the Ship, the amount in Dollars or (if in a currency other than Dollars) the Dollar Equivalent of the Total Loss Proceeds actually and unconditionally received by the Lessor after deducting the Lessor’s costs and out-of-pocket expenses (excluding Recoverable VAT on such expenses) reasonably incurred by the Lessor in connection with the collection of such proceeds;

“ **Non Discrimination Letter** ” means the letter agreement so called issued or to be issued in relation to this Agreement addressed by the Lessor to the Lessee;

“ **Notice Response Date** ” shall have the meaning attributed thereto in clause 16.2;

“ **Novated Building Contract** ” means the Building Contract as novated and amended by the Novation Agreement;

“ **Novation Agreement** ” means the novation agreement entered or to be entered into in respect of the Building Contract and made between (i) the Builder, (ii) the Lessor, (iii) the Guarantor (as “Original Purchaser”) and (iv) the Lessee (as “Replacement Purchaser”);

“ **Permitted Security Interests** ” means:

- (a) Security Interests created by the Transaction Documents;
- (b) Lessor’s Security Interests;
- (c) liens for unpaid crew’s wages;
- (d) liens for salvage;
- (e) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (f) liens for master’s disbursements incurred in the ordinary course of trading;
- (g) other liens arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship and which secure amounts not exceeding five million Dollars (\$5,000,000) where the Lessee is contesting the claim giving rise to such lien in good faith by appropriate steps and for the payment of which adequate reserves have been made in case the Lessee finally has to pay such claim so long as any such proceedings shall not, and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;
- (h) any Security Interest created in favour of a claimant or defendant in any action of the court or tribunal before whom such action is brought as security for costs and expenses where the Lessee is prosecuting or defending such action in good faith by appropriate steps or which are subject to a pending appeal and for which there shall have been granted a stay of execution pending such appeal and for the payment of which adequate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of, the Ship or any interest in the Ship; and

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- (i) Security Interests arising by operation of law in respect of Taxes which are not overdue for payment or Taxes which are overdue for payment but which are being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;

“ **Pooling Benefits Letter** ” means the letter so called issued or to be issued in respect of any pooling benefits relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“ **Pre-Delivery Termination Date** ” means the date on which the Lessor’s obligation to acquire the Ship pursuant to the Novated Building Contract and lease the Ship to the Lessee terminates, being:

- (a) where the obligation of the Lessor to acquire the Ship and lease the Ship to the Lessee ends by virtue of the fact that the transaction has become Economically Burdensome or the Lessee has determined that the transaction has become Commercially Burdensome, the date specified in the notice served on the Lessor by the Lessee pursuant to clause 2.2.1;
- (b) if the Ship becomes a Total Loss, the earlier of the date on which the Supervisor (acting on behalf of the Lessor and in accordance with the Supervision Agreement) agrees with the Builder that the damage shall not be repaired and that the Novated Building Contract shall be deemed to be rescinded and all amounts paid by the Lessor thereunder (together with interest thereon) be refunded by the Builder or, where no agreement is reached by the Builder and the Supervisor, the date falling six (6) months after the occurrence of the Total Loss;
- (c) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice;
- (d) where a Further Novation Event occurs, the date stipulated in the notice served on the Replacement Purchaser by the Lessor pursuant to clause 18.3.1; and
- (e) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee pursuant to clause 24.1;

“ **Pre-Tax Loss Letter** ” means the letter so called issued or to be issued in respect of any pre-tax loss relating to this Agreement addressed by the Lessor to the Lessee;

“ **Purchase Price** ” means the price for the Ship payable by the Lessor under the Novation Agreement and the Novated Building Contract, which price shall be reduced by any amounts payable by the Builder to the Lessor under article III.2 (*Adjustment of Contract Price - Speed*), article III.3 (*Adjustment of Contract Price - Fuel Consumption*), article III.4 (*Adjustment of Contract Price - Deadweight*), article III.5 (*Adjustment of Contract Price - Container Capacity*) of the Novated Building Contract, but shall not be reduced by any amounts payable by the Builder to the Lessor under article III.1 (*Adjustment of Contract Price - Delivery*) of the Novated Building Contract;

“ **QEL** ” means the quiet enjoyment letter in respect of the Ship between the Lessor and the Time Charterer;

“ **Recoverable VAT** ” means any amounts paid or payable by or on behalf of the Lessor in respect of Value Added Tax which is not Irrecoverable VAT;

“ **Refund Guarantee** ” means the refund guarantee issued or, as the context may require, to be issued by the Refund Guarantor in favour of the Lessor pursuant to the Novation Agreement;

“ **Refund Guarantor** ” means Woori Bank, with its principal place of business at 1328-3 Seochodong Seochogu, Seoul 13-070, Korea;

“ **Relevant Event** ” means any Termination Event, Mandatory Prepayment Event or Further Novation Event, or any event which only with the passage of time, the giving of any notice or the fulfilment of any other condition (or a combination thereof) would constitute a Termination Event, Mandatory Prepayment Event or Further Novation Event;

“ **Rental** ” has the meaning given to such term in the Financial Schedule;

“ **Replacement Manager** ” means any company which the Lessor may approve from time to time as the manager of the Ship pursuant to clause 10.11;

“ **Requisition Compensation** ” means all sums of money or other compensation from time to time payable in respect of the Compulsory Acquisition of the Ship;

“ **Review Notification Date** ” means the date falling four (4) months after the commencement of the Standby Lender Review Period;

“ **Revised Cash Flow** ” has the meaning given to that term in the Financial Schedule;

“ **Saving on Funding Costs** ” has the meaning given to that term in the Financial Schedule;

“ **Security Interest** ” means:

- (a) a mortgage, charge (whether fixed or floating) or pledge, any maritime or other lien or any other security interest of any kind;
- (b) the rights of the claimant under an action in rem in which the ship concerned has been arrested or a writ has been issued or similar step taken; and
- (c) any arrangement entered into by a person (A) the effect of which is to place another person (B) in a position which is similar, in economic terms, to the position in which person (B) would have been had person (B) held a security interest over an asset of person (A), but this paragraph (c) does not apply to a right of set-off or combination of accounts arising by operation of law or conferred by the standard terms of business of a bank or financial institution and which has not been exercised;

“ **Ship** ” means the vessel currently under construction with the Builder pursuant to the Novated Building Contract and having Builder’s Hull Number 1855 to be sold by the

Builder to the Lessor pursuant to the Novated Building Contract and to be registered in the name of the Lessor as and from the Delivery Date and includes any share or interest therein, as the same is more particularly described in Schedule 2 and includes its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, and everything belonging or appurtenant to it whether on board or ashore (including, for the avoidance of doubt, any depot spares and other spare parts and other such items purchased by the Lessor under the Novated Building Contract) together with any and all substitutions, replacements and renewals of any of them and any and all substitutions therefor and replacements and renewals thereof and any additions thereto from time to time made in accordance with the provisions of this Agreement and any of the foregoing which, having been removed from it, remain the property of the Lessor pursuant to this Agreement and any additions thereto which have not been removed and have become the Lessor's property in accordance with clause 11.4;

“**Ship's Software**” means all computer software which is required for the operation of the Ship, including, but not limited to, navigation software;

“**Sister Ship**” and “**Sister Ships**” mean any or all (as the case requires) of the vessels currently under construction with the Builder identified as Hull numbers 1851, 1852, 1853, and 1854;

“**Sister Ship Lease Agreements**” means the lease agreements entered into on, or at any time after, the date of this Agreement in respect of each of the Sister Ships between the Lessor and the Lessee;

“**Sister Ship Time Charters**” means the time charters defined in each of the Sister Ship Lease Agreements as the “Time Charter”;

“**Sister Ship Transaction Documents**” means the documents defined as “**Transaction Documents**” in each of the Sister Ship Lease Agreements;

“**SOLAS**” means International Convention for the Safety of Life at Sea, 1974, with Protocol 1978 and Amendments of 1981, 1983, 1988, 1991, 1992, 1994, 1996, 1998, 2000, 2002, 2003 and 2004 as the same may be further amended or supplemented, consolidated or replaced from time to time;

“**Standby Lender**” means the Bank or such other company in the Lessor's Group as shall be nominated by the Lessor for such purpose;

“**Standby Lender Review**” means the review which the Standby Lender is entitled to undertake pursuant to clause 16.1;

“**Standby Lender Review Period**” means the period commencing on the date falling six (6) months prior to the Lease Period End Date applicable to whichever of the Ship and the Sister Ships is the first vessel to be Delivered (as defined in this Agreement or, as the case may be, the relevant Sister Ship Agreement), and expiring on the Review Notification Date;

“**Standby Loan Transaction**” means a transaction with the characteristics described in Schedule 10;

“**Subsidiary**” means:

- (a) in respect of a person incorporated or formed outside England and Wales, any company or entity directly or indirectly controlled by such person, and for this purpose “control” means either the ownership of more than fifty (50) per cent. of the voting share capital (or equivalent rights of ownership) of such company or entity or the power to direct its policies and management whether by contract or otherwise; and

(b) in respect of a person incorporated in England and Wales, a subsidiary within the meaning of Section 736 Companies Act 1985;

“ **Supervision Agreement** ” means the supervision agreement entered or to be entered into in respect of the construction of the Ship and made between (i) the Supervisor and (ii) the Lessor;

“ **Supervision Costs** ” means the amount payable by the Lessor to the Supervisor under clause 4.5(b) of the Supervision Agreement;

“ **Supervisor** ” means the Approved Manager, in its capacity as the “Supervisor” pursuant to the Supervision Agreement;

“ **Tax** ” includes all present and future taxes, levies (whether by deduction, withholding or otherwise), imposts, duties, or charges of a similar nature (or any amount payable on account of or as security for any of the foregoing), including, but not limited to, income tax, corporation tax, VAT, stamp duty, customs and other impost or export duty or excise duty, imposed by any statutory, governmental, national, international, state or local taxing or fiscal authority, body or agency or department whatsoever or any central bank, monetary agency or European Union institution, whether in the United Kingdom or elsewhere together with interest thereon and any additions, fines, surcharges, penalties in respect thereof or relating thereto and “ **Taxes** ” and “ **Taxation** ” shall be construed accordingly;

“ **Tax Consultation Letter** ” means the letter issued or to be issued in relation to this Agreement regulating the conduct of matters between the Lessor and HMRC or any other tax authority in respect of the transactions represented by the Transaction Documents addressed by the Lessor to the Lessee;

“ **Tax Written Down Value** ” has the meaning given to such term in the Financial Schedule;

“ **Technical Note Letter** ” means the letter agreement of that name issued or to be issued in relation to this Agreement addressed from the Lessor to the Lessee;

“ **Termination Amount** ” means the aggregate of the Termination Sum and the Termination Fee (if any);

“ **Termination Date** ” means, as the context may require, the Pre-Delivery Termination Date or the Lease Termination Date;

“ **Termination Event** ” means any of the events or circumstances described in clause 17.1;

“ **Termination Fee** ” has the meaning given in the Financial Schedule;

“ **Termination Payment Date** ” means:

(a) in the case of a voluntary termination pursuant to clause 2.2, the Pre-Delivery Termination Date;

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- (b) in the case of a voluntary termination pursuant to clause 2.5, the Lease Termination Date;
 - (c) in the case of any termination of the Lessor's obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.1, the Pre-Delivery Termination Date;
 - (d) in the case of any termination of the leasing of the Ship pursuant to clause 18.1, the Lease Termination Date;
 - (e) in the case of any termination of the Lessor's obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.2, the Pre-Delivery Termination Date;
 - (f) in the case of any termination of the leasing of the Ship pursuant to clause 18.2, the Lease Termination Date; and
 - (g) in the case of the occurrence of a Further Novation Event, the Pre-Delivery Termination Date; and
 - (h) in the case of a Total Loss, the Total Loss Payment Date;

“ **Termination Sum** ” has the meaning given to such term in the Financial Schedule;

“ **Time Charter** ” means the time charter agreement in respect of the Ship dated on or about the date hereof and entered into between the Guarantor and the Time Charterer;

“ **Time Charterer** ” means Kawasaki Kisen Kaisha, Ltd., a company incorporated in Japan;

“ **Total Loss** ” means:

- (a) an actual, constructive, compromised or arranged total loss of the Ship; or
- (b) any Compulsory Acquisition of the Ship; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to the Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Ship be released and restored to the Lessee or the Lessor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof; or
- (d) the expiry of one (1) year (or such longer period as the Lessor and the Lessee may agree) after the Ship shall have been requisitioned for hire or use by a Government Entity or other competent authority, whether de jure or de facto;

“ **Total Loss Date** ” means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;

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- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earlier of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Lessor with all of the relevant insurers of the Ship at the relevant time in which the said insurers agree to treat the Ship as a total loss; and
 - (c) in the case of a Compulsory Acquisition the date on which the requisition for title or other Compulsory Acquisition occurs; and
 - (d) in the case of hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, the date upon which the relevant hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation constitutes a Total Loss (as stipulated by paragraphs (c) and (d) of the definition of “Total Loss”);

“ **Total Loss Payment Date** ” means, following the occurrence of a Total Loss, the earliest of the following dates to occur:

- (a) the date falling 120 days after the Total Loss Date or such later date as the Lessor may agree; or
- (b) the date on which the Lessor receives the Total Loss Proceeds or any Requisition Compensation;

“ **Total Loss Proceeds** ” means the proceeds of any policy or contract of insurance arising in respect of a Total Loss actually and unconditionally received by the Lessor following a Total Loss of the Ship;

“ **Total Vessel Cost** ” has the meaning given to such term in the Financial Schedule;

“ **Transaction Companies** ” means the Lessee, the Guarantor, the Supervisor (but only for so long as it owes any obligations to the Lessor under the Supervision Agreement), and the Replacement Purchaser (but only for so long as it owes any obligations to the Lessor under the Novation Agreement) and, in the singular, means any one of them;

“ **Transaction Documents** ” means the Lease Documents, the Time Charter, the Lessor Parent Support Letters and any other document, agreement, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of, as a pre-condition of, or otherwise in connection with any of the foregoing and any other document, agreement, acknowledgement, notice, letter or instrument designated as a Transaction Document by the Lessor and the Lessee;

“ **United Kingdom** ” or “ **UK** ” means United Kingdom of Great Britain and Northern Ireland;

“ **US Transportation Tax** ” means the 4% Tax imposed by the US on a foreign corporation’s US source gross transportation income for any tax year or any similar or equivalent Tax replacing or introduced in addition to the same;

“ **Value Added Tax** ” or “ **VAT** ” means:

- (a) value added tax of the United Kingdom as provided for in the VATA including legislation (delegated or otherwise) supplementary thereto, and any similar or substituted tax, or any tax imposed, levied or assessed in the United Kingdom on added value or turnover; and
- (b) any similar tax imposed, levied or assessed in any jurisdiction outside the United Kingdom; and

“ **VATA** ” means the Value Added Tax Act 1994;

1.2 Construction of certain terms

In this Agreement:

“ **consent** ” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisatio n and legalisation;

“ **excess risks** ” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies or the ordinary collision clause in respect of the Ship in consequence of her insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“ **law** ” includes any form of delegated legislation, any order or decree, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

“ **person** ” includes any company or unincorporated legal entity, any state, political sub-division of a state and local or municipal authority and any international organisation and reference to any person shall include its successors, permitted assignees and permitted transferees in accordance with their respective interests;

“ **policy** ” in relation to any insurance includes a slip, cover note, certificate of entry or other documents evidencing the contract of insurance or its terms;

“ **protection and indemnity risks** ” means the usual risks covered by a full owner’s entry in a protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies;

“ **regulation** ” includes, without limitation, any regulation, rule, official directive, request or guideline (either having the force of law or compliance with which is customary in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and

“ **war risks** ” includes the risk of mines, all risks covered by the English Institute War and Strikes Clauses or any equivalent provision and all insurable risks excluded under the war and terrorism risks exclusion clauses or equivalent under the rules of the protection and indemnity club or association with whom the protection and indemnity risks cover is placed from time to time.

1.3 Meaning of “month”

A period of one or more “ **months** ” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (the “ **numerically corresponding day** ”), but:

- 1.3.1 on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
 - 1.3.2 on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day;
- and “ **month** ” and “ **monthly** ” shall be construed accordingly.

1.4 General interpretation

In this Agreement:

- 1.4.1 references in clause 1.1 to a document being in the form of a particular Schedule include references to that form with any modifications to that form which the Lessor and the Lessee agree in writing;
- 1.4.2 references to, or to a provision of, a Transaction Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise with the consent of the Lessor;
- 1.4.3 references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- 1.4.4 words denoting the singular number shall include the plural and vice versa;
- 1.4.5 references to clauses and Schedules are, unless otherwise stated, references to clauses of and schedules to this Agreement;
- 1.4.6 clauses 1.1 to 1.4 apply unless the contrary intention appears; and
- 1.4.7 in relation to an entity which is not a corporation, reference to “incorporated” and cognate expressions shall be deemed to be references to its formation and establishment under applicable law.

1.5 Headings

The clause headings shall not affect the interpretation of this Agreement.

1.6 Conflicts

If any conflict arises or exists between the provisions of this Agreement and any of the other Lease Documents, the provisions of this Agreement shall prevail.

2 Lease

2.1 Lease Period

Subject to and upon the terms and conditions of this Agreement, the Lessor agrees to lease to the Lessee, and the Lessee agrees to lease from the Lessor, and will be entitled to the full possession and use of, the Ship for a period commencing on the Delivery Date and ending on the Lease Period End Date.

2.2 Voluntary termination prior to Delivery

2.2.1 If at any time prior to Delivery:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome; or
- (b) the Lessee has determined that the transaction contemplated by the Transaction Documents has become Commercially Burdensome (as evidenced by a certificate issued by a director or officer of the Lessee),

the Lessee shall be entitled to terminate the agreement by the Lessor to acquire the Ship pursuant to the Novated Building Contract and to lease the Ship to the Lessee pursuant to this Agreement and the agreement by the Lessee to lease the Ship from the Lessor, by giving written notice to the Lessor in accordance with the provisions set out in clauses 2.2.3 and 2.2.4 below.

2.2.2 The transaction contemplated by the Transaction Documents shall be regarded as being “ **Commercially Burdensome** ” when the Lessee determines that it is no longer compatible with the commercial strategy of the Lessee and as a consequence the Lessee has good commercial reasons for wishing to terminate the transaction, provided however that the Lessee shall not be deemed to have a good commercial reason for terminating the transaction if primarily motivated by, or the termination is for the purposes of, the Lessee entering into any alternative financing arrangement with respect to the Ship with any other financier.

2.2.3 Any notice given by the Lessee pursuant to this clause 2.2 shall be irrevocable and shall state whether it is given pursuant to clause 2.2.1(a) or clause 2.2.1(b) and, in the case of a notice given pursuant to clause 2.2.1(b) above, shall attach a certificate from a director or officer of the Lessee certifying that the transaction contemplated by the Transaction Documents is Commercially Burdensome, which shall be conclusive as to the opinion of the Lessee.

2.2.4 The Lessee shall give at least:

- (a) five (5) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(a); and

- (b) thirty (30) Business Days notice of the proposed Pre-Delivery Termination Date in the case of any termination pursuant to clause 2.2.1(b);

2.2.5 If a Mandatory Prepayment Event shall occur prior to Delivery or a Further Novation Event shall occur in each case which is continuing, the Lessor may exercise its rights under clause 18.2 or, as the case may be, clause 18.3 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.2, whereupon the provisions of clause 2.2.6 and 2.3 shall apply.

2.2.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount equal to the Termination Amount as at that date as determined in accordance with clause 18.4, together with all other moneys then due and payable but unpaid by the Lessee to the Lessor under the Lease Documents.

2.3 Further novation on voluntary termination before Delivery

If (a) the Lessee gives notice pursuant to clause 2.2 or (b) the Lessee is deemed to have given notice pursuant to clause 2.2 in accordance with the provisions of clause 18.3 to terminate the agreement to lease the Ship under this Agreement during the Construction Period or (c) the Lessor gives notice pursuant to clause 18.1 to terminate the agreement to lease the Ship during the Construction Period (and (in the case of clause 2.3(a)) the Lessor has received payment of all amounts owing to the Lessor by the Lessee under clause 18.4 in cleared funds in accordance with the payment instructions therefor and without conditions attached) the Lessor shall promptly give a Further Novation Notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

2.4 Continuation of Construction Period

Notwithstanding anything to the contrary contained in this Agreement, if the Lessee gives notice or is deemed to have given notice to terminate the agreement to lease the Ship under this Agreement during the Construction Period pursuant to clause 2.2, the Construction Period will continue until and end on the date on which the further novation referred to in clause 2.3 occurs.

2.5 Voluntary termination after Delivery

2.5.1 At any time after Delivery the Lessee is entitled to terminate the leasing of the Ship by the Lessor to the Lessee under this Agreement by giving written notice to the Lessor.

2.5.2 If:

- (a) the transaction contemplated by the Transaction Documents has become Economically Burdensome, the Lessee shall give at least five (5) Business Days notice of the proposed Lease Termination Date; and
- (b) in all other circumstances, the Lessee shall give at least thirty (30) days notice of the proposed Lease Termination Date.

2.5.3 Any notice given by the Lessee pursuant to clause 2.5.1 and 2.5.2 shall, subject to clause 2.5.7:

- (a) be irrevocable;

(b) state whether it is given pursuant to clause 2.5.2(a) or 2.5.2(b); and

(c) be given in respect of an imminently proposed sale.

2.5.4 If a Mandatory Prepayment Event shall occur which is continuing, the Lessor may exercise its rights under clause 18.2 to treat the occurrence of such event as constituting a voluntary termination by the Lessee in accordance with this clause 2.5, whereupon the provisions of clause 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.5 If the Lessor issues a notice to the Lessee pursuant to clause 24 to terminate the Lease Period, such termination shall be treated as constituting a voluntary termination in accordance with this clause 2.5 whereupon the provisions of clauses 2.5.6 and 2.5.8 and clause 2.6 shall apply.

2.5.6 On the applicable Termination Payment Date, the Lessee shall pay to the Lessor an amount as determined in accordance with the provisions of clause 18.4.

2.5.7 Notwithstanding the service by the Lessee of a notice terminating the leasing of the Ship in accordance with clauses 2.5.1 and 2.5.2, if, after the service of such notice, the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee in each case as at the proposed Lease Termination Date, the leasing of the Ship shall continue as if such notice had not been issued.

2.5.8 If the Lessee is treated as having given a notice terminating the leasing of the Ship pursuant to clause 2.5.4 or 2.5.5 and the Lessee fails to pay to the Lessor the applicable Termination Amount payable by the Lessee pursuant to, and determined in accordance with, clause 18.4 and all other amounts then due to the Lessor which are payable by the Lessee as at the applicable Lease Termination Date, the leasing of the Ship shall nevertheless terminate on the Lease Termination Date.

2.6 Continuation of Lease Period

Notwithstanding anything to the contrary in this Agreement, from the Lease Termination Date until the earlier of (i) the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 and (ii) the date on which the Ship is redelivered to the Lessor pursuant to clause 15 the Lessee shall continue in possession of the Ship as the Lessor's agent under a bailment terminable by the Lessor at will with no right of quiet enjoyment as between the Lessor and the Lessee (but otherwise without prejudice to its rights under clause 2.8 and to receive rebates of Rental under this Agreement); and as a term of its appointment as the Lessor's agent it shall continue to perform all its obligations under this Agreement as if the Lease Period were still continuing.

2.7 Terms and Conditions of sale

Any sale of the Ship pursuant to clause 2.8 (but not, for the avoidance of doubt, pursuant to clause 2.9) will be on the following terms and conditions and shall otherwise be completed in accordance with the provisions set out below:

2.7.1 the sale will be at a cash price payable by the purchaser to the Lessor in full on completion of that sale in Dollars or such other currency as the Lessor may agree (such agreement not to be unreasonably withheld or delayed);

2.7.2 the sale will be on the best terms (including price) which, in the opinion of a reputable firm of independent ship valuers and surveyors experienced in the container carrier sector, are reasonably obtainable on the open market on an “as is, where is” basis taking into account where continuing, the Time Charter and any charter of the Ship at that time which shall have been notified to the Lessor and approved by the Lessor pursuant to clause 10.17 and which is intended to continue (and is capable of continuing) after the date of sale and the termination of the bailment to the Lessee under this Agreement;

2.7.3 the sale may be to any person other than:

- (a) the Time Charterer, the Lessee or any other person to whom the Ship has at any time been leased or sub-leased; or
- (b) any person who is purchasing in trust for any of the parties referred to in (a); or
- (c) any other person to whom, by virtue of a Change of Law occurring after the date of this Agreement, a sale is certified by the Lessor (the “**Lessor’s Certificate**”) as being reasonably likely to result in the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship provided however that if the Lessee does not agree with the Lessor’s Certificate it shall be entitled to require the Lessor to obtain promptly a written opinion from leading tax counsel (“**Counsel**”) (in accordance with the provisions of clause 2.7.3(g)) stating whether or not the Lessor’s Certificate is correct;
- (d) if Counsel is of the opinion that the Lessor’s Certificate is incorrect, then the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, without the provision of any further security to the Lessor;
- (e) if Counsel is of the opinion that the Lessor’s Certificate is correct, the Lessee shall be entitled to sell the Ship to any person other than such persons as are specified in (a) and (b) above, conditional upon the Lessee having first provided to the Lessor additional security of such appropriate amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any cost or expense on the End Date (as defined in the Financial Schedule);
- (f) if the Lessee notifies the Lessor in writing that it does not require the Lessor to obtain an opinion from Counsel, it shall be entitled to sell the Ship to any person other than such persons as are specified in (a) or (b) above, provided that it shall have first provided to the Lessor additional security of such amount and on such terms as the Lessor shall determine (acting in good faith) to be necessary to secure it (on an after-tax basis) against any additional cost or expense (including Tax) arising as a result of the Lessor losing with retrospective effect its right to claim

capital allowances on or by reference to expenditure previously incurred on the provision of the Ship, such security to be released to the Lessee to the extent not required to meet any such cost or expense on the End Date (as defined in the Financial Schedule);

- (g) the Lessee shall be entitled to require the Lessor to obtain the opinion of Counsel chosen for the foregoing purpose by agreement between the Lessor and the Lessee (or in the absence of agreement by the Chairman of the Bar Council whom the Lessor and the Lessee shall instruct for that purpose). A consultation with Counsel shall be arranged expeditiously after the Lessor receives notification from the Lessee that it requires Counsel's opinion on the Lessor's Certificate. Counsel shall be instructed on the basis of instructions prepared by the Lessor's legal advisers in consultation with the Lessee and its legal advisers (with the intent that the Lessee and its legal advisers shall have a reasonable opportunity to consider and contribute to such instructions). The Lessee and its legal advisers shall be entitled to attend any consultation with Counsel save that the Lessee and its professional advisers shall withdraw from such consultation at the request of the Lessor for so long as, in the reasonable opinion of the Lessor, matters which are confidential or of a sensitive nature having regard to the business of the Lessor, or which relate to the confidential affairs of a third party, are to be discussed during such consultation. The cost of Counsel's opinion shall be for the account of the Lessee save where Counsel is of the opinion that the Lessor's Certificate is incorrect, in which case it shall be for the account of the Lessor;

- 2.7.4 the terms of the sale will include a warranty on the part of the Lessor that the Lessor will pass such title to the Ship as the Lessor has acquired pursuant to the Novated Building Contract free of Lessor's Security Interests, but otherwise shall be without any representation, recourse or warranty whatsoever to or on the part of the Lessor;
- 2.7.5 the Lessee, for its own account, may give any warranties reasonably required by the purchaser of the Ship in accordance with market practice for the sale of vessels of a similar type, design and age as the Ship;
- 2.7.6 the terms of the sale will include, subject to the consent of the Builder pursuant to the Novated Building Contract, an assignment by the Lessee of any unexpired portion of any assignable warranties and indemnities referred to in clause 6.5;
- 2.7.7 the sale will be on an "as is, where is and with all faults" basis and governed by the laws of England;
- 2.7.8 if the proposed sale provides for delivery of the Ship by the Lessor, such obligation is conditional on the Ship first being redelivered to the Lessor;
- 2.7.9 the sale will be for delivery on, or if for any reason a sale is not possible on that date as soon as reasonably practicable after, the termination date specified in the notice served by the Lessee pursuant to clause 2.5;
- 2.7.10 the sale will exclude, so far as permitted by the laws of England and any other laws governing or applicable to the sale of the Ship, all liability of the Lessor, in contract or tort, in relation to the Ship to the same extent as such liabilities are excluded by clause 6 except for the warranty given by the Lessor referred to in clause 2.7.4; and

2.7.11 if the Ship is at the date of entry into any contract for the sale of the Ship subject to any requisition for hire or (where continuing) the Time Charter or any other chartering of the Ship which shall have been notified to, and approved by the Lessor pursuant to clause 10.17 and which is continuing as at such date notwithstanding the termination of the bailment to the Lessee the sale will be subject to such requisition or any such other chartering of the Ship.

2.8 Sales agency

2.8.1 In respect of any sale of the Ship to be conducted:

- (a) following a termination of the leasing of the Ship pursuant to clause 2.5.2(a) or 2.5.2(b) (Voluntary Termination after Delivery) or any deemed voluntary termination of the leasing of the Ship pursuant to clause 24.3; or
- (b) on the Lease Period End Date; or
- (c) following any termination of the Lease Period pursuant to clause 18.1 (Termination Rights); or
- (d) following any termination of the Lease Period pursuant to clause 18.2 (Mandatory Prepayment);

the Lessor irrevocably appoints the Lessee to act as the agent of the Lessor for the purpose of negotiating the sale of the Ship on the terms set out in clause 2.7 subject to and upon the limitations set out in clauses 2.8.4 to 2.8.8 and the Lessor agrees that, until termination of such agency pursuant to clause 2.8.3 or 2.8.4, the Lessee shall continue to be empowered to negotiate a sale of the Ship, which shall then be concluded in the manner described in clauses 2.8.6 and 2.8.7.

2.8.2 The appointment of the Lessee as the sales agent of the Lessor shall commence on:

- (a) the date on which the Lessee notifies the Lessor that it wishes to terminate the leasing of the Ship in accordance with clause 2.2 or 2.5.2; and
- (b) on the date on which the Lessee is deemed to have exercised its rights of voluntary termination in accordance with clauses 2.5.4 or 2.5.5 following the issue by the Lessor of a notice pursuant to any of clauses 18.2 or 24; and
- (c) in the case of a termination of the leasing by the Lessor pursuant to clause 18.1, on the date on which the Lessor serves notice on the Lessee pursuant to clause 18.1; and
- (d) in any other circumstance, on the fourth anniversary of the Delivery Date,

and shall terminate on the earlier of (i) the date on which the Net Sale Proceeds are actually and unconditionally received and applied in accordance with clause 2.10 or (ii) the date on which the Lessor terminates the appointment of the Lessee pursuant to clause 2.8.3 below or (iii) in any event, and without any action being required by the Lessor, the fifth anniversary of the Delivery Date.

2.8.3 The Lessor shall be entitled to terminate the sales agency under clause 2.8.1 or, as the case may be, clause 2.8.2 by means of written notification to the Lessee:

- (a) at any time after notice is given under clause 18.1 or clause 18.2 and in each such case where the Lessee shall have failed to pay to the Lessor the Termination Amount and any other sums then due to the Lessor which are payable by the Lessee pursuant to clause 18.4 and such failure continues unremedied for a period of five (5) Business Days, unless the notice pursuant to 18.1 is given in respect of the occurrence of any of the events referred to in clauses 17.1.9 or 17.1.11 in relation to any of the Lessee or the Guarantor in which case the Lessor shall be entitled to terminate the sales agency with immediate effect; and

- (b) subject to paragraph (c) below, the date falling six (6) months after the applicable Lease Termination Date, if no sale of the Ship has been completed by that time; and
- (c) the date falling one day before the fifth anniversary of the Delivery Date, if no sale of the Ship has been completed by that time;

whereupon in the case where the Lessee's sales agency rights have been terminated in accordance with the provisions of this clause 2.8.3, the Lessor shall be entitled to repossess the Ship in accordance with clause 18.5 and the provisions of clause 2.9 shall apply.

- 2.8.4 The appointment of the Lessee as the Lessor's sales agent shall be on the basis that the Lessee is the Lessor's sole and exclusive agent from the date on which it is appointed until 45 days prior to the fifth anniversary of the Delivery Date at which point the Lessee shall continue as agent on a non-exclusive basis and the provisions of clause 2.8.10 shall apply.
- 2.8.5 The appointment of the Lessee as sales agent will constitute a full discharge by the Lessor of its obligations under clause 18.6 to use reasonable endeavours to sell the Ship for the period while such appointment is continuing.
- 2.8.6 The Lessee's authority is limited to the extent that the Lessee is not authorised to sell the Ship or to approve or execute on behalf of the Lessor any document relating to the sale of the Ship for which the Lessor's specific written authority will be required, which authority will not be unreasonably withheld or delayed where:
 - (a) the sale complies with the provisions of clause 2.7; and
 - (b) the sale price of the Ship exceeds the Tax Written Down Value.
- 2.8.7 Subject to clause 2.8.6 the Lessor agrees that, at the cost and expense of the Lessee, on reasonable notice it will complete the sale of the Ship and it shall execute any agreement, protocol of delivery and acceptance and/or bill of sale for, and any other documentation reasonably requested by the Lessee in respect of, the sale of the Ship which complies with the provisions of clause 2.7.
- 2.8.8 The Lessee will supply the Lessor with details of any offer received and keep the Lessor fully informed of the status of any negotiations for the sale of the Ship.
- 2.8.9 The Lessee is entitled to delegate its rights and duties under this clause 2.8 to any Guarantor Group Member without the approval of the Lessor or to such other person as the Lessor may approve, such approval not to be unreasonably withheld or delayed in relation to a first-class independent shipbroker and, in each case, on the basis that no further delegation shall be permitted without the Lessor's prior written approval.

2.8.10 In the event that by the date falling 45 days prior to the fifth anniversary of the Delivery Date (the “**Non-Exclusive Date**”), no arrangements have been concluded for the sale of the Ship on or before the Lease Period End Date and, in the opinion of the Lessor, no such arrangements are likely to be concluded, and subject to the sales agency not having terminated earlier under clause 2.8.3 prior to the Non-Exclusive Date, the Lessee will, if so required by the Lessor or the Lessee may, on notice to the Lessor, arrange a public auction of the Ship as soon as reasonably practicable after the Non-Exclusive Date and in any event by no later than the fifth anniversary of the Delivery Date (the “**Auction Sale Date**”). For the avoidance of doubt, notwithstanding that the Lessee is arranging an auction in accordance with this clause 2.8.10 the Lessee may nevertheless continue as the Lessor’s sales representative to endeavour to arrange for a private treaty sale of the Ship provided the same is completed by the Auction Sale Date and complies with the terms of clauses 2.7 and 2.8. The Lessor and the Lessee or any nominees or designee of either of them may bid at such auction and any sale resulting therefrom shall constitute a sale of the Ship if it otherwise complies with the other provisions of this Agreement

2.9 Sale of the Ship following any termination of the Lessee’s sales agency rights

If the Lessee’s right to act as sales agent is terminated pursuant to clause 2.8.2 or 2.8.3, the Lessor (as between the Lessor and the Lessee) shall have the sole right to determine the means, timing and the terms of the sale of the Ship (including by public auction) and clause 2.7 shall not apply to any such sale.

2.10 Application of Net Sale Proceeds

Upon the Ship being delivered to and accepted by a purchaser of the Ship, the leasing of the Ship under this Agreement shall terminate and the Net Sale Proceeds shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to 0.01% of the Net Sale Proceeds;

SECOND: in or towards payment to the Lessor of amounts equal to all or any part of the Termination Amount which, as at the date of the receipt by the Lessor of the Net Sale Proceeds, has not been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

2.11 Shortfalls

If the Net Sale Proceeds fall short of the aggregate of the amounts payable by the Lessee and described in FIRST, SECOND and THIRD of clause 2.10 the Lessee, on the date of receipt by the Lessor of the Net Sale Proceeds, shall pay to the Lessor an amount equal to the amount of that shortfall by way of additional Rental.

2.12 Payments to Lessee

Any payment to the Lessee under clause 2.10 in accordance with the paragraph entitled “FOURTH” shall be made reasonably promptly but in any event within five (5) Business Days after the date of actual and unconditional receipt by the Lessor of the Net Sale Proceeds.

2.13 Termination of obligation to pay Rental

With effect on and from the date of the Ship being delivered to and accepted by a purchaser following a sale of the Ship or the redelivery of the Ship pursuant to clause 15.1, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's accrued and contingent obligations pursuant to this Agreement including, without limitation, paragraph 5 of the Financial Schedule.

2.14 Standby Loan

In the event that the Lessee has given a notice of termination pursuant to clauses 2.2.1(a) or 2.5.2(a), and has also given a corresponding notice under clauses 2.2.1(a) or 2.5.2(a) of each of the Sister Ship Agreements specifying the same Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date), the Lessee shall be entitled to require that the Lessor procures that the Standby Lender enters into a Standby Loan Transaction in respect of the Ship and all of the Sister Ships (but not some only) and, subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction on such Lease Termination Date (or, as the case may be, Pre-Delivery Termination Date) or as soon as reasonably practicable thereafter.

3 Conditions Precedent generally and to payment of Instalments and Delivery**3.1 Pre-delivery conditions to be fulfilled by Lessee**

3.1.1 All of the obligations of the Lessor under this Agreement and the obligations of the Lessor under the Novation Agreement and the Supervision Agreement including to pay the First Instalment are subject to the receipt by the Lessor of the documents described in Part A of Schedule 4 and the documents described in paragraph 5 of Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the First Instalment Date and in any event on or before 31 December 2007 or such other date to be agreed between the Lessee and Lessor.

3.1.2 The Lessor's obligation under this Agreement to pay the Second Instalment is subject in addition to receipt by the Lessor of the documents described in Part B of Schedule 4 in form and substance satisfactory to the Lessor not less than three (3) Business Days before the Second Instalment Date.

3.2 Further Conditions to be fulfilled by Lessee in respect of each Instalment

The obligations of the Lessor to pay any Instalment and, in the case of the Final Instalment, to lease the Ship to the Lessee under this Agreement are further subject to the further conditions that:

3.2.1 the Lessor shall have received an Instalment Request not later than 11:00 a.m. (London time) on the third Business Day (in the case of the First and Second Instalments) prior to the relevant proposed date for payment of that Instalment by the Lessor pursuant to the Novation Agreement or, as applicable, the Novated Building Contract and the sixth Business Day (in the case of the Final Instalment) prior to the Delivery Date (or in any such case, such shorter period as the Lessor and the Lessee shall agree); and

- 3.2.2 as at the Effective Date and each Instalment Date (including the Delivery Date):
- (a) no Relevant Event has occurred which is continuing; and
 - (b) each of the representations and warranties contained in clause 19 of this Agreement and in clause 4 of the Guarantee is then true and correct by reference to the facts and circumstances then existing.

3.3 Delivery conditions and covenants to be fulfilled by Lessee

- 3.3.1 The obligation of the Lessor to pay the Final Instalment pursuant to article II of the Novated Building Contract and the Supervision Costs on the Delivery Date is subject to the receipt by the Lessor of the documents described in Part C of Schedule 4 in form and substance satisfactory to the Lessor not less than four (4) Business Days before the Delivery Date (or such shorter period as the Lessor and the Lessee shall agree).
- 3.3.2 The Lessee undertakes to provide to the Lessor such of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor as are available no less than two (2) Business Days before the Delivery Date. The Lessee undertakes to provide to the Lessor the remainder of the documents described in Part D of Schedule 4 in form and substance satisfactory to the Lessor on or before the Delivery Date, save for such of them as may only be available upon Delivery (which for the avoidance of doubt the Lessee acknowledges should be limited to the protocol of delivery and acceptance to be delivered pursuant to the Novated Building Contract and the documents listed at item 8 of Part D of Schedule 4).
- 3.3.3 The Lessee shall keep the Lessor fully advised of the anticipated date of delivery of the Ship.

3.4 Pre-delivery conditions to be fulfilled by Lessor

The obligations of the Lessee under this Agreement are subject to the receipt by the Lessee of the documents described in Schedule 5 in form and substance satisfactory to the Lessee not less than two (2) Business Days prior to the date specified in clause 3.1 unless waived by the Lessee in writing to the extent not so satisfied.

3.5 Further Conditions to be fulfilled by Lessor

During the Construction Period the Lessor shall comply with the terms of the Novation Agreement, the Supervision Agreement and the Novated Building Contract and, subject to no Relevant Event having occurred and the Lessee not having exercised its rights under clause 2.2, the Lessor shall not:

- 3.5.1 terminate, cancel, rescind or treat as repudiated the Novation Agreement and/or the Supervision Agreement, and/or the Novated Building Contract; or
- 3.5.2 effect, grant or agree any amendment, variation, waiver or release in respect of the obligations of the Builder under the Novated Building Contract or assign or transfer its rights or obligations under the Novated Building Contract other than in accordance with the terms of the Novation Agreement or the Supervision Agreement.

3.6 Waivers

The requirements of clauses 3.1, 3.2 and 3.3 which are for the benefit of the Lessor alone, may be waived by the Lessor in whole or in part and with or without conditions and, if the Lessor agrees to give such a waiver on terms that any condition may be fulfilled after the due date for its fulfilment, the Lessee (unless the Lessor shall have expressly agreed otherwise in writing) shall procure that such condition is fulfilled within thirty (30) days after that due date (or such greater period as the Lessor may specify in writing), and the Lessor shall be entitled to treat any failure by the Lessee to procure the fulfilment of any such condition as a Termination Event.

3.7 Payment of Purchase Price etc.

Subject to satisfaction of the relevant conditions referred to in clauses 3.1, 3.2 and 3.3 and to the satisfaction of the conditions set out in clause 3.11, in each case at the time then due or agreed to be due, the Lessor agrees:

3.7.1 to pay the First Instalment of the Contract Price pursuant to the Novation Agreement and each other Instalment of the Contract Price pursuant to the Novated Building Contract (in each case in the amount and at the time described therein);

3.7.2 to pay when due to the Supervisor the Supervision Costs and the Buyer's Supplies Reimbursement Amount payable pursuant to clause 4.5 of the Supervision Agreement;

3.7.3 to pay on the First Instalment Date:

(a) the Arrangement Fee; and

(b) the Lessor's Legal Costs and the costs of the Lessor's insurance advisers,

each in an amount as agreed and in accordance with the payment details specified in the invoices received by the Lessor from the arranger and from the Lessor's legal and insurance advisers on or before the First Instalment Date; and

3.7.4 to pay the Lessor's Underwriting Fee on the First Instalment Date.

3.8 No set-off

The Lessor is not entitled to set-off or withhold from the Contract Price any amounts due or expressed to be due from the Lessee or any other Guarantor Group Member.

3.9 Alterations to payment amounts

Each of (a) the Instalments of the Contract Price payable pursuant to the Novation Agreement (in the case of the First Instalment) and the Novated Building Contract (in the case of the other Instalments) shall be in the amounts set out in, or calculated in accordance with, the Novation Agreement and/or (as the case may be) the Novated Building Contract and (b) the Supervision Costs and Buyer's Supplies Reimbursement Amount payable in accordance with the Supervision Agreement shall be in the amount set out in, or calculated in accordance with, the Supervision Agreement, in each such case as amended and supplemented from time to time in accordance with any relevant provisions of the Transaction Documents.

3.10 Contributions

- 3.10.1 The Lessor shall notify the Lessee if at any time the aggregate of the Lessor's Total Expenditure has reached or, taking account of the next payment or payments in respect of the Lessors' Total Expenditure, will reach the Maximum Commitment and in circumstances where the aggregate of the Lessor's Total Expenditure and the Lessor's projected expenditure exceeds or is likely to exceed the Maximum Commitment (a " **Commitment Shortfall** ") the Lessor shall notify the Lessee promptly and in any event not later than two (2) Business Days before required, that a Contribution Payment will be required.
- 3.10.2 Any notice from the Lessor requiring a Contribution Payment shall specify the amount of the Contribution Payment due from the Lessee and the scheduled date for payment thereof, being no later than one (1) Business Day prior to the date on which the Lessor is to make payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, before the date on which the Lessor is required to procure the issuing of a payment undertaking from the Bank in accordance with article II.5(c) of the Novated Building Contract, and will be accompanied by documentation evidencing the amount of the Contribution Payment, to the best of the Lessor's then estimation. Each such notice shall constitute a " **Contribution Payment Request** ".
- 3.10.3 If and so often as the Lessee receives a Contribution Payment Request under clause 3.10.2, the Lessee shall pay to the Lessor an amount equal to the Contribution Payment requested by the Lessor in the applicable Contribution Payment Request to the Lessor's account as specified in the Contribution Payment Request, to be received not less than one (1) Business Day prior to the date on which the Lessor is to make the payment in respect of such Lessor's Total Expenditure and, in the case of the Final Instalment, not less than one (1) Business Day before the date on which the Lessor is required to procure the issue of a payment undertaking from the Bank in respect of the Final Instalment in accordance with article II.5(c) of the Novated Building Contract.

3.11 Certificate of Delivery and Acceptance

On Delivery the Lessee will deliver to the Lessor the Certificate of Delivery and Acceptance duly executed by the Lessee, which shall be conclusive proof that the Lessee has unconditionally accepted the Ship for leasing under this Agreement without any reservations whatsoever.

3.12 Condition of Ship; Lessee's risk and responsibility

The Lessee acknowledges that:

- 3.12.1 the condition of the Ship (or any part of it) on delivery to the Lessee under this Agreement will, as between the Lessor and the Lessee be the sole risk and responsibility of the Lessee and that the Lessor has agreed to purchase the Ship pursuant to the Novated Building Contract for the sole purpose of leasing the Ship to the Lessee pursuant to this Agreement;
- 3.12.2 the Lessee will not be entitled for any reason whatsoever to refuse to accept delivery of the Ship under this Agreement once the Lessor acquires title to, and receives possession, of the Ship pursuant to the Novated Building Contract; and

3.12.3 the Lessor will not be liable for any loss of profit resulting directly or indirectly from any defect or alleged defect in the Ship or failure or alleged failure of the Ship to comply with the Novated Building Contract.

3.13 Delays in delivery

The Lessor will not be responsible for any loss or expense, or any loss of profit, arising from any delay in the delivery of, or failure to deliver, the Ship to the Lessee under this Agreement except where such delay or failure is caused by the negligence or wilful default of the Lessor or any Lessor Breach.

4 Rental

4.1 Construction Period Rentals

The Lessee shall not be required to pay any instalments of Rental during the Construction Period.

4.2 Lease Period Rental

On each Lease Rental Date falling in the Lease Period the Lessee shall pay to the Lessor in respect of the Lease Period an instalment of Rental calculated in accordance with paragraph 2.1 of the Financial Schedule. Each such instalment of Rental shall be subject to adjustment in accordance with the Financial Schedule.

4.3 Adjustments of Rental

The Lessee, on the dates determined in accordance with the Financial Schedule, shall pay to the Lessor by way of additional Rental all amounts from time to time arising from recalculation of Rental made pursuant to and due to the Lessor in accordance with the Financial Schedule. The Lessor shall pay to the Lessee all amounts from time to time arising from recalculation of Rental made pursuant to the Financial Schedule and due to the Lessee, and expressed to be payable by way of rebate of Rental, in accordance with the Financial Schedule. The Lessor shall make any such payments to such account as the Lessee may notify in writing to the Lessor from time to time.

4.4 Lessor's Capital Commitment Fee

The Lessee shall pay to the Lessor a capital commitment fee, on the basis and in the manner agreed between the Lessor and the Lessee in writing.

4.5 Survival of Financial Schedule

The provisions of the Financial Schedule shall survive any termination or expiry of the Lease Period and any breach or repudiation, or alleged breach or repudiation, by the Lessee or the Lessor of this Agreement.

4.6 Unconditional payment obligations

The Lessee's obligation to pay Rental in accordance with this clause 4 (unless and until Rental ceases to be payable in accordance with the provisions of clause 2.13 or clause 14.5 or clause 18.1) and any other payments payable by the Lessee to the Lessor under the Lease Documents is absolute and shall apply irrespective of any contingency whatsoever including but not limited to:

4.6.1 any set-off, counterclaim, recoupment, defence or other right which either party to this Agreement may have against the other;

- 4.6.2 any unavailability of the Ship for any reason, including but not limited to, any lack or invalidity of title or any other defect in the title, seaworthiness, condition, design, operation, merchantability or fitness for use or purpose of the Ship or the ineligibility of the Ship for any particular use or trade or for registration or documentation under the laws of any relevant jurisdiction or the Total Loss of or any damage to the Ship;
- 4.6.3 any failure or delay on the part of either party to this Agreement, whether with or without fault on its part, in performing or complying with any of the terms, conditions or other provisions of this Agreement and the other Transaction Documents;
- 4.6.4 any insolvency, bankruptcy, reorganisation, arrangement, readjustment of debt, dissolution, administration, liquidation or similar proceedings by or against the Lessor or the Lessee;
- 4.6.5 any lack of due authorisation of, invalidity, unenforceability or other defect in any of the Transaction Documents; or
- 4.6.6 any other cause which but for this provision would or might have the effect of terminating or in any way affecting any obligation of the Lessee hereunder;

it being the declared intention of the parties that the provisions of this clause 4.6 and the obligations of the Lessee to pay Rentals and make other payments in accordance with this Agreement and the other Transaction Documents shall survive any frustration of this Agreement or any other Lease Document and that, save as expressly and specifically provided in this Agreement, no moneys payable or paid hereunder by the Lessee to the Lessor shall in any event or circumstances be repayable to the Lessee.

4.7 No waiver

Clause 4.6 does not constitute a waiver by the Lessee of any right of the Lessee to claim damages or specific performance or any other injunctive relief against the Lessor arising out of a Lessor Breach.

5 Payments

5.1 Manner of payment

All payments of Rental and other amounts payable by the Lessee under this Agreement and any other Transaction Document shall be made:

- 5.1.1 without prior demand (unless expressly stated to be payable on demand);
- 5.1.2 in full without any right of set-off or counterclaim and free and clear of all deductions or withholdings whatsoever, unless any deductions or withholdings are required by law in which event clause 8.2 shall apply;
- 5.1.3 in Dollars (or, in the case of payments in respect of Losses, in the currency in which the relevant Losses are incurred);

5.1.4 in cleared funds to the account of the Bank of Scotland with Bank of New York, New York SWIFT BIC: IRVTUS3N for credit to account no. 11087USD01 with reference: "Peony Leasing Limited, sort code: 802013, IBAN No. GB59BOFS80201311087101, SWIFT BIC: BOFSGB2SXXX" or to such other account or accounts at such other place or places as the Lessor may from time to time notify to the Lessee in writing at least ten (10) days before the due date for payment.

5.2 Payments on Business Days

When any payment under a Lease Document would otherwise be due on a day which is not a Business Day the due date for payment shall be extended to the next following Business Day unless such Business Day falls in the next calendar month in which case payment shall be made on the immediately preceding Business Day.

5.3 Interest on delayed payments

If the Lessee fails to pay any sum due by the Lessee under this Agreement or any other Lease Document on its due date for payment (including any failure to pay on demand any amount due under this clause 5.3) the Lessee will pay to the Lessor on demand interest on such Rental or other amount from the date of such failure to the date of actual payment (both before and after any relevant judgment or liquidation of the Lessee) at the Default Rate.

5.4 Calculation of Interest

All interest and any other payments under any Lease Document which are of an annual nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

6 Extent of Lessor's Liability

6.1 Quiet Enjoyment

The Lessor undertakes with the Lessee that during the Lease Period it will not interfere with the quiet use, operation, possession and enjoyment of the Ship by the Lessee, otherwise than:

6.1.1 through the acts or omissions of the Lessee or its agents or representatives; or

6.1.2 pursuant to (i) the Lessor's rights under the Transaction Documents (and then subject to any restrictions on the exercise of those rights under the Transaction Documents) or (ii) obligations which may arise under applicable law or regulation or any ruling of any Government Entity or other competent authority or agency which is either binding on the Lessor or any Lessor Group Member or in respect of which compliance by owners of vessels of the same type as the Ship or by banks and other financial institutions or institutions of a similar nature to the Lessor is generally customary.

6.2 Further action

6.2.1 The Lessor further undertakes, if reasonably requested to do so by the Lessee, to take such action as is available to it and which must be performed exclusively by the registered owner and not the operator of the Ship to protect the use, possession and quiet enjoyment of the Ship during the Lease Period by the Lessee from interference by third parties.

6.2.2 All costs properly incurred by the Lessor in respect of any action taken by the Lessor under this clause 6.2 (including any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection therewith which shall be charged at the Lessor's Management Time Cost Rate) will be borne by the Lessee unless such action is required as a result of a failure by the Lessor to comply with its obligations under clause 6.1 and clause 6.2.1 (and which failure does not arise by reason of any breach by the Lessee or any other Transaction Company of its obligations or other failure to comply with or observe the terms of any Transaction Document).

6.3 Lessor's Security Interests

6.3.1 The Lessor:

- (a) warrants that as at the Delivery Date the Ship and the Lessor's interest in the Insurances and any Requisition Compensation will be free of all Lessor's Security Interests; and
- (b) undertakes with the Lessee that it will not create or permit to arise during the Lease Period any such Lessor's Security Interest over the Ship or any part of it or the Lessor's interest in the Insurances and any Requisition Compensation.

6.3.2 If any Lessor's Security Interest arises over the Ship, the Lessor will use its reasonable endeavours to procure the release of any such Lessor's Security Interest of which it is aware, Provided that the Lessor shall not be liable to pay or discharge or remove any such Lessor's Security Interest if such Lessor's Security Interest is being disputed by the Lessor in good faith and adequate reserves for the payment of the applicable amounts have been provided by the Lessor, provided further however that if the Lessee's quiet enjoyment of the Ship is in any way disturbed by reason of the existence or enforcement of any Lessor's Security Interest, the Lessor will promptly take steps to procure the release of any such Lessor's Security Interest and/or the cessation of the disturbance of the Lessee's quiet enjoyment.

6.3.3 If the Lessor fails to procure the release of a Lessor's Security Interest of which it is aware and the existence of which is interfering with the Lessee's quiet enjoyment of the Ship and/or the Ship is arrested, attached, levied upon pursuant to any legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, in each such case arising out of the existence of any Lessor's Security Interest the Lessee shall:

- (a) be entitled to act as the agent for the Lessor to procure the release of that Lessor's Security Interest and/or the release of the Ship from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be reimbursed by the Lessor for all reasonable losses and expenses properly so incurred by the Lessee as a result of the Lessor's breach of clause 6.3.1 or its failure to procure the release of the Lessor's Security Interest or, as the case may be, the Ship, against the production by the Lessee of reasonable supporting evidence for such loss and expenses.

6.4 Limitation on Lessor's liability for quiet enjoyment

The Lessee acknowledges that the undertakings contained in clauses 6.1, 6.2 and 6.3 are the only undertakings by the Lessor to the Lessee in respect of quiet enjoyment and in substitution for, and to the exclusion of, any other covenant for quiet enjoyment which may otherwise have been given or implied by law, all of which are hereby expressly excluded and waived by the Lessee.

6.5 Benefit of Novated Building Contract guarantee and third party warranties

6.5.1 The Lessor assigns and agrees to assign absolutely (without recourse or warranty) to the Lessee the full benefit of all assignable guarantees, warranties and indemnities (whether express or implied) given to the Lessor by the Builder under the Novated Building Contract. Pursuant to the assignment in this clause 6.5 the Lessee shall (after the Delivery Date) be entitled to take such action upon any such warranty or indemnity as assignee of the Lessor against the Builder or any guarantor, manufacturer, repairer or supplier as the Lessee shall see fit, but subject to the Lessee first ensuring that the Lessor is indemnified (and, in the case of any counterclaim by the Builder against the Lessor, secured) to its satisfaction against all Losses thereby incurred or to be incurred.

6.5.2 The Lessor agrees:

- (a) to serve notice on the Builder of the assignment contained in clause 6.5.1 in the form set out in Schedule 9 promptly thereafter; and
- (b) to the extent that any guarantee, warranty or indemnity referred to in clause 6.5.1 is not assignable, if so requested by the Lessee and at the Lessee's cost and expense, the Lessor will use reasonable endeavours to extend to the Lessee the benefit of that guarantee, warranty or indemnity.

6.5.3 Upon the expiry or termination of the Lease Period, the Lessee shall cease to be entitled to any rights under this clause 6.5 and shall (subject to clause 2.7.6) reassign to the Lessor at the expense of the Lessee the benefit of the remainder of any guarantee, warranty or indemnity assigned by the Lessor to the Lessee pursuant to this clause 6.5.

6.6 Limitations on Lessor's Liability

Save in respect of the Lessee's rights under clauses 6.1, 6.2, 6.3 and 6.4, the Lessee acknowledges and agrees that all rights, claims or remedies of the Lessee against the Lessor in relation to the Ship, whether express or implied or arising by operation of law or statute or otherwise (whether in contract or in tort or otherwise), are hereby excluded. In particular, the Lessee acknowledges and agrees that:

6.6.1 the Lessor makes no condition, term, representation or warranty (express or implied) of any kind as to title (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)) seaworthiness, safety, condition, capacity, quality, value, design, construction, durability, operation, performance, description, merchantability, or fitness for use of the Ship or any part thereof or as to the eligibility of the Ship or any part thereof for any particular trade or operation or as to the absence of latent or other defects (whether or not discoverable), or as to the absence of any infringement of any patent, trademark, copyright or intellectual property or other rights in or to the Ship or any part thereof or any other condition, term, representation or warranty whatsoever, express or implied, with respect to the Ship;

- 6.6.2 the Lessee waives all its rights and claims (whether express or implied, statutory or otherwise) in respect of any condition, term, representation, or warranty described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a));
- 6.6.3 to the extent possible under applicable law the Lessee:
- (a) waives all its rights and claims which it may have in tort or otherwise in respect of any of the matters described in clause 6.6.1 (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
 - (b) agrees that the Lessor will have no greater liability in tort or otherwise than it would have in contract after taking into account the exclusions referred to in this clause 6.6;
- 6.6.4 the Lessee acknowledges that no condition, term, representation or warranty described in clause 6.6.1 has been made by or on behalf of the Lessor in relation to the Ship (save to the extent specified in or pursuant to clause 2.7.4 or clause 6.3.1(a)); and
- 6.6.5 nothing in this clause 6 shall exclude any liability of the Lessor for death or personal injury resulting from negligence falling within Section 1(1) of the Unfair Contract Terms Act 1977.

6.7 Ownership of other vessels

The Lessor and Lessee acknowledge that, during the Lease Period, the Lessor may own vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group. At the Lessee's request, the Lessor will transfer in accordance with clause 21 the Ship and the Sister Ships to another company which does not own any vessels other than the Ship, the Sister Ships and any other vessels leased to the Lessee or another company in the Guarantor Group.

6.8 Lessor financial information

The Lessor undertakes that, if requested by the Lessee, it shall deliver to the Lessee within 14 days after the end of June and December in each year during the Lease Period an unaudited balance sheet of the Lessor stating the gross amount of the Lessor's assets, long term liabilities and shareholders funds as at the end of the relevant half year and a profit and loss account showing the items for the relevant half year specified in the pro forma profit and loss account set out in Schedule 11, such amounts to be determined by the Lessor in accordance with the usual procedures and systems of the Lessor's Group and provided in the format set out in Schedule 11. The Lessor shall also provide the Lessee with a copy of its annual audited accounts within 14 days of such accounts being approved by its Board of Directors, and (from time to time) such other information as shall be reasonably requested by the Lessee (and at the Lessee's cost). The Lessee shall keep such information confidential save as otherwise required by law or as necessary for purposes of preparing consolidated accounts of the Lessee and its affiliates.

7 Costs and Indemnity

7.1 Lessor's transaction related expenses

The Lessee shall pay to the Lessor on its written demand, whether or not the Lease Period commences:

- 7.1.1 all expenses of the Lessor (including legal and out-of-pocket expenses) reasonably incurred by the Lessor in connection with the preparation, negotiation and completion of this Agreement and the other Transaction Documents (subject only to any cap on legal expenses which may be separately agreed by the parties) and in relation to the delivery of the Ship, including any costs, charges or expenses (including fees and commissions) of the Lessor in connection with the funding of the Final Instalment, calculated in accordance with clause 7.4.3 below to the extent that such expenses have not been taken into account in accordance with the Financial Schedule in computing the amount of any Rental;

- 7.1.2 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor in connection with any variation of this Agreement and the other Transaction Documents or any waiver or consent required under any of them (but not a variation, waiver or consent requested by the Lessor, unless the Lessor is legally obliged to request and procure such variation, waiver or consent);
- 7.1.3 all expenses of the Lessor (including legal and out-of-pocket expenses) properly incurred by the Lessor following the occurrence of a Relevant Event in connection with the preservation or enforcement or attempted enforcement of any right conferred upon the Lessor by this Agreement and the other Transaction Documents or in respect of any breach of any representation or warranty or covenant; and
- 7.1.4 any expenses incurred by the Lessor in respect of any Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred in connection with (a) the consideration of any variation, waiver or consent of or under this Agreement and the other Transaction Documents pursuant to clause 7.1.2 and (b) the preservation or enforcement or attempted preservation or enforcement of the Lessor's rights, the arrest or recovery of the Ship or otherwise in respect of any breach pursuant to clause 7.1.3 which for the avoidance of doubt shall be charged at the Lessor's Management Time Cost Rate;
- 7.1.5 all expenses payable under or pursuant to this clause 7.1 shall include any Irrecoverable VAT on such expenses; and
- 7.1.6 all payments under this clause 7.1 shall be made in the currency in which the expenses were incurred by the Lessor.

7.2 Non-payment by Lessee

The Lessee shall indemnify the Lessor on its written demand against any loss, damage, expense or liability which the Lessor or any other Indemnified Person may properly sustain or incur as a direct consequence of any default by the Lessee in payment of an amount which the Lessee has agreed to pay under this Agreement except to the extent that the Financial Schedule provides for the amount to be taken into account in the payment of Rental or to the extent that the Lessor or such other Indemnified Person has already been compensated for any such loss, damage, expense or liability under any other provision of this Agreement.

7.3 Currency indemnity

If any sum payable by the Lessee to the Lessor or any other Indemnified Person under this Agreement or any other Lease Document or under any order or judgment relating to a Lease Document has to be converted from the currency in which the Lease Document provided for the sum to be paid (the “**Contractual Currency**”) into another currency (the “**Payment Currency**”) for the purpose of:

- 7.3.1 making or lodging any claim or proof against the Lessee, whether in its liquidation, any arrangement involving it or otherwise; or

7.3.2 obtaining an order or judgment from any court or other tribunal; or

7.3.3 enforcing any such order or judgment,

the Lessee shall indemnify the Lessor and/or the applicable Indemnified Person against the loss arising when the amount of the payment actually received by the Lessor and/or the applicable Indemnified Person is converted at the available rate of exchange from the Payment Currency into the Contractual Currency.

In this clause 7.3 the “available rate of exchange” means the rate which the Bank offers to other prime banks at the opening of business (London time) on the Business Day after it receives the sum concerned to sell the Payment Currency to purchase the Contractual Currency for immediate delivery.

Any amount due from the Lessee under this clause 7.3 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of any of the Lease Documents and the term “rate of exchange” includes any premiums and costs of exchange payable in connection with the purchase of the Contractual Currency with the Payment Currency.

7.4 General Indemnity

The Lessee shall indemnify and hold harmless on a full indemnity basis the Lessor and each other Indemnified Person against:

7.4.1 any costs, charges or expenses (other than Taxes, to which clause 8 shall apply) which the Lessee has agreed to pay under this Agreement or the other Lease Documents and which are claimed or assessed against or (prior to the occurrence of a Termination Event which is continuing, after consultation with the Lessee) paid by the Lessor or any other Indemnified Person;

7.4.2 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person arising directly or indirectly in any manner out of, or in any way connected with, the condition, testing, design, manufacture, construction, delivery, non-delivery, purchase, importation, export, registration, classification, certification, navigation, ownership, chartering, sub-chartering, employment, management, manning, victualling, provision of bunkers and lubricating oil, possession, repossession, performance, control, use, operation, maintenance, repair, transportation, dry-docking, replacement, refurbishment, modification, service, overhaul, insurance in accordance with the terms of this Agreement, sale or other disposal, return, redelivery, storage, laying-up, loss of or damage to the Ship or otherwise in connection with the Ship, this Agreement and the other Transaction Documents and regardless of:

- (a) whether or not such Losses are attributable to any defect in the Ship or to the design, construction or use thereof or to any reason whatsoever; and
- (b) when the Loss arises;

and, without prejudice to its generality, this clause 7.4.2 covers any such Losses arising out of an Environmental Claim or an Environmental Incident;

- 7.4.3 all Losses (including, without limitation, Broken Funding Costs and all or any Losses in respect of funds borrowed or mobilised by or on behalf of the Lessor, the liquidation of any deposits taken or made by the Lessor, the substitute investment of such funds with a return lower than the cost of such funds, the loss of use of such funds and the prepayment by the Lessor of such funds to the source from which they were borrowed or mobilised) imposed on, suffered or incurred by the Lessor and/or any other Indemnified Person by reason of:
- (a) an Instalment not being paid on the date referred to in the relevant Instalment Request applicable to such Instalment;
 - (b) Delivery occurring other than on the date specified therefor in the Intended Delivery Notice;
- including in relation to the Final Instalment, the cost to the Lessor in borrowing the Final Instalment for the period commencing with the date on which the Final Instalment is borrowed up to and including the Delivery Date (but only if such sum is not included in the calculation of Rentals under the Financial Schedule) or, if Delivery does not occur, up to and including the date on which the Lessor has received back the Final Instalment, such cost to be calculated at LIBOR determined daily for each day during the period described above plus the Margin Rate (as defined in the Financial Schedule) less if any, any Broken Funding Benefits and the Dollar interest paid on the Final Instalment to the Lessor by the bank holding the Final Instalment;
- 7.4.4 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person which result directly or indirectly from claims which may at any time be made on the ground that any design, article or material of or in the Ship or the operation or use thereof constitutes an infringement of patent or copyright or registered design or other intellectual property right or any other right whatsoever;
- 7.4.5 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in preventing or attempting to prevent the arrest, confiscation, seizure, taking in execution, requisition, impounding, forfeiture or detention of the Ship, or in securing or attempting to secure the release of the Ship;
- 7.4.6 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person in connection with the sale or disposal or attempted sale or disposal of the Ship pursuant to the terms and conditions of this Agreement including, without limitation, broker's commissions, redelivery costs (if any), marketing expenses, legal costs, storage, insurance and any other expenses of the Lessor incurred pending the sale or disposal of the Ship or otherwise in connection with the sale or disposal of the Ship;
- 7.4.7 all Losses imposed on, suffered or incurred by the Lessor and/or each other Indemnified Person resulting from the Ship becoming a wreck or obstruction to navigation, including in respect of the removal or destruction of the wreck or obstruction under statutory or other powers; and

- 7.4.8 all Losses which may be imposed on, incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time as a consequence (direct or indirect) of:
- (a) the breach by any person (other than the Lessor and the Bank) of any of its obligations to the Lessor under any of the Transaction Documents provided that any breach by the Lessor or the Bank of its obligations under any of the Transaction Documents shall not be excluded from the ambit of this clause 7.4.8 to the extent that such breach is itself caused by any act or omission of any Transaction Company or any person referred to in (c) below;
 - (b) any of the warranties and representations on the part of any person (other than the Lessor and the Bank) made or repeated to the Lessor in any Transaction Document being untrue or inaccurate in any material respect when made or repeated;
 - (c) any act or omission by any person acting as sales agent of the Lessor under any of the Transaction Documents (including any permitted delegate of such sales agent), the Supervisor or any of its Authorised Representatives (as defined in the Novated Building Contract), in each case, whether acting within or outside their relevant authority or any wilful or reckless misconduct or misfeasance by the Builder, the Lessee or the Supervisor; or
- 7.4.9 all Losses which may be imposed on, suffered or incurred by, or made against or asserted against, the Lessor and/or any other Indemnified Person at any time in respect of any premiums, calls, supplementary calls, contributions or other sums payable by the Lessor or any Lessor Group Member in respect of the Insurances or any liability of the Lessor or any other Lessor Group Member by reason of it being or becoming a joint, additional or co-assured under or in respect of any insurance policy, contract or entry in any protection and indemnity or war risks association effected by the Lessee pursuant to clause 13.

7.5 Exclusions

The indemnities contained in clause 7.4 and clause 7.2 shall not extend to any Loss:

- 7.5.1 to the extent that such Loss is caused by Lessor Misconduct or recklessness (with full knowledge of the probable consequences) on the part of the applicable Indemnified Person (or a third party, not being a Transaction Company acting on behalf of the Lessor or other applicable Indemnified Person) which would otherwise seek to claim the benefit of such indemnities or, in circumstances where such Loss arises in connection with a payment owing to an Indemnified Person, if such payment was made in due time but was not accounted for by such Indemnified Person as a result of an error on their part;
- 7.5.2 to the extent that such Loss is caused by any Lessor Breach;
- 7.5.3 to the extent that such Loss constitutes a cost which is expressly to be borne by the Lessor for its own account under any other provision of this Agreement or any other Lease Documents;
- 7.5.4 in respect of which the Lessor or the applicable Indemnified Person has been expressly and specifically indemnified under any other provision of this Agreement;
- 7.5.5 to the extent that such Loss of the Lessor or the applicable Indemnified Person is or (but for operation of paragraph 4.6 of the Financial Schedule) would be taken into account in accordance with the Financial Schedule, in computing the amount of Rental payable by the Lessee under this Agreement;

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- 7.5.6 to the extent that such Loss arises out of or in connection with a Lessor's Security Interest;
 - 7.5.7 to the extent that such Loss would be a loss of profit derived from or arising out of loss of a business opportunity of the Lessor or the applicable Indemnified Person;
 - 7.5.8 to the extent that the event or circumstance giving rise to the Loss occurs after the end of the Lease Period and is not in any way directly or indirectly attributable to, or which occurs as a consequence of or in connection with, any event, circumstance, action or omission which occurred during the Lease Period;
 - 7.5.9 to the extent that such Loss is part of the normal administrative overheads of the Lessor or the applicable Indemnified Person; and/or
 - 7.5.10 to the extent that such Loss constitutes the Purchase Price or any part thereof (excluding any Contribution Payments required pursuant to clause 3.10.2).

In addition, to the extent that the Lessor or other Indemnified Person shall have actually and unconditionally received reimbursement from insurers for a Loss of the Lessor or any other Indemnified Person which has already been satisfied in full by the Lessee then, subject to clause 8.6, the Lessor shall procure that the Lessee is reimbursed for an amount equal to the amount received from the insurers. In addition, in circumstances where the Lessee has indemnified the Lessor or any other Indemnified Person in full in relation to a Loss which may be recoverable by insurance then, provided no Termination Event has occurred and is continuing, and provided the Lessor or such other Indemnified Person is (if requested by it) secured to its satisfaction (acting in good faith) against any Loss it may incur by virtue of the Lessee exercising such rights of subrogation and subject to the rights of insurers, the Lessee shall be subrogated to the claim of the Lessor or such other Indemnified Person in relation to the Loss.

7.6 Conduct of Claims

In connection with the indemnities in favour of any Indemnified Person under this Agreement, other than in relation to any matter which is an Issue under (and as defined in) the Tax Consultation Letter:

- 7.6.1 the Lessor will as soon as practicable notify the Lessee if a claim is made, or if it becomes aware that a claim may be made against the Lessor or any other Indemnified Person which may give rise to a Loss in respect of which the Lessor or any other Indemnified Person is or may become entitled to an indemnity under clause 7.4;
- 7.6.2 a notification under clause 7.6.1 shall give such details as the Lessor or the other Indemnified Person then has regarding the claim or potential claim and any Loss or potential Loss;
- 7.6.3 if the claim or potential claim may give rise to a Loss in respect of which the liability of the Lessor or such other Indemnified Person is fully insured under the protection and indemnity insurances relating to the Ship, the Lessor will act, and will procure that any other Indemnified Person will act, in accordance with the directions of the protection and indemnity club or association in which the Ship is entered in relation to defending, accepting or settling that claim, preserving nevertheless the rights of the Lessor against the Lessee under this Agreement and the other Lease Documents;

- 7.6.4 subject to clause 7.6.1 the Lessor will not, and will procure that no other Indemnified Person will, settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim unless:
- (a) the Lessor is of the opinion, acting in good faith, that the continuance of the proceedings in respect of such claim and/or the non-payment of any court judgment or administrative penalty will result in criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person; or
 - (b) the Lessor and the Lessee do not agree that there are reasonable grounds for disputing such claim or for a successful appeal against such judgment or penalty (as appropriate), whereupon the Lessee shall have the right (subject always to paragraph (a) above) to seek an opinion from leading counsel as to whether there is more than a sixty-five per cent (65%) chance of successfully disputing such claim or for such an appeal to be successful (and if such leading counsel is of that opinion, any costs reasonably incurred by the Lessee in obtaining such opinion shall be reimbursed by the Lessor and the Lessor will not settle the claim or discharge or pay the applicable judgment) provided however that if leading counsel is of the opinion that there is a less than sixty-five per cent (65%) chance of successfully disputing the action or for such an appeal to be successful, then the Lessor shall be entitled to settle the claim or discharge or pay the court judgment or administrative penalty, as the case may be.

It is agreed that if any insurers have made a partial payment in respect of any claim the Lessor shall have no responsibility to the Lessee if the insurers subsequently settle a claim in exercise of their rights of subrogation. The Lessor shall agree not to settle any claim or discharge and pay any court judgment or administrative penalty in respect of any claim, if it is secured to its reasonable satisfaction by the Lessee against the amount of such claim, court judgment or administrative penalty and the Lessor is satisfied (in its absolute discretion) that none of the circumstances envisaged in clause 7.6.5(e) below shall apply or arise if the Lessor does not settle the claim or discharge or pay any judgment or penalty in respect thereof;

- 7.6.5 Without prejudice to the provisions of this clause 7.6, the Lessee shall be entitled (subject to the Lessee complying in all respects with its obligations under this Agreement and the other Transaction Documents to which it is a party) to take (at its own cost) such lawful and proper actions as the Lessee reasonably deems fit to defend, avoid or mitigate any Loss or to take such action in the name of the Lessor or other relevant Indemnified Person, provided that the Lessee's ability to take action in the name of the Lessor or such other Indemnified Person shall be subject to:
- (a) the Lessor or such other Indemnified Person first being indemnified and secured to the satisfaction of the Lessor (or, as the case may be, such Indemnified Person), acting reasonably, against all Losses incurred and from time to time reasonably anticipated to be incurred in connection therewith;
 - (b) the ability of the Lessee to commence court proceedings in the name of the Lessor or such other Indemnified Person, or to instigate a counterclaim in the name of the

Lessor or such other Indemnified Person (but not, for the avoidance of doubt, to defend court proceedings brought by a third party which do not involve a counterclaim) being subject to the prior written consent of the Lessor (which consent the Lessor shall not unreasonably withhold but in relation to which the Lessee acknowledges the wish and interest of the Lessor and the Lessor's Group to preserve their reputation as a financial institution, their business interests and their customer relations);

- (c) if court proceedings have been commenced by a third party against the Lessor or such other Indemnified Person as defendant or if, pursuant to sub-clause (b) above, the Lessor gives its consent to the use of its name or the name of the relevant Indemnified Person in court proceedings (whether by way of claim or counterclaim), the Lessor shall permit the Lessee to have the full conduct of the court proceedings, or to instigate a counterclaim in the name of the Lessor or such other Indemnified Person, but the Lessee shall (i) consult with the Lessor and keep the Lessor fully informed in relation to their conduct and have due regard to the wishes of the Lessor in relation to the conduct of such court proceedings acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputations of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations and (ii) give timely notice to the Lessor of any meetings with counsel or attendances at court, and the Lessor and its advisers shall be entitled to attend any such meetings or court attendances;
- (d) in relation to all other matters contemplated by this clause 7.6, the Lessee shall keep the Lessor fully informed and have due regard to the wishes of the Lessor in relation to the use of the Lessor's name or the name of any other Indemnified Person acknowledging the interest of the Lessor and each Lessor's Group Member in preserving the reputation of the Lessor and each Lessor's Group Member as financial institutions and their respective business interests and customer relations; and
- (e) notwithstanding sub-paragraph (c) above, the Lessor at any time may notify the Lessee that the Lessor is of the opinion, acting in good faith, that the continuance of such proceedings by the Lessee in the name of the Lessor or the name of any other Indemnified Person is damaging to the reputation of the Lessor or any Lessor Group Member as financial institutions or contrary to the business interests of any of them or will result in any criminal liability for, or the imposition of a civil penalty on, or the attachment of any assets of the Lessor or any other Indemnified Person. A certificate signed by a director of the Lessor shall be conclusive as to the correctness of such opinion. If the Lessor so notifies the Lessee, the Lessee shall forthwith cease to be entitled to conduct the court proceedings in the name of the Lessor or the name of any other Indemnified Person, and the Lessor shall be at liberty to conduct, settle or discontinue such proceedings as it sees fit.

Without prejudice to the generality of this clause 7.6 and in particular sub-paragraph (e), the Lessor shall, at the cost of the Lessee, do such acts as the Lessee may reasonably request with a view to assisting the Lessee in taking actions to defend, mitigate or avoid any liability.

7.7 Pass-through of indemnity benefits

Where in this clause 7 an indemnity is expressed to be for the benefit of any person who is not a party to this Agreement the Lessor shall be entitled to indemnify such person on the same terms (and subject in particular to clause 7.6) mutatis mutandis as the indemnities expressed to be for the benefit of such person in this clause 7 and the Lessee shall indemnify the Lessor and hold the Lessor harmless on a full indemnity basis from and against each amount paid or payable by the Lessor to such person under any such indemnity, provided that to the extent this clause 7 purports to impose any obligations on Indemnified Persons other than the Lessor, the Lessor shall have procured the compliance by each such Indemnified Person with those purported obligations.

7.8 Survival of indemnities

The indemnities contained in this clause 7, and each other indemnity contained in this Agreement in favour of the Lessor and the other Indemnified Parties, (including, but not limited to, those contained in clause 7) shall survive any termination or other ending of the Lease Period and any breach of, or repudiation or alleged repudiation by, the Lessee or the Lessor of this Agreement or any of the other Lease Documents.

8 Taxes

8.1 General

The Lessee shall pay on a timely basis and discharge or cause to be paid on a timely basis and discharged, and indemnify promptly and keep the Lessor and each Lessor Group Member indemnified promptly against all and any Taxes which are imposed on or become payable during or in respect of all or any part of the Construction Period or the Lease Period on or in respect of the Ship or any activity in any way relating thereto or any Rental, or other amounts paid under this Agreement or any of the other Transaction Documents but subject to the remaining provisions of this clause 8.

8.2 Withholding taxes

If at any time any applicable law, regulation or regulatory requirement, or any governmental authority, monetary agency or central bank, requires any deduction or withholding from any payment of Rental or other amount due under any of the Transaction Documents:

8.2.1 the Lessee (unless otherwise agreed under any Transaction Document) shall pay, or shall procure the payment of, the full amount of the deduction or withholding in respect of Taxes to the appropriate authority, agency or bank within the time period for payment permitted by law;

8.2.2 if the payment is to be made by the Lessee, the sum due from the Lessee in respect of that payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lessor or, as the case may be, the applicable Lessor Group Member receives on the due date for such payment a net amount equal to the amount which it would have received had no such deduction or withholding been required to be made and the Lessee will promptly deliver to the Lessor copies of appropriate receipts evidencing any deduction or withholding so made; and

8.2.3 if the payment is to be made by any person other than the Lessee, the Lessee shall pay directly to the Lessor such sum (a “**compensating sum**”) as after taking into account any deduction or withholding which is required to be made in respect of the compensating sum, will enable the Lessor or the applicable Lessor Group Member to receive, on the due date for payment, a net sum equal to the sum which the Lessor or, as the case may be, the appropriate Lessor Group Member would have received in the absence of any obligation to make a deduction or withholding.

8.3 Tonnage Tax

In relation to the UK tonnage tax regime contained in Schedule 22 Finance Act 2000:

- (a) The Lessee will provide on an ongoing basis, upon the written request of the Lessor, such information that is in its possession and control as may be properly required to be furnished by the Lessor to HMRC or any Inspector of Taxes regarding the transactions contemplated by the Transaction Documents, including, without limitation, any joint certificate to be provided by the Lessor and the Lessee to the HMRC pursuant to paragraph 93 of Schedule 22 FA 2000;
- (b) The Lessor will enter into any such joint certificate with the Lessee and the Lessee will enter into any such joint certificate with the Lessor and the Lessor and the Lessee will provide to HMRC any information as may be properly required to be furnished by the Lessor in connection with such certificate or such election regarding the transactions contemplated by the Transaction Documents.

8.4 Grossing-up of indemnity payments

8.4.1 If and to the extent that any amount payable to the Lessor or any Lessor Group Member by or on behalf of the Lessee under this Agreement or any of the other Transaction Documents by way of indemnity proves, by reason of that sum being taxable in the hands of the Lessor or, as the case may be, any Lessor Group Member, to be insufficient for the Lessor to discharge the corresponding liability to a third party or to reimburse the Lessor or such Lessor Group Member for the cost incurred by it in discharging the corresponding liability to a third party, the Lessee shall pay to the Lessor or the applicable Lessor Group Member such additional amount as, after taking into account any Tax suffered by the Lessor in respect of that sum, is required to make up the insufficiency.

8.4.2 There shall be taken into account, in determining whether any amount referred to in clause 8.4.1 is insufficient, the amount of any deduction or other relief, allowance or credit received by the Lessor in respect of the Lessor’s corresponding liability to a third party or the cost incurred by the Lessor in discharging the corresponding liability to a third party to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.3 If and to the extent that any amount (the “**indemnity amount**”) constituting (directly or indirectly) an indemnity by the Lessee to the Lessor, but paid by the Lessee under this Agreement or any of the other Transaction Documents to any person other than the Lessor, shall be treated as taxable in the hands of the Lessor the Lessee shall pay to the Lessor such amount (the “**compensating amount**”) as (after taking into account any Tax suffered by the Lessor in respect of the compensating amount) shall reimburse the Lessor for any Tax suffered by it in respect of the indemnity amount.

8.4.4 There shall be taken into account in determining the amount of any compensating amount under clause 8.4.3 the amount and time of payment of any deduction or other relief, allowance or credit available to the Lessor in respect of the Lessor's corresponding liability or Losses in respect of which the indemnity amount is paid to the extent that the Lessor determines that such deduction or other relief, allowance or credit confers a genuine benefit on the Lessor.

8.4.5 To the extent that liability arises under clause 8.4.1 which may lawfully be avoided by the Lessee discharging the Lessor's liability directly, then the parties shall endeavour to settle their respective liabilities in this manner.

8.5 Credits etc.

If following the making of any increased payment or compensating sum or compensating amount by the Lessee pursuant to clauses 8.2 or 8.4 the Lessor receives or is granted a credit against, remission for or repayment of any Tax payable by it which is referable to such deduction or withholding or increased payment made by the Lessee and which has not already been taken into account pursuant to clause 8.4.2 or 8.4.4, the Lessor shall:

8.5.1 give to the Lessee a certificate setting out the basis of the computation of the amount of any credit, remission or repayment referred to in this clause 8.5; and

8.5.2 to the extent that it is satisfied that it can do so without prejudice to the retention of such credit, remission or repayment, promptly reimburse the Lessee with such amount as the Lessor shall determine to be such proportion of such credit, remission or repayment as will leave the Lessor, after such reimbursement, in the same net after Tax position as it would have been in had no such deduction or withholding been required to be made,

Provided that:

- (a) the Lessor shall be the sole judge (acting in good faith) of the amount of any such credit, remission or repayment and of the date on which it is received;
- (b) the order and manner in which the Lessor employs or claims Tax credits and allowances available to it shall be determined by the Lessor in its discretion provided always that the Lessor shall, in determining the order in which it employs or uses Tax Credits or allowances available to it, treat the Lessee in no less favourable a way than it treats its other customers in respect of similar transactions of a similar size;
- (c) the Lessor shall not be obliged to disclose to the Lessee any information regarding the Tax affairs or Tax computations of the Lessor or the Lessor's Group; and
- (d) if, following any reimbursement pursuant to this clause 8.5, the credit, remission or repayment in respect of which reimbursement was made is disallowed in whole or in part by any applicable Tax or other authority, the Lessee will pay to the Lessor the amount required to restore the after-Tax position of the Lessor to that which it would have been had adjustment under this clause 8.5.2 not been necessary.

This clause 8.5 applies also to the extent that any credit, remission or repayment is granted to a Lessor Group Member and the Lessor will procure that such Lessor Group Member complies with the obligations of the Lessor, with appropriate modifications, under this clause 8.5.

8.6 Duties and other taxes

The Lessee shall pay all stamp, documentary, registration and other like duties or Taxes (including any such duties or Taxes payable by the Lessor) imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents and shall indemnify the Lessor against any liability arising by reason of any delay or omission by the Lessee to pay such duties or Taxes.

8.7 Non-deductibility

If any amount paid or to be paid by the Lessor pursuant to this Agreement by way of rebate of Rental or reimbursement or otherwise is not fully allowed or will not be fully allowed as a deductible trading expense in computing for Tax purposes the chargeable profits of the Lessor (to the extent that the Lessor shall determine in good faith that the receipt by the Lessor out of which the obligation to make the relevant rebate reimbursement or other payment arises or arose is or will be brought into charge for computing for Tax purposes the chargeable profits of the Lessor) the Lessor shall be entitled to reduce the payment by such amount or, if the Lessor has not done so, the Lessee will pay to the Lessor such additional amount as will put the Lessor in the same after-Tax position as it would have been in had the payment been allowed as a deductible trading expense.

8.8 Deductibility

If a payment is made by the Lessee or the Lessor has reduced the amount of a rebate or reimbursement made by it pursuant to clause 8.7 and the Lessor in fact obtains a deduction for the whole or part of the rebate or reimbursement the Lessor shall pay to the Lessee such additional amount as the Auditors certify will leave the Lessor in the same after-Tax position had the payment pursuant to clause 8.7 not been necessary.

8.9 No double-counting

Notwithstanding the preceding provisions of this clause 8, if:

8.9.1 either a liability to Tax arises, or would have arisen but for an insufficiency of taxable profits, or a deduction for Tax purposes is not available to the Lessor, or an event giving rise to such a liability or non-deduction occurs (which would not have been, or given rise to, such a liability or non-deduction had all of the Assumptions proved to be correct) by reason of which the Lessee is (or would, but for this clause 8.9, be) liable to make a payment under the provisions of this clause 8; and

8.9.2 in consequence of any of the Assumptions proving not to be correct any amount of Rental payable under this Agreement or the amount of the Termination Sum or both is or are adjusted upwards or would be so adjusted but for the provisions of paragraph 4.6 of the Financial Schedule,

the Lessee shall not be liable to make any payments to the Lessor or otherwise in respect of Taxes under this clause 8.

8.10 Exclusion from tax indemnities

The Lessee is not obliged to indemnify the Lessor or any Lessor Group Member under clause 8.1 against:

8.10.1 any Tax liability to the extent that such liability is imposed by way of deduction or withholding from any payment due from the Lessee under this Agreement or any of the other Transaction Documents to the Lessor or any Lessor Group Member in circumstances where clause 8.2 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause);

- 8.10.2 any United Kingdom Value Added Tax (including any interest, penalties or fines thereon) payable by the Lessor or any Lessor Group Member in respect of the Lessor's acquisition of the Ship (other than to the extent that such Value Added Tax arises as a result of an Excluded Event) or any other Value Added Tax whether or not the Lessee is required to make any payment or increased payment in respect thereof under clause 8.11 and, in respect of a non-United Kingdom Value Added Tax, to the extent that the Lessee is already required under this Agreement to make any payment or increased payment in respect thereof; or
- 8.10.3 Taxes which would not have arisen but for any Lessor Breach or any Lessor Misconduct; or
- 8.10.4 any United Kingdom Tax liability which is suffered by the Lessor or any Lessor Group Member by reason of any payment made by or loss suffered by the Lessor or the applicable Lessor Group Member not being fully deductible in computing the chargeable profits for Tax purposes of the Lessor or the applicable Lessor Group Member whether or not the Lessor or the applicable Lessor Group Member is entitled to receive a compensating amount under clause 8.4 or an amount under clause 8.7; or
- 8.10.5 any Taxes to the extent that they would not have arisen but for the reasonably avoidable delay or failure by the Lessor or any Lessor Group Member in the filing of:
- (a) United Kingdom tax returns or any other documents in the United Kingdom or the payment of United Kingdom Taxes assessed on or payable by the Lessor or the applicable Lessor Group Member, or, as the case may be,
 - (b) tax returns in any jurisdiction other than the United Kingdom or any other documents in any jurisdiction other than the United Kingdom or the payment of Taxes in any jurisdiction other than the United Kingdom assessed on or payable by the Lessor or the applicable Lessor Group Member, provided that this clause 8.10.5(b) shall not apply to any failure or delay by the Lessor or the applicable Lessor Group Member prior to the time at which the Lessee, or as the case may be, the relevant Tax authority to whom such Taxes are due to be paid or with whom such returns or other documents are due to be filed, has notified the Lessor in writing of the requirement to pay such Taxes or file such returns or other documents,

and provided that this clause 8.10.5 shall not apply to any delay or failure by the Lessor or the applicable Lessor Group Member which:

- (i) has been consented to or requested by the Lessee or another Transaction Company in writing; and/or
- (ii) arises as a result of a failure by the Lessee promptly when requested to do so to provide the Lessor or the applicable Lessor Group Member with correct, suitable and adequate information which the Lessee has or might reasonably be expected to have or to obtain so as to enable the Lessor or the applicable Lessor Group Member to file the relevant tax return or pay such Taxes; or

- 8.10.6 any Taxes which would not have been imposed but for, or to the extent increased by reason of, an assignment or transfer by the Lessor of its rights or obligations under this Agreement or the other Transaction Documents; or
- 8.10.7 where the Lessee is liable to compensate the Lessor or any Lessor Group Member in respect of the liability under any other provision of this Agreement and has discharged its obligations in respect thereof; or
- 8.10.8 any Corporation Tax attributable to any Rental or Termination Amount or interest actually receivable hereunder by the Lessor or to any other amounts payable to and unconditionally received by the Lessor under this Agreement or pursuant to or in connection with any of the other Transaction Documents or to any sales or other proceeds (including, without limitation, insurance moneys) actually received and retained by the Lessor in respect of the Ship or the Lessor's rights under the Novated Building Contract; or
- 8.10.9 any Tax liability in respect of documentary or similar Taxes in circumstances where clause 8.6 applies (in which case the liability of the Lessee to pay such Tax liability shall be governed by that clause).

8.11 VAT

- 8.11.1 Save where expressly provided to the contrary, all payments made under this Agreement and the other Transaction Documents are calculated without regard to VAT. If any such payment constitutes the whole or any part of the consideration for a taxable or deemed taxable supply, the amount of that payment shall be increased by an amount equal to the amount of VAT which is chargeable in respect of the taxable supply in question against delivery of an appropriate VAT invoice provided that the Lessor shall not be liable to pay an amount in respect of VAT until such time as, and to the extent that it (or any member of its VAT group which is the representative member (or equivalent) of such VAT group for VAT purposes (the “**Representative Member**”)) receives a credit for such VAT as “input tax”, as defined in sub-section (1) of section 24 of VATA, under sections 25 and 26 of VATA (or the equivalent in any jurisdiction other than the United Kingdom), in which case such payment shall be made as soon as practicable after the credit is received.
- 8.11.2 If any amount in respect of VAT paid by the Lessor or the Representative Member pursuant to this Agreement or any of the Transaction Documents at any time shall be Irrecoverable VAT the Lessee shall forthwith on demand by the Lessor indemnify the Lessor and keep the Lessor fully indemnified at all times against such Irrecoverable VAT provided that if the Lessor determines that such Irrecoverable VAT subsequently proves to be recoverable and to the extent that no adjustment has been made in the calculation of such Irrecoverable VAT pursuant to the proviso in the definition of “Irrecoverable VAT”, the Lessor shall pay to the Lessee such amount, if any, as the Lessor shall determine will leave the Lessor in no better and no worse a position than the Lessor would have been in if no payment had been made by the Lessee to the Lessor under this clause 8.11.2.
- 8.11.3 If the Lessor makes any supply for VAT purposes pursuant to or in connection with this Agreement or any of the other Transaction Documents or any transaction or document contemplated herein or therein, the Lessee shall (save to the extent that the Lessor is entitled to be indemnified in respect of that VAT by an increased payment under clause

8.11.1 above) at such time as the Lessor certifies to the Lessee that any amount of VAT payable in respect of that supply has not been paid to the Lessor and having duly accounted for such VAT to HMRC at the correct time and having duly claimed bad debt relief in respect of that VAT the Lessor either has not or has not fully received such relief, pay on demand to the Lessor an amount equal to the aggregate of any VAT which is payable in respect of that supply and has not been the subject of bad debt relief together with interest on an amount equal to any VAT payable in respect of the supply at LIBOR ascertained in respect of the date on which such VAT was accounted for to HMRC for the period from that date until the date of the Lessor's certificate or the date upon which bad debt relief is received, provided that if an amount in respect of bad debt relief is subsequently recovered by the Lessor or the Representative Member which is attributable to VAT in respect of which the Lessee has made a payment under this clause 8.11.3 the Lessor shall, or shall procure that the Representative Member shall, pay an amount equal to such recovery to the Lessee to the extent such payment will not prejudice the retention of such VAT bad debt relief.

8.12 VAT mitigation

8.12.1 The Lessor and the Lessee agree to co-operate with a view to minimising any VAT payable by either party under any transaction referred to in clause 8.11 but so that neither party shall be bound to do anything which would not be good business practice and legal or which would involve any adverse consequences to it.

8.12.2 If it subsequently transpires that the Lessor recovers, or obtains a credit for, any VAT in respect of which the Lessor has been indemnified under clause 8.11 the Lessor shall refund to the Lessee such amount as the Lessor shall determine to be such proportion of such credit as will leave the Lessor, after such refund, in the same net position as if would have been had no VAT been required to be accounted for.

8.13 Information

8.13.1 Subject to clause 8.13.2, the Lessee shall provide such evidence, assistance, information and documentation relating to the Purchase Price, the Ship, the use to which the Ship is being put or such other evidence, information or documentation as may be requested by the Lessor and which is or ought reasonably to be available to the Lessee and which is under its control or power to procure, and which the Lessor may require in order for the Lessor to satisfy a legitimate request for information or documentation received from any Tax authority or in order to agree the Lessor's Tax computations or settle any other Tax matter and the Lessee undertakes to co-operate with the Lessor to enable the same to be provided to the relevant Tax authority.

8.13.2 The Lessee and Lessor acknowledge and agree that should either party, or as the case may be, any relevant advisors of either party (“**Advisors**”) determine that it shall be necessary for it, or as the case may be, such Advisors to disclose to any Tax authority such details relating to the transactions contemplated by the Transaction Documents as may be required to be disclosed by such person in accordance with the provisions of Part 7 of Chapter 8 of the Finance Act 2004 or any regulations made pursuant thereto, such person shall be permitted to make such disclosure **SAVE THAT** before making any such disclosure, the Lessor, or, as the case may be, the Lessee shall consult in good faith with the other party as to the requirement to make such disclosure and the terms on which such disclosure shall be made provided that notwithstanding such requirements to consult, any decision as to whether a disclosure is required to be made and the terms of that disclosure shall be made by the person wishing to make the disclosure acting in good faith.

9 Use and Employment

9.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period except as the Lessor may otherwise permit in writing.

9.2 Permitted use

The Lessee shall have the full possession and use of the Ship and the Ship may be employed throughout the world in any lawful trade for which the Ship is suitable subject to (i) the Lessee ensuring that the Ship is insured for the jurisdiction in which it is to operate (in accordance with clause 13) and to (ii) any limitations imposed by insurers and otherwise (iii) subject to and on the terms and conditions of this Agreement.

9.3 Other undertakings concerning use

The Lessee shall, and shall procure that each other Transaction Company shall:

- 9.3.1 avoid the Ship being operated or employed in any manner, trade or business contrary to Environmental Laws and all other laws or regulations, in any such case to the extent that they apply to the Ship, its ownership, operation and management or to the business of the Lessee, or in carrying illicit or prohibited goods or in any manner which would render her liable to condemnation or destruction, seizure, confiscation, penalties, requisition or sanctions or in any manner or trade which would or might reasonably be expected to prejudice the Lessor's ownership of the Ship unless the Lessee, by virtue of the provisions of the Time Charter as at the date hereof, is not entitled to prevent such operation or employment;
- 9.3.2 without prejudice to the generality of clause 9.3.1 above, ensure and/or procure that the Ship is properly used and, in particular, but without limitation, that it shall:
- (a) observe all material recommendations and requirements contained in all handbooks and manuals supplied by or procured from the Builder or the manufacturer or the supplier of components for the Ship relating to the proper use of the Ship; and
 - (b) ensure that the Ship is operated in accordance with the appropriate regulations and recommendations of all competent authorities of the flag state and the jurisdictions in or to which the Ship is employed or trades from time to time pursuant to the terms of this Agreement and of the Classification Society.
- 9.3.3 without prejudice to the generality of clause 9.3.1 above, throughout the Lease Period (and shall procure that any Approved Manager takes all necessary action to):
- (a) procure implementation and maintenance of a safety management system (**SMS**) which complies with the ISM Code, the flag state of the Ship and the Ship's Classification Society, which may from time to time be of mandatory application to the Ship and/or the Lessor and/or the Lessee and/or any other Transaction Company;

- (b) procure the obtaining and maintenance in force at all times of valid certificates evidencing compliance with the requirements of clause 9.3.3(a) above, including, without limitation, a valid Document of Compliance in relation to the Approved Manager and a valid Safety Management Certificate in respect of the Ship as required by the ISM Code;
- (c) provide the Lessor, at its request, with copies of any such Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate upon issuance;
- (d) if and to the extent required pursuant to the ISM Code, keep or procure that there is kept on board the Ship at all times a copy of any such Document of Compliance and the original of any such Safety Management Certificate; and
- (e) ensure that:
 - (i) the Ship has a valid International Ship Security Certificate;
 - (ii) the Ship's security system and its associated security equipment comply with section 19.1 of Part A of the ISPS Code;
 - (iii) the Ship's security system and its associated security equipment comply in all respects with the applicable requirements of Chapter XI-2 of SOLAS and Part A of the ISPS Code; and
 - (iv) an approved ship security plan is in place;

9.3.4 without prejudice to the generality of clause 9.3.1 above, in the event of the Ship (and for so long as it is) operating in or into or off-shore from the United States of America or in United States waters, obtain and maintain all Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time and such other documentation as may be required by the US Coast Guard or any other relevant US authority and, if so requested by the Lessor, provide copies of Certificates of Financial Responsibility or any equivalent evidence or certificate which may be required from time to time to the Lessor and take all reasonable precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in the flag state or in any jurisdiction in or to which the Ship may be employed or trade from time to time;

9.3.5 not at any time represent or hold out the Lessor as carrying goods or persons on the Ship or being in any way connected or associated with any operation or carriage whether for charter or reward or gratuity or gratuitously which may be undertaken by the Lessee during the Lease Period nor shall the Lessee represent itself as the agent of the Lessor for such purpose;

9.3.6 in the event of hostilities in any part of the world, avoid the Ship entering or trading to any zone which is declared a war zone or excluded area by any government or by the Ship's war risks insurers unless the Lessee has (at its expense) effected special, additional or modified insurance cover necessary to keep the Ship properly insured in accordance with this Agreement notwithstanding such entry into a war zone and, either prior to or promptly after such entry, shall have submitted the same to the Lessor to enable the Lessor to verify that such further insurances do meet such requirements and shall have ensured that all requirements under or pursuant to this Agreement in relation thereto shall have been

complied with and provided further that if the Ship is in a zone when it is declared a war zone or excluded area by the Ship's war risk insurers or any government the Lessee shall forthwith at its own expense effect special, additional or modified insurance as necessary to keep the Ship insured in accordance with this Agreement and shall then notify the Lessor in writing giving details of such insurances.

The requirements of this clause 9.3.6 shall be deemed satisfied if the Ship is held covered under a relevant government programme (by which is meant an insurance or an indemnity programme on terms acceptable to the Lessor, having regard to the insurance requirements set forth in this Agreement, of any member of the European Union and/or the United States of America or any other country approved by the Lessor); and

9.3.7 pay all tolls, dues and other outgoings whatsoever in respect of the Ship and the Insurances and keep proper books of account in respect of the Ship and, as and when the Lessor may so require, make such books available for inspection on behalf of the Lessor.

9.4 Provision of information in respect of the Ship's employment and trade

9.4.1 The Lessee shall procure that the Lessor is advised in writing if the Ship's trading pattern would or may result in a liability being imposed in the United States of America on the Lessor for US Transportation Tax, or any equivalent future Tax notwithstanding that, in such circumstances, it shall in such case be the responsibility of the Lessee to attend to all administrative matters relating thereto and to indemnify the Lessor for any such Tax liability.

9.4.2 At the Lessor's request, the Lessee shall provide the Lessor with such information and copy documents which the Lessor reasonably requests in relation to:

- (a) the Ship, its employment, position and engagements under the Time Charter;
- (b) copies (duly translated into English) of any charters of the Ship notified to and approved by the Lessor in accordance with clause 10.17 including any voyage or engagement which requires the Ship to enter into United States waters or operate in or offshore from the United States of America;
- (c) the amount of hire payable in respect of the bareboat chartering, time chartering or other hiring of the Ship and amount of payments and amounts due to the Ship's master and crew;
- (d) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of the Ship and any payments made in respect of the Ship; and
- (e) any towages and salvages,

provided that (in the case of information relating to, and copies of contracts for the chartering or hire of the Ship other than the Time Charter) the Lessee is able to procure that such information is provided or such copies are provided, in each case without breaching any confidentiality covenants on the part of any Guarantor Group Member under such contracts and, if the provision of this information or copies of the applicable charter contracts would, in the opinion of the Lessee (acting reasonably) cause such covenants to be breached, the Lessee delivers to the Lessor an opinion from the Lessee's English counsel setting out the reasons why (in the reasonable opinion of the Lessee's English

counsel) the terms of the proposed charter or sub-charter will not cause the Lessee to be in breach of the covenant in clause 9.2, provided always that if the Lessor is required by its Tax Authority to disclose any such charter or sub-charter the Lessee shall procure in so far as possible that the applicable Guarantor Group Member obtains the consent of its counterparty to such contract for a copy of the contract to be provided to the Lessor's Tax Authority.

9.4.3 The Lessee shall advise the Lessor promptly of any breach of any provisions of this clause 9.4 and shall thereafter keep the Lessor informed of progress of matters in relation thereto.

10 Maintenance and Operation

10.1 General

The Lessee undertakes to comply with the following provisions at all times during the Lease Period until such time as the Ship is sold except as the Lessor may otherwise permit in writing.

10.2 Supply and crewing

Throughout the Lease Period the Lessee shall procure that the Ship is manned, victualled, navigated, operated, supplied, fuelled, maintained and repaired, all at no cost to the Lessor.

10.3 Condition of the Ship

The Lessee shall procure that the Ship and every part thereof is kept in a good and safe condition and state of repair, ordinary wear and tear excepted, and shall ensure that all repairs to or replacements of lost, damaged or worn parts and equipment are effected in such a manner so as not to diminish the value of the Ship and in any event:

10.3.1 consistent with first-class ship ownership and management standards in relation to ships of the Ship's age and type;

10.3.2 so as to maintain the Ship's class, namely "DNV, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V (3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport" with Det norske Veritas (or the equivalent classification with another Classification Society), free of overdue conditions affecting the Ship's class unless waived;

10.3.3 so as to comply with all laws and regulations, including, without limitation, Environmental Laws, and to maintain all certificates, licences and permits applicable to vessels registered in the state of registration for the time being of the Ship being pursuant to clause 12 and to vessels trading to any jurisdiction to which the Ship may trade from time to time in any such case unless waived; and

10.3.4 without prejudice to the foregoing provisions of this clause 10.3, at least to the same standard, on a non-discriminatory basis, as other comparable vessels owned or operated by companies which are Guarantor Group Members.

10.4 Master, officers and crew

The Master, officers and crew of the Ship shall be the servants of the Lessee for all purposes whatsoever. The Lessee shall ensure that the wages and allotments and the

insurance and pension contributions as appropriate of the Master, officers and crew shall be regularly paid and all deductions from their wages in respect of tax liability shall be properly accounted for and the Master shall have no valid claim for disbursements other than those incurred by him in the ordinary course of trading of the Ship.

10.5 Modifications

The Lessee shall procure that no modification is made to the Ship which would:

10.5.1 materially and adversely alter the structure, type or performance characteristics of the Ship unless required by the Classification Society of the Ship from time to time; or

10.5.2 reduce the value of the Ship,

and in any event the Lessee shall require the prior written consent of the Lessor for any modifications which are made to the Ship the cost of which exceeds or will when completed exceed five million Dollars (\$5,000,000).

10.6 Surveys

The Lessee shall procure that the Ship is submitted to such periodical or other surveys as may be required by the Ship's flag state or for classification purposes and shall comply with all conditions affecting the Ship's class of the Classification Society of the Ship from time to time in accordance with their terms unless waived and the Lessee shall supply copies of any survey reports to the Lessor upon request from the Lessor.

10.7 Drydocking

The Lessee shall procure that the Ship is drydocked as often as may be required to ensure that the Ship maintains its classification with its Classification Society and otherwise in accordance with good commercial practice. If the Lessee fails to comply with the requirements of the relevant Classification Society, the Lessor shall have the right to inspect the Ship in accordance with clause 10.14. If so requested by the Lessor, the Lessee shall give the Lessor reasonable prior written notice of any intended drydocking of the Ship.

10.8 Release from arrest

Other than in the circumstances described in clause 6.3.2, the Lessee shall promptly pay and discharge all debts, damages, liabilities and outgoings whatsoever which have given or which may reasonably be expected to give rise to maritime, statutory or possessory liens (other than Permitted Security Interests) on, or claims enforceable against, the Ship or the Insurances or any part thereof. If at any time during the Lease Period any writ or equivalent claim or pleading in admiralty is filed against the Ship or the Insurances or any part thereof, or the Ship or the Insurances or any part thereof is arrested or detained or attached or levied upon pursuant to legal process or purported legal process or in the event of the detention of the Ship in the exercise or the purported exercise of any such lien or claim as aforesaid (other than by reason of a Compulsory Acquisition or by reason of a Lessor's Security Interest), the Lessee shall procure the release of the Ship and the Insurances from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty as soon as reasonably

practicable and in any event within sixty (60) days of receiving notice thereof by providing bail or procuring the provision of security or otherwise as circumstances may require. Subject to the provisions of this Agreement, the Lessor shall cooperate with the Lessee to the extent that the Lessee wishes to make any payment through or requires to take any reasonable steps (other than court proceedings) in the name of the Lessor.

10.9 Manuals and technical records

The Lessee shall procure that:

- 10.9.1 all such records, logs, manuals, technical data and other materials and documents which are required to be maintained in respect of the Ship to comply with any applicable laws or the requirements of the Ship's flag state and Classification Society are maintained;
- 10.9.2 accurate, complete and up-to-date logs and records of all voyages made by the Ship and of all maintenance, repairs, alterations, modifications and additions to the Ship are kept; and
- 10.9.3 following the occurrence of a Termination Event and for as long as it is continuing on reasonable advance notice from the Lessor, the Lessor or its representatives is permitted at any time to examine and take copies of such logs and records and other records.

10.10 Ship's Software

The Lessee shall obtain and maintain and procure that there are obtained and maintained for the benefit of the Lessor, the Lessee, and the Time Charterer and any other person hiring or chartering or operating the Ship from time to time all licences and permits (without liability on the part of the Lessor for the payment of any royalties as may be required from time to time in respect of the Ship's Software) and shall procure that all such licences and permits are granted without any limitation or expiry (or are renewed prior to any such expiry).

10.11 Manager

The Lessee shall procure that no manager of the Ship is appointed which is not an Approved Manager. For the avoidance of doubt this shall not be construed as a prohibition on the appointment of sub-contractors by the Approved Manager, providing that the Approved Manager remains responsible for management of the Ship.

10.12 Safe operation

The Lessee shall take all steps necessary so as to ensure that the Ship should be navigated and operated in a proper, safe and seaman-like manner and in the manner prescribed by any legislation, including Environmental Laws, in force in the state of registration for the time being of the Ship and all other applicable jurisdictions.

10.13 Seaworthiness

Save for periods when the Ship is in dry-dock, the Lessee shall procure that the Ship should at all times be fit to go to sea without serious danger to human life (by reason of the condition, or the unsuitability for its purpose, of either the Ship or its machinery or equipment or any part of the Ship or its machinery or equipment or undermanning or overloading or unsafe or improper loading or any other matter relevant to the safety of the Ship).

10.14 Inspection

The Lessee shall ensure that the Lessor, its surveyors or other persons appointed by it will be permitted to inspect the Ship, upon reasonable notice and without interfering with the Ship's operation. Such inspections shall be without cost to the Lessee unless either such inspection reveals that the requirements of this clause 10 are not then being complied with in all material respects or it is made after the occurrence of a Termination Event that is continuing, in which case it shall be at the cost of the Lessee.

10.15 Ship-related expenses

The Lessee shall procure that, in relation to the operation of the Ship, at no time is the Lessor's credit pledged to pay for any costs of maintenance, repair, operation or use of the Ship or in relation to any of the other matters listed below and the Lessee shall pay or procure that there is paid within any applicable grace or credit period all costs, charges and expenses arising during or in respect of the Lease Period, from the purchase, exportation, importation, registration, ownership, chartering, sub-chartering, possession, control, use, operation, maintenance, repair, replacement, refurbishment, overhaul, insurance, storage, redelivery, dry-docking or disposal of the Ship or any modification to or any change or alteration in the Ship and otherwise howsoever in connection with the Ship, except:

10.15.1 for Taxes, to which clause 8 shall apply;

10.15.2 for the Purchase Price of the Ship pursuant to the Novated Building Contract; or

10.15.3 to the extent that such items are already the subject of indemnification, either under clause 7 or under the Financial Schedule.

While the Lessee's liability to pay ultimately the amount due in respect of any such costs, charges or expenses is not diminished, the Lessee may delay or refrain from paying any such costs, charges or expenses while it is contesting them in good faith by appropriate steps and provided that adequate reserves have been made to meet such liability in case the Lessee's contest ceases or is unsuccessful, for whatever reason and provided that such delay or withholding does not, in the reasonable opinion of the Lessor, carry with it any material risk of arrest, forced sale, loss, confiscation or forfeiture of the Ship or any interest therein.

The Lessee will also not hold out the Lessor as being involved in the operation of the Ship.

If a claim is made against the Lessor for payment of any amounts referred to in this clause 10.15, the Lessee shall produce to the Lessor such evidence as it shall reasonably require of the due payment of any sums referred to in this clause.

10.16 Notification of certain events

The Lessee shall, immediately upon the same coming to its attention and to the best of its then current knowledge, notify the Lessor by fax (confirmed forthwith by letter) of:

10.16.1 any casualty of the Ship which is or is likely to give rise to a loss or cost of five million Dollars (US\$5,000,000) or more;

10.16.2 any occurrence as a result of which the Ship has become or is, by the passing of time or otherwise, likely to become a Total Loss;

- 10.16.3 any requirement made by any insurer or Classification Society or by any competent authority which is not complied with within any applicable time period for compliance stipulated by such authority;
- 10.16.4 any arrest or detention of the Ship, any exercise or purported exercise of any lien on the Ship or its Earnings or any requisition of the Ship for hire;
- 10.16.5 any Environmental Claim made against the Lessor of which it is or becomes aware or in connection with the Ship, or any Environmental Incident or Environmental Claim in an amount in excess of one million Dollars (\$1,000,000) made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.6 any claim for breach of the ISM Code or the ISPS Code being made against the Lessee or any other Transaction Company or the Time Charterer in connection with the Ship;
- 10.16.7 any other matter, event or incident, actual or threatened, the effect of which will or is reasonably likely to lead to the ISM Code or the ISPS Code not being complied with;
- 10.16.8 any claims made in connection with a bodily injury to a third party involving amounts in excess of an amount of one million Dollars (\$1,000,000) or its equivalent in any other currency;
- 10.16.9 any Security Interest (other than a Permitted Security Interest) arising over the Ship or the Insurances or Requisition Compensation; and
- 10.16.10 any other event in respect of the Ship or the Insurances or Requisition Compensation which the Lessee expects to involve the Lessor in any loss or liability,
- and the Lessee shall keep the Lessor advised in writing on a regular basis and in such detail as the Lessor shall require of the response to any of those events or matters by the Lessee or the applicable Transaction Company or any other person.

10.17 Restrictions on chartering

The Lessee shall not, without the prior written consent of the Lessor acting reasonably (which shall be subject to the Lessor being satisfied with the information or documentation or opinion provided in accordance with clause 9.4.2):

- 10.17.1 let the Ship on demise charter;
- 10.17.2 let the Ship on or enter into any time or consecutive voyage charter in respect of the Ship to the Original Purchaser or any other person who has at any time had a right to acquire the Ship from the Builder;
- 10.17.3 put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed five million Dollars (US\$5,000,000) (or the equivalent in any other currency) unless either:
- (a) that person has first given to the Lessor and in terms satisfactory to it a written undertaking not to exercise any lien on the Ship or its earnings for the cost of such work or for any other reason; or
 - (b) the cost of such work is covered by insurances; or

(c) the Lessee establishes to the reasonable satisfaction of the Lessor that it has sufficient funds to pay for the cost of such work; and

10.17.4 knowingly permit the Time Charterer to enter into any sub-charter of or for the Ship which would breach the terms of the covenant in clause 10.17.2.

11 Equipment

11.1 General

The following provisions of this clause 11 shall apply at all times during the Lease Period and until such time as the Ship is sold.

11.2 Use of Equipment

The Lessee shall have the use of all outfit, equipment, furnishings, furniture and fittings, spare and replacement parts belonging to the Ship, and the same or their substantial equivalent shall be returned to the Lessor on redelivery in good order and condition, ordinary wear and tear excepted, and except for changes and alterations properly made as permitted under this Agreement.

11.3 Renewal of Equipment

The Lessee shall procure that, at no cost to the Lessor, from time to time during the Lease Period such items of equipment forming part of the Ship as shall be damaged, worn or lost are replaced, renewed or substituted in such manner as not to diminish in any material adverse way the value of the Ship. Title to any part replaced, renewed or substituted shall remain with the Lessor until the part which replaced it or the new or substituted item of equipment becomes the property of the Lessor or is replaced, renewed or substituted by an item of equipment which at that time becomes the property of the Lessor. The Lessee shall ensure that title to any such new item of equipment shall be free of all Security Interests and shall vest in the Lessor upon fitting.

11.4 Additional equipment

At any time any necessary additional equipment may be fitted so as to render the Ship available for any purpose for which the Lessee may require to use or operate the Ship, subject always to clause 9.3, or as required by any Classification Society, subject to no permanent structural damage or reduction in value thereby being caused to the Ship by reason of its installation or subsequent removal. Any additional equipment so fitted shall be considered the property of the Lessee who may remove such additional equipment at any time before the expiration of the Lease Period unless (i) it is agreed between the Lessor and the Lessee that any such equipment shall remain on the Ship after redelivery in which event such equipment shall as from redelivery become the property of the Lessor, or (ii) such additional equipment is required by any Classification Society. The cost of fitting or removing any equipment together with the cost of making good any damage caused by such fitting or removal shall be payable in full by the Lessee.

12 Title and Registration

12.1 General

The following provisions of this clause 12 shall apply at all times during the Lease Period until such time as the Ship is sold.

12.2 Title and ownership

The Ship shall belong to the Lessor and title to and ownership of the Ship shall remain vested in the Lessor. The Lessee shall have no right, title or interest in or to or any option or any right to acquire title to or any proprietary interest in or to any part of the Ship except the rights expressly set out in this Agreement.

12.3 Approved Flag States

12.3.1 As at the date of this Agreement (but subject always to clause 12.3.2 and to the following states or countries satisfying and continuing to satisfy the criteria set out in clause 12.5 below), the Lessor agrees that any of Hong Kong, the Marshall Islands, the United Kingdom, Liberia, Bermuda or the Bahamas is acceptable to the Lessor as a state or country in which the Lessor agrees the Ship may be registered.

12.3.2 If the Lessor gives notice to the Lessee that any of the above mentioned states or countries falls within the restrictions or circumstances set out in clause 12.5 below, the applicable state or country shall cease to be an Approved Flag State for the purposes of this Agreement.

12.4 Registration

The Lessee agrees at its expense (and, in relation to clause 12.4.1 below, the Lessor agrees to provide all requisite assistance to the Lessee so as to enable the Lessee) to:

12.4.1 subject to clause 12.3.2 and to the criteria set out in clause 12.5 below, procure that at Delivery the Ship is, and thereafter throughout the Lease Period remains, registered in the name of the Lessor under the laws and flag of an Approved Flag State at the applicable time; and

12.4.2 (subject to clause 12.5 below) procure throughout the Lease Period that the registration of the Ship is maintained under the laws and flag of an other Approved Flag State and shall not knowingly do or suffer to be done anything whereby such registration may be forfeited or imperilled; and

12.4.3 pay, and indemnify the Lessor from and against, all registration and other charges and fees that may from time to time be payable in respect of such registration.

12.5 Reflagging

12.5.1 The Lessor may require the Lessee (at its cost and expense) to re-register the Ship under the laws and flag of any other state or jurisdiction (including, but not limited to, the Approved Flag States referred to in clause 12.3 above) in the event that (a) it becomes unlawful, impossible, impracticable or (in the opinion of the Lessor, acting in good faith) undesirable (including, without limitation, by reason of change of legal or political circumstances) for the Lessor to continue to be registered as the owner of the Ship under

the laws and flag of its then current register or (b) if classification inspections for vessels registered under the laws and flag of the state in which the Ship is registered at the relevant time are no longer undertaken by a classification society which is a member of IACS.

- 12.5.2 The Lessee, upon not less than 15 days written notice to the Lessor (or such shorter period as the Lessor may agree, such agreement not to be unreasonably withheld) and provided that no Relevant Event has occurred and is continuing, may elect to re-register the Ship in a state listed in clause 12.3.1 or any other state or country approved by the Lessor, such approval not to be unreasonably withheld or delayed, subject to:
- (a) the Ship being registered in the name of the Lessor, free from Security Interests other than Permitted Security Interests in the applicable register in such flag state;
 - (b) inspections of the Ship required by the proposed new flag state continuing to be undertaken by a classification society which is a member of IACS;
 - (c) it being possible to obtain a legal opinion satisfactory to the Lessor in its discretion in relation to the laws of such proposed flag state as to the validity and enforceability of the Lessor's ownership interest in the Ship contemplated by the Transaction Documents;
 - (d) the Lessor's liability as owner of the Ship not increasing as a result of such change of flag; and
 - (e) the right of the Lessor to treat the applicable state or country as being unacceptable in the future in accordance with clause 12.5.1 above.
- 12.5.3 The Lessor agrees, at the request and cost of the Lessee, promptly to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee to re-register the Ship in any Approved Flag State.
- 12.5.4 All costs and expenses (including legal costs and expenses and Taxes thereon and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any re-registration pursuant to clause 12.5 shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand. The provisions of clause 12.4 shall, with any necessary modifications, apply following any re-registration.
- 12.6 Name, colours etc.**
- 12.6.1 The Ship shall be painted in such colours and display such funnel insignia as the Lessee may from time to time lawfully require. The Lessee shall notify the Lessor of any intended change in the name of the Ship. At the request and cost of the Lessee, the Lessor agrees to take such actions as are available to the Lessor and which must be performed exclusively by the registered owner of the Ship and not the operator of the Ship in order to assist the Lessee in relation to any registration formalities required in connection with a change of the Ship's name.
- 12.6.2 All costs and expenses (including legal costs and expenses and any appropriate fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having

been properly incurred and which fee will be charged at the Lessor's Management Time Cost Rate) properly incurred in connection with any registration formalities required in connection with a change of the Ship's name shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

12.7 Encumbrances

The Lessee shall not (save pursuant to the express powers conferred by this Agreement):

- 12.7.1 attempt or hold itself out as having any power to sell, charge or otherwise encumber or to sell or otherwise dispose of the Ship or any interest therein; or
- 12.7.2 let the Ship otherwise than as provided in this Agreement; or
- 12.7.3 create, incur, suffer or permit to exist any Security Interest (other than Permitted Security Interests) on or over the Ship, its earnings or on or over the Insurances,

and agrees to carry a properly certified copy of this Agreement with the Ship's papers and to exhibit the same to any person having business with the Ship which might give rise to any Security Interest thereon other than Permitted Security Interests.

12.8 Protection of Lessor

The Lessee shall seek to avoid anything being done which jeopardises the rights of the Lessor in the Ship or any part thereof and/or seek to avoid any omission which would prevent those rights from being exercised or enjoyed.

12.9 Notice of Lease

The Lessee shall place and keep or procure that there is placed and kept prominently displayed in the control room of the Ship throughout the Lease Period a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space of not less than six (6) inches wide by nine (9) inches high, substantially reading as follows:

“ NOTICE OF OWNERSHIP AND LEASE ”

“This Ship is owned by Peony Leasing Limited (the “Lessor”) and is subject to a lease agreement between the Lessor and Seaspan Finance I Co. Ltd (the “Lessee”). Neither the Lessee nor any manager, nor the master of the Ship nor any servant or agent of any of them have any right, power or authority whatsoever to contract on behalf of the Lessor or to pledge the credit of the Lessor or the involvement of the Lessor in any liability whatsoever and none of the Lessee, any manager, the master of the Ship and any other person has any right, power or authority to create, incur or permit to be imposed upon this Ship any Security Interest whatsoever except for general average, crew's wages or salvage”

or in such other form as the Lessor may reasonably require from time to time.

- 12.9.1 The Lessee shall not remove or cover up such notice, and will not place or permit to be placed any other notice affecting the ownership of the Ship or otherwise relating to the rights of the Lessor in or on the Ship or any part thereof save as is expressly permitted or required by the Transaction Documents without the prior written consent of the Lessor.

13 Insurances

13.1 General

The Lessee undertakes with the Lessor to procure that the following provisions of this clause 13 are complied with at all times during the Lease Period and, thereafter, until the Ship is sold, either by the Lessee or by any Guarantor Group Member to whom the Lessee delegates its rights and duties as sales agent in accordance with clause 2.8.9, except as the Lessor may otherwise permit. The Lessee confirms that throughout the Lease Period until the Ship is sold, the Ship shall be in every respect at the risk of the Lessee.

13.2 Maintenance of Insurances

The Ship shall be kept insured at no cost to the Lessor against:

- 13.2.1 fire and usual marine risks (including excess risks) and war risks;
- 13.2.2 protection and indemnity risks (including pollution risks and excess war protection and indemnity risks), on “full entry” terms; and
- 13.2.3 in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner or operator of vessels of a similar age, condition and type as the Ship and which may be requested by the Lessor from time to time (other than (i) the amount of any deductible, and (ii) loss of earnings/hire).

13.3 Terms of Insurances

Such Insurances shall be effected:

- 13.3.1 in Dollars or such other currency as the Lessor and the Lessee may agree;
- 13.3.2 in the case of fire and usual marine risks and war risks (on an agreed value basis) in an amount equal to the greater of (i) 120% of the highest Termination Sum applicable to the period for which the insurances are renewed and (ii) the market value of the Vessel;
- 13.3.3 in the case of protection and indemnity risks (including pollution liability risks), in an amount equal to the highest amount in respect of which cover is in accordance with customary insurance market practice taken out by prudent owners or operators of vessels of a similar type, size, age, condition and flag as the Ship with protection and indemnity risks associations that are members of the International Group of Protection and Indemnity Associations (but in the case of pollution risks, for a minimum amount of one billion Dollars (\$1,000,000,000) or where cover for such risks is not available in such an amount, such lesser amount as is the best level of cover available in the market at the applicable time); and
- 13.3.4 on terms approved under clause 13.19, but subject to a minimum requirement of the scope of coverage of that provided by the Norwegian Marine Insurance Plan 1996 or as provided by the equivalent full conditions forms of other nationality (so far as can be reasonably obtained in the market at the applicable time); and
- 13.3.5 through brokers and with insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in war risks and protection and indemnity risks associations, in each case approved under clause 13.19.

13.4 Further protection for Lessor

In addition to the terms set out in clause 13.3, the Insurances effected under such clause shall:

- 13.4.1 name (or be amended to name) the Lessor as additional assured (in the case of the Insurances referred to in clause 13.2.1) and (in the case of Insurances referred to in clause 13.2.2 and war risks insurance if such risks are insured against by entry of the Ship in a war risks association) either as an assured with limited rights on “misdirected arrow” conditions in accordance with the usual terms of the club or association or (at the option of the Lessor) as a joint member for its rights and interests and, as between the Lessor and the Lessee, without the Lessor being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such Insurances and the Lessee hereby agrees to promptly indemnify the Lessor against any liability the Lessor may have for premiums, calls or other assessments in respect of any such Insurances;
- 13.4.2 in the case of the Insurances in respect of marine risks and war risks, be endorsed by way of a loss payable clause to the effect that:
- (a) payment of a claim for a Total Loss will be made to the Lessor (who shall, upon receipt thereof, apply the same in accordance with clause 14.3);
 - (b) payment of a claim for an amount which equals or exceeds the threshold amount attributable to a Major Casualty amount shall be paid to the Lessor and, subject to no Relevant Event then having occurred which is continuing (after which such sums shall be applied in accordance with clause 14.3) shall be applied as follows:
 - (i) the sum received by the Lessor shall be paid over to the Lessee or any other applicable Transaction Company subject to the Lessor receiving evidence satisfactory to the Lessor that all loss and damage resulting from the casualty has been properly made good and repaired and that all repair accounts and other liabilities connected with the casualty have been paid by the Lessee or by any other Transaction Company; and
 - (ii) the insurers with whom the fire and usual marine risks and war risks insurances are effected may in the case of any Major Casualty, and with the prior written consent of the Lessor (such consent not to be unreasonably withheld or delayed) make payment on account of the repairs which are being carried out; and
 - (c) as long as no Relevant Event has occurred and is continuing, payment of any other claim shall be made to the Lessee or, as applicable, such other Transaction Company, who shall apply the same in or towards making good the loss and fully repairing all damage in respect whereof such payment shall have been made and after the occurrence of a Relevant Event and whilst it is continuing and following notification by the Lessor to the approved brokers, payment of any such claim shall be made to the Lessor; and
 - (d) in the case of the Insurances in respect of protection and indemnity risks, be endorsed by way of a loss payable clause to the effect that moneys payable thereunder shall be paid in reimbursement of the assured which has settled the liability to which the relevant claim relates or, if so agreed by the relevant insurers,

be paid directly to the person to whom was incurred the liability in respect of which the relevant money was paid unless and until the Lessor, following the occurrence of a Relevant Event which is continuing, shall direct that they shall be paid to the Lessor whereupon they shall be paid to the Lessor.

13.5 Renewals

- 13.5.1 As soon as possible, but in any case not less than seven (7) days before the expiry of any of the policies, entries or contracts forming part of the Insurances or if there is a change in the insurers and/or markets through whom the Insurances are placed, the Lessee shall notify the Lessor of the names of the brokers (or other insurers) and any protection and indemnity and/or war risks association through or with whom such Insurances are proposed to be renewed and (if any material change is proposed) of the proposed terms and amounts of renewal. The Lessee shall also promptly notify the Lessor of any material change in the information notified to the Lessor pursuant to this clause 13.5.1 and shall provide the Lessor with particulars of such changes. If at any time the terms and amounts on and for which the Insurances are proposed to be renewed or the identity of the broker or war or protection and indemnity risks associations with whom the Insurances are proposed to be renewed are not approved by the Lessor, as contemplated by clause 13.19, the Lessor shall notify the Lessee promptly in writing of the withdrawal of its approval, and the Lessee shall procure that the Insurances are renewed or replaced on terms satisfactory to the Lessor.
- 13.5.2 Before the expiry of any Insurances the Lessee shall procure that such relevant Insurances are renewed and shall confirm to the Lessor that such renewals have been effected or shall procure that such confirmation is given to the Lessor before the expiry of any such Insurances.
- 13.5.3 Promptly after each such renewal, the Lessee shall procure that the Lessor is provided with the details of the terms and conditions and amounts on which and for which such Insurances have been renewed.
- 13.5.4 If, after renewal and after review by the Lessor of the terms and conditions of renewal, the Lessor advises the Lessee that the terms and conditions of such Insurances as renewed, do not conform with the requirements of this clause 13 (which advice shall specify the particular discrepancies) then, after consultation with the Lessor, the Lessee shall ensure that any such discrepancies are corrected promptly.

13.6 Custody of Policy Documents/Loss Payable Clauses

The Lessee shall procure that there shall be deposited with the brokers and/or insurers through which the Insurances are arranged from time to time copies of all slips, cover notes, policies certificates of entry or other instruments of insurance from time to time issued in connection with such of the Insurances referred to in this clause 13 as are effected through such brokers and/or the war risks and protection and indemnity association approved in accordance with clause 13.19 and shall also procure that, in the case of the Insurances referred to in clause 13.2.1, the interest of the Lessor shall be endorsed on the relevant cover note or policy and, in the case of the protection and indemnity Insurances referred to in clause 13.2.2, the interest of the Lessor shall be endorsed on the relevant certificate of entry or policy, in each case in addition to incorporation of the relevant loss payable clause and the Lessee shall procure that the Lessor shall be furnished with copies of the relevant cover note or policy or certificate of entry or policy, duly endorsed.

13.7 Letters of undertaking

In relation to all Insurances effected from time to time under and in accordance with this clause 13, the Lessee shall ensure that all brokers and/or insurers and any protection and indemnity or war risks associations in which the Ship is entered, in each case being approved under clause 13.19, provide the Lessor with letters of undertaking:

- 13.7.1 in the case of an approved broker, in such form as represents the then current market practice in the insurance market in which the approved broker operates and any professional association of which that approved broker is a member; and
- 13.7.2 in the case of a protection and indemnity association, having regard to the current market practice and the practices prescribed by the International Group of Protection and Indemnity Associations or, if the relevant protection and indemnity association is not a member of the International Group of Protection and Indemnity Associations but has otherwise been approved by the Lessor in accordance with clause 13.19, the current practice of that association (and which will for all purposes provide for notification to the Lessor prior to the cancellation of any such entry); and
- 13.7.3 in the case of a war risks association, having regard to the current market practice in the insurance market in which such association operates.

13.8 Fleet Cover

If any of the Insurances referred to in clause 13.2.1 and/or 13.2.2 form part of a fleet cover, the Lessee will procure that (a) any letter of undertaking referred to in clause 13.7 is amended to provide that the relevant brokers shall undertake to the Lessor that they shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (b) that the applicable policy documents are endorsed to the effect that the applicable insurers shall neither set-off against any claims in respect of the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurance or (c) that the Lessor receives other comfort that this will not occur.

13.9 No material adverse alteration

The Lessee shall comply with the terms and conditions of the Insurances and shall not do and shall ensure that there is no act or omission which would give rise to a right to cancel any Insurances or render any Insurances, or any policy or policies or certificate or certificates of entry invalid, void, or unenforceable or render any sum paid out under any policy or policies or certificate or certificates of entry or the Insurances evidenced thereby repayable in whole or in part. The Lessee will not make, and shall procure that no material alteration is made to the terms of any of the Insurances without the prior written consent of the Lessor.

13.10 Operation outside terms of Insurances

The Lessee will take all steps necessary so that:

- 13.10.1 the Ship is not operated in any way inconsistent with the provisions or warranties of or implied in, or in contravention of the cover provided by, any Insurance taken out in accordance with this clause 13;

- 13.10.2 the Ship is not engaged in any voyage or to carry any cargo not permitted by any Insurance, in each case without first obtaining the consent (if necessary) of the insurers to such operation or engagement and complying with such requirements as to extra premium or otherwise as the insurers may prescribe; or
- 13.10.3 all requisite certificates of financial responsibility and/or other consents, licences, approvals or authorisations as may from time to time be required are obtained and maintained if the Ship is likely to be operating in or into or off-shore from the United States of America.
- 13.11 Payment of premiums and calls**
- The Lessee shall procure that (taking account of any applicable grace period) all premiums, calls, contributions or other sums of money from time to time due in respect of any Insurance are paid punctually and in full.
- 13.12 Notification of Total Loss**
- The Lessee shall procure that the Lessor is notified of:
- 13.12.1 the levy of any distress on the Ship or its arrest, detention, seizure, condemnation as prize, Compulsory Acquisition or requisition for title or use; and
- 13.12.2 (save in the case of Compulsory Acquisition or requisition for title or use or any capture, seizure, arrest, detention or confiscation of the Ship by any government, or by persons acting or purporting to act on behalf of any government) any accident, casualty or other event which has caused or resulted in or is likely to cause or result in the Ship being or becoming a Total Loss.
- 13.13 Settlement of claims**
- 13.13.1 The Lessee shall do all things necessary and provide all documents, evidence and information to enable the Lessor to collect or recover any moneys which at any time become due and payable to the Lessor or otherwise under in respect of the Insurances.
- 13.13.2 Subject to the Lessee having provided any necessary security in a timely manner so as to prevent the actual or continued arrest of the Ship and subject also to clause 7.6 and provided that no Termination Event or Mandatory Prepayment Event shall have occurred and be continuing, the Lessor agrees that the Lessee shall have the right to settle, compromise or abandon any claim under the Insurances for Total Loss or in respect of a Major Casualty or to give notice of abandonment of the Ship to the insurers and/or to claim a constructive Total Loss upon the prior written approval of the Lessor (such approval not to be unreasonably withheld or delayed) but that the Lessor itself shall not settle, compromise or abandon any such claim without reference to the Lessee prior to the occurrence of any Termination Event or Mandatory Prepayment Event. After the occurrence of any Termination Event or Mandatory Prepayment Event while it is continuing or after termination of leasing of the Ship to the Lessee pursuant to clause 18.1 or, as the case may be, clause 18.2 the Lessor alone shall have the right to settle, compromise or abandon any claims under the Insurances and/or give notice of abandonment of the Ship to the Insurers and/or claim a Constructive Total Loss.

13.14 P & I Guarantee

The Lessee shall arrange for the execution and delivery of all guarantees and indemnities as may from time to time be required by the Ship's P & I Club or war risks association.

13.15 Additional Insurance

Nothing in this clause 13 shall prohibit the Lessee from placing additional insurance on the Ship at its own expense and for its sole benefit provided however that:

- 13.15.1 such insurance shall not prejudice the Insurances or recovery thereunder or exceed the amount permitted by warranties or other conditions contained in the Insurances without the written consent of the insurers of the Insurances;
- 13.15.2 where the written consent of the insurers as referred to in clause 13.15.1 is required, the Lessee shall procure that there shall be promptly furnished to the Lessor a copy of such consent and, in all cases, with particulars of any additional insurance effected including copies of any cover notes or policies; and
- 13.15.3 any insurance payments received by the Lessor arising solely from additional insurance effected by the Lessee under this clause 13.15 less amounts due (if any) by the Lessor in respect of Taxes in relation to the sums received shall be paid by the Lessor to the Lessee promptly after receipt thereof.

13.16 No Security Interest

The Lessee shall not, and shall procure that no other Transaction Company nor the Time Charterer will, create or permit to exist any Security Interest over or in respect of the Insurances save for the approved brokers' or insurers' right of set off and lien for unpaid premiums to the extent permitted by clause 13.8, and save for any security interest created by the Lessee in favour of the Security Trustee pursuant to and in accordance with the Proceeds Deed.

13.17 Provision of copies of communications

At the Lessor's request the Lessee shall procure that there is provided to the Lessor at the time of each such communication, copies of all material written communications between the Lessee, or any other Transaction Company and:

- 13.17.1 the approved brokers; and
 - 13.17.2 the approved protection and indemnity and/or war risks associations; and
 - 13.17.3 the approved insurance companies and/or underwriters;
- which relate directly or indirectly to:

- (a) the Ship and the obligations of the Lessee or any other Transaction Company relating to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls and all communication relating to

non-payment of premiums or calls and cancellation of any of the Insurances or relating to the imposition of any material new or modified condition, warranty, exclusion or qualification or the material alteration of the Insurances; and

- (b) any credit arrangements made between the Lessee or any other Transaction Company and any of the persons referred to in paragraphs 13.17.1 to 13.17.3 relating wholly or partly to the effecting or maintenance of the Insurances.

13.18 Provision of information

The Lessee shall procure that there shall be provided promptly any information reasonably required for the purpose of the Lessor obtaining or preparing any report from a reputable international independent marine insurance broker or adviser appointed by the Lessor as to the adequacy of the Insurances effected or proposed to be effected, and the Lessee shall, promptly upon demand, indemnify the Lessor in respect of reasonable fees incurred by or for the account of the Lessor in connection with one such report prepared immediately prior to Delivery and at annual intervals thereafter, but only following either any material change to the terms of any of the Insurances or a change in the identity of the approved brokers, the approved protection and indemnity and/or war risks association or the approved insurance companies and/or underwriters.

The Lessee shall also, on the Lessor's request (not more frequently than annually and, in case of a policy period of more than 12 months, not more than once in each policy period), provide copies of all policy documents and certificates of entry relating to the Insurances which are in the possession of the Lessee, its agents or managers or the approved brokers.

13.19 Approval process

At all times the Lessor's approval must be obtained in relation to placement and renewal of Insurances, particularly with respect to requirements as to amounts and terms of insurance and identity of brokers and insurers. The Lessor will act promptly and will not act unreasonably in relation to giving its approval in relation to these matters, and will give its approval to any insurer which has (and maintains) a credit rating of not less than A- with Standard & Poor's (or equivalent rating with another first class rating agency).

13.20 Insurance review

From time to time during any period of insurance cover the Lessor may review the terms of and identity of brokers, insurance companies and underwriters and war risks or protection and indemnity associations through which the Ship is insured under this clause 13. Such review shall be made in consultation with the Lessee and shall be undertaken at least three (3) months prior to the date for renewal of such insurance cover. After consultation, the Lessee shall implement such modifications as the Lessor may reasonably request in order to seek to ensure that such insurances at all times cover all risks which may customarily and generally be covered in transactions similar to that covered by this Agreement and that the terms of such insurances and the identity of brokers, underwriters, insurance companies and associations will continue to be approved by the Lessor, as provided for in clause 13.19.

13.21 Innocent Owner's Insurance/Contingent Liability Insurance

Nothing contained in this clause 13 shall affect the Lessor's right to take out innocent owner's or contingent liability insurance in relation to the insurances of the Ship for its own account, and the Lessor shall be so entitled.

13.22 Wreck Removal

In the event of the Ship becoming a wreck or obstruction to navigation, the Lessee (in addition to any other obligation it may have under clause 7) shall indemnify and hold harmless the Lessor against all costs, expenses, payments, charges, losses, demands, any liabilities, claims, actions, proceedings (whether civil or criminal) penalties, fines, damages, judgments, orders or other sanctions which may be incurred by, or made or asserted against the Lessee by reason that the Ship shall have become a wreck or obstruction to navigation (including, without limitation) in respect of the removal or destruction of the wreck or obstruction under statutory powers but only to the extent that such has not been recovered from the Ship's insurers.

14 Loss, Damage, Requisition and Salvage

14.1 Risk

Throughout the Lease Period and until such time as the Ship is delivered to a purchaser the Lessee shall bear the full risk of:

14.1.1 any Total Loss of or any other damage to the Ship howsoever arising; and

14.1.2 subject to clause 6.1 any other occurrence of whatever kind which deprives the Lessee of the use, possession or enjoyment of the Ship.

14.2 Payments on Total Loss or Compulsory Acquisition

If the Ship becomes a Total Loss after the Delivery Date, on the Total Loss Payment Date the Lessee will pay to the Lessor the amounts pursuant to and determined in accordance with clause 18.4. Any Total Loss Proceeds or any Requisition Compensation actually and unconditionally received by the Lessor following a Total Loss or Compulsory Acquisition will be applied in accordance with clause 14.3.

14.3 Application of Total Loss Proceeds

All Net Total Loss Proceeds and Requisition Compensation received by the Lessor shall be retained in full by the Lessor and shall be applied as follows:

FIRST: in retention by the Lessor of an amount equal to nought point nought one per cent. (0.01%) of the Net Total Loss Proceeds;

SECOND: in payment to the Lessor of amounts equal to all or any part of the Termination Amount as at the date of the receipt by the Lessor of the Net Total Loss Proceeds which have not, on or before the date of application of the Net Total Loss Proceeds, been paid to the Lessor by or on behalf of the Lessee;

THIRD: in or towards settlement of any other amounts then due and payable but unpaid by the Lessee to the Lessor under the Transaction Documents and any amounts then due and payable but unpaid by the Lessee to the Lessor under the Sister Ship Transaction Documents; and

FOURTH: the remainder in payment to the Lessee by way of rebate of Rental.

14.4 Payments to Lessee

Any payment to the Lessee under “FOURTH” of clause 14.3 shall be made reasonably promptly but in any event within five (5) Business Days following the date of actual and unconditional receipt by the Lessor of the Net Total Loss Proceeds and the determination by the Lessor of the application thereof in accordance with clause 14.3.

14.5 Continuation of Lease Period

Notwithstanding that the Ship has become a Total Loss, the Lessee shall continue to pay Rental under this Agreement until all sums due by the Lessee to the Lessor under clause 14.2 have been paid in full. The Lease Period will end on the date on which all sums due under clause 14.2 have been paid provided however that if the Net Total Loss Proceeds are insufficient to satisfy the amounts to be retained by the Lessor pursuant to the applications in “FIRST”, “SECOND” and “THIRD” set out in clause 14.3, the provisions of clause 5.3 shall apply.

14.6 Damage claims

Moneys, other than Total Loss Proceeds, received by the Lessor in respect of claims for repairable damage to the Ship shall be applied in the manner described in clause 13.4.2(b).

14.7 Sale of Ship after Total Loss

If the insurers of the Ship have:

14.7.1 satisfied or admitted in full their obligations under the Insurances; and

14.7.2 waived any rights they have in the Ship,

the Lessor shall as soon as practicable after the Total Loss Payment Date use all reasonable endeavours to sell the Ship and such sale shall, save for the foregoing obligation as to timing, be concluded in accordance with the provisions of clause 2.9.

14.8 Abandonment

14.8.1 If no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee has the sole right to determine whether or not a case has arisen for the giving of notice of abandonment to abandon the Ship to the insurers and/or claim a constructive Total Loss.

14.8.2 The Lessor authorises the Lessee to give such a notice if it so determines.

14.8.3 The Lessor will upon the request and at the cost of the Lessee promptly execute all such documents as may be required to enable the Lessee to abandon the Ship to the insurers and/or to claim a constructive Total Loss. The Lessor will give to the Lessee all reasonable assistance in processing such a claim Provided that any costs reasonably incurred by the Lessor pursuant to this clause 14.8.3 shall be reimbursed by the Lessee to the Lessor promptly following the Lessor’s demand.

14.9 Salvage and towage

All salvage and towage and all proceeds from derelicts will be for the benefit of the Lessee, subject to the prior right of the Lessor to retain from those proceeds any sums due and payable to it under this Agreement, and the cost of repairing any damage occasioned in the course of salvage or towage shall be borne by the Lessee.

14.10 Requisition for hire of the Ship

If the Ship is requisitioned for hire by any governmental or other competent authority during the Lease Period then, if and only for so long as such requisition for hire does not constitute a Compulsory Acquisition:

- 14.10.1 the leasing of the Ship under this Agreement shall continue (subject always to the provisions of clauses 17 and 18) for the remainder of the Lease Period and the Lessee shall remain fully responsible for the due compliance with all its obligations under this Agreement other than such obligations which the Lessee is unable to comply with by virtue of such requisition;
- 14.10.2 if no Termination Event or Mandatory Prepayment Event has occurred and is continuing, the Lessee shall be entitled during the Lease Period as between the Lessor and the Lessee to all requisition hire paid to the Lessor or to the Lessee by such governmental or other competent authority or by any person acting by the authority of the same on account of such requisition, but subject always to any right of set-off which the Lessor may have in respect of amounts due and unpaid under the terms of this Agreement and the other Lease Documents;
- 14.10.3 as soon as practicable after the end of any requisition for hire, and whether that requisition shall end during or after the expiry or termination of the Lease Period, the Lessee shall cause the Ship to be put into the condition required by this Agreement;
- 14.10.4 the Lessor shall be entitled to all compensation payable by the relevant governmental or other competent authority, or by any person acting by the authority of the same, in respect of any change in the structure, state or condition of the Ship arising during the period of requisition for hire (and such compensation shall be paid to the Lessee by way of rebate of Rental unless a Termination Event or Mandatory Prepayment Event shall have occurred and be continuing in which event the Lessor shall be entitled to apply such compensation in or towards discharge of any and all amounts which are then owing to the Lessor under any of the Lease Documents or any of the other Transaction Documents); and
- 14.10.5 should the Ship be under requisition for hire at the end of the Lease Period:
 - (a) the leasing of the Ship under this Agreement shall nevertheless be terminated at the end of the Lease Period (unless otherwise agreed between the Lessor and the Lessee) but without prejudice to the accrued rights of the parties including, without prejudice to the generality of the foregoing, the obligations of the Lessee under clause 15 (as modified by paragraph (b) below), and the Lessor shall (for so long as it remains the owner of the Ship) be entitled to receive and retain any requisition hire payable in respect of the period from the expiry or termination of the Lease Period it being agreed however that, subject to the Lessee having paid to the Lessor

in full all amounts due by it under the Transaction Documents and under the Sister Ship Transaction Documents and to the Lessor first having retained out of such requisition hire such amount as it certifies as representing its continuing costs of owning and managing the Ship (including Lessor's Management Time at the Lessor's Management Time Cost Rate), the Lessor shall upon the eventual sale of the Ship pay to the Lessee by way of rebate of Rental any remaining surplus amount of such requisition hire; and

- (b) without prejudice to clause 14.10.3 the Lessee shall, if it is prevented by reason of the requisition for hire from re-delivering the Ship under clause 15, be relieved from its obligations so to do, but shall consult with the Lessor as to the most convenient method of enabling the Lessor to obtain redelivery of the Ship when the Ship is released from such requisition.

The Lessor shall be under no obligation to provide to the Lessee, or to any other person, any replacement for the Ship or any part thereof should the Ship or any part thereof be lost, damaged, the subject of Compulsory Acquisition, seized, or requisitioned for hire or use, nor shall the Lessor have any liability or responsibility whatsoever in respect thereof (unless and to the extent that the same results from any Lessor Breach).

15 Redelivery

15.1 Redelivery procedure

- 15.1.1 As soon as reasonably practicable following the termination of the leasing of the Ship under this Agreement (other than pursuant to clause 14.5), or upon the ending of the Lease Period by effluxion of time, the Lessee at its own expense shall redeliver the Ship to the Lessor safely afloat in accordance with this clause 15 (but subject to the rights of the Time Charterer) and in any event before the fifth anniversary of Delivery.
- 15.1.2 Upon the ending of the Lease Period by effluxion of time or upon the termination of the leasing of the Ship under this Agreement (other than a termination pursuant to clause 14.5 or any termination where the Lessee is not acting as sales agent of the Lessor) the Lessee, at its own expense, shall deliver the Ship safely afloat to a purchaser of the Ship who satisfies the requirements of clause 2.7 at such location (including without limitation, at sea) as shall be mutually agreed between the Lessee (as agent of the Lessor) and the purchaser upon completion of the sale of the Ship in accordance with clause 2.7 (and such delivery by the Lessee shall be deemed to have satisfied the obligation of the Lessee to redeliver the Ship to the Lessor) and subject to the rights of the Time Charterer.
- 15.1.3 Upon the termination of the leasing of the Ship under this Agreement where the Lessee is not acting as sales agent of the Lessor, the Lessee, at its own expense, shall redeliver the Ship safely afloat to the Lessor at a safe port worldwide to be designated by the Lessor acting reasonably and bearing in mind the location and trading pattern of the Ship as at the time of any required redelivery.

15.2 Redelivery condition

The Lessee shall ensure that on any redelivery of the Ship to the Lessor in accordance with clause 15.1.3 above and on any deemed redelivery to the Lessor in accordance with clause 15.1.2 above where the purchaser of the Ship so requires:

- 15.2.1 the Ship shall be in class free of conditions not complied with in accordance with their terms and overdue recommendations affecting the Ship's class;

- 15.2.2 the Ship shall be in no worse structure, state and condition as at Delivery (fair wear and tear alone excepted) and have installed the machinery and equipment installed thereon at Delivery or replacements or substitutions therefor made in accordance with the terms of this Agreement;
- 15.2.3 the last consignment of containers carried on board the Ship shall have been unloaded;
- 15.2.4 the Ship shall be free of Security Interests other than any Lessor's Security Interest; and
- 15.2.5 the Ship shall be free of any charter or other contract of employment or affreightment other than the Time Charter in circumstances where the Time Charterer's rights under the QEL are subsisting.

The Lessee shall further ensure that, prior to re-delivery, all arrears of wages of the Master and crew of the Ship are fully paid.

15.3 Redelivery survey

- 15.3.1 In case only of redelivery of the Ship consequent upon termination of the Lease Period where the Lessee is not acting as sales agent or upon the expiry of the Lessee's sales agency rights pursuant to clauses 2.8.2 or 2.8.3, at or about the time of redelivery, a survey shall be made to determine the state and condition of the Ship, unless the Lessor agrees that no such survey is required or the Ship is to be sold.
- 15.3.2 The Lessee and the Lessor shall each appoint surveyors to be present at such survey and the surveyors present shall determine the state and condition of the Ship and shall identify the repairs or work necessary to place the Ship at the date of redelivery in the class and the structure, state and condition referred to in clause 15.2.
- 15.3.3 The surveyors referred to in clause 15.3.2 shall both be acting as experts, not arbitrators and, in case of disagreement, the matter shall be resolved pursuant to clause 29.
- 15.3.4 All proper costs occasioned by any such survey including the costs of the said surveyors appointed by the Lessee and the Lessor and, if appointed, the cost of the senior surveyor of the Ship's Classification Society shall be payable by the Lessee.

15.4 Consumable stores

All consumable stores, unused lubricating oils and bunkers on board the Ship at the time of redelivery shall be purchased by the Lessor from the Lessee and sold by the Lessor to the purchaser of the Ship. The price payable by the Lessor to the Lessee pursuant to this clause 15.4 will be the same as the price received at the same time by the Lessor from the purchaser of the Ship for those items.

15.5 Continuing performance of obligations

From the end of the Lease Period until the Ship has been sold in accordance with clause 2, the Lessee shall, at no cost to the Lessor, but subject to the Lessor permitting the Lessee continued possession of the Ship, continue to perform all its obligations under this Agreement other than its obligations to pay Rental and, in particular, it shall continue to perform its undertakings under clauses 9 to 14.

15.6 Ship's Software Licences on Redelivery

The Lessor shall be entitled to require that the Lessee grant or procure the grant (to the extent reasonably achievable) in favour of the Lessor or, as the Lessor may stipulate, a purchaser for or subsequent charterer of the Ship a licence to use all Ship's Software which may be necessary or desirable to be used for the maintenance and operation of the Ship, provided that this requirement shall not apply to (i) obsolete software which has been replaced by alternative or updated software or (ii) other software which the Lessee may satisfy the Lessor (acting reasonably) was not in use regularly during the last voyage or engagement of the Ship prior to redelivery and which is no longer required or desirable for the safe or efficient operation of the Ship.

16 Standby Lender Review and Standby Loan Transaction

16.1 Review

- 16.1.1 During the Standby Lender Review Period, the Lessor shall procure that the Standby Lender carries out a review of (i) the creditworthiness of the Lessee and the Guarantor and, (ii) the security value of the Ship as at such time in order for the Standby Lender to determine in its sole and absolute discretion whether it is prepared to enter into the Standby Loan Transaction upon the expiry of the Lease Period.
- 16.1.2 Such Standby Lender Review shall be carried out by the Standby Lender:
- (a) in good faith;
 - (b) in accordance with its then current procedure for reviewing the creditworthiness of its customers of similar standing as the Lessee and the Guarantor; and
 - (c) applying its then current general credit criteria and the same criteria in the same manner as the Lessor would apply to the assessment of the creditworthiness of its customers of similar standing as the Lessee and the Guarantor.
- 16.1.3 Following the Standby Lender Review, the Standby Lender shall determine in its sole and absolute discretion whether or not it is able to enter into the Standby Loan Transaction and the Lessor shall notify the Lessee as soon as possible after the Standby Lender has conducted its review and reached its conclusions (and in any event such notification to be given by the Review Notification Date).
- 16.1.4 The Lessee acknowledges that neither the Lessor nor the Standby Lender shall be obliged to reveal any details of the credit procedure or the criteria applied (as referred to in clauses 16.1.2(b) and (c) above) or the reasons for the decision made by the Standby Lessor under this clause 16.1 but if the Lessor notifies the Lessee that the Standby Lender Review has not been satisfactory, the Lessor agrees to enclose with such notification a certificate signed by a director of the Lessor to the effect that the Standby Lender Review has been carried out by the Standby Lender in accordance with clause 16.1.2.

16.2 Standby Loan Transaction

In the event that the Lessor notifies the Lessee pursuant to clause 16.1.3 that the Standby Lender is willing to enter into the Standby Loan Transaction, and the Lessee notifies the Lessor in writing within fourteen (14) Business Days of the Review Notification Date that it wishes to enter into the Standby Loan Transaction (each of which notifications must be given in respect of the Ship and all of the Sister Ships, but not some only), and subject to the Standby Lender first being indemnified by the Lessee in respect of its costs, the Standby Lender and the Lessee shall in good faith endeavour to conclude the Standby Loan Transaction for the Ship on the Lease Period End Date.

17 Termination, Mandatory Prepayment and Further Novation Events

17.1 Termination Events

The Lessor and the Lessee agree that it is a fundamental term and condition of this Agreement that none of the following events shall occur during the Construction Period or the Lease Period and that the occurrence of any of the following events shall constitute a repudiatory breach of this Agreement and shall be a Termination Event for the purpose of this Agreement, whether it occurs during the Construction Period or the Lease Period:

- 17.1.1 any instalment of Rental or any other sum payable to the Lessor under this Agreement or under any of the other Lease Documents is not paid when due in accordance with the terms of the applicable document (and in the case of a sum payable on a due date, remains unpaid for three (3) Business Days after the due date for payment thereof and in the case of a sum payable on demand, remains unpaid for five (5) Business Days after the date of service by the Lessor of a written demand for payment thereof);
- 17.1.2 any of the Insurances required to be placed and maintained in clause 13 are placed or renewed on terms which do not comply with the provisions of clause 13;
- 17.1.3 at any time, any of the Insurances required to be maintained under clause 13 either lapse before the time of scheduled renewal without being renewed within three (3) days of so lapsing in accordance with the requirements of clause 13 or are cancelled or rendered invalid, void or unenforceable or any sums recovered under any of such Insurances are or become repayable in whole or in part;
- 17.1.4 the Guarantor fails to comply with its obligations under clause 5.3 of its Guarantee;
- 17.1.5 any Transaction Company fails to comply with any other term or condition of this Agreement or any other Transaction Document and:
 - (a) that failure would or may be likely, in the reasonable opinion of the Lessor, to have a material adverse effect on the rights of the Lessor under the Lease Documents or the ability of the relevant Transaction Company to perform any of its obligations under the Transaction Documents; and
 - (b) if such failure is remediable then, within thirty (30) days (or such longer period as the Lessor may specify or agree) after receipt by the Lessee of a written notification from the Lessor of that failure, the relevant Transaction Company shall have failed to remedy that failure;
- 17.1.6 any representation or warranty made by any Transaction Company in any of the Transaction Documents is or proves to have been incorrect in any material respect when made and, in case such incorrectness is remediable, within thirty (30) days after receipt by

the Lessee of a written notification from the Lessor of such failure (or such longer period as the Lessor may specify or agree) the relevant Transaction Company shall have failed to remedy it;

- 17.1.7 any of the following occurs in relation to any Financial Indebtedness of any of the Guarantor, the Lessee or (at any time prior to Delivery) the Replacement Purchaser which is owed to any Lessor Group Member (herein, “**BOS Financial Indebtedness**”), and would have, or is reasonably likely to have, a material adverse effect on the Lessee’s ability to perform under this Agreement and/or the Guarantor’s ability to perform under the Guarantee:
- (a) any BOS Financial Indebtedness of any such person is accelerated following an event of default and not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Security Interest securing any BOS Financial Indebtedness of any such person becomes enforceable;
- 17.1.8 any of the following occurs in relation to (i) any Financial Indebtedness where the principal amount then outstanding or capable of becoming due thereunder (or for which the Guarantor is otherwise liable) exceeds in aggregate \$25,000,000 in the case of a Guarantor or (ii) any Financial Indebtedness of the Lessee or (at any time prior to Delivery) the Replacement Purchaser:
- (a) any Financial Indebtedness of any such person is not paid when due or, if so payable, on demand (if applicable, following the expiry of any applicable grace period for the payment thereof); or
 - (b) any Financial Indebtedness of any such person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
 - (c) a lease, hire purchase agreement or charter creating any Financial Indebtedness of any such person is terminated by the lessor or owner or becomes capable of being terminated as a consequence of any event of default, howsoever described; or
 - (d) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of any such person ceases to be available or becomes capable of being terminated as a result of any event of default, or cash cover is required, or becomes capable of being required, in respect of such a facility as a result of any event of default; or
 - (e) any Security Interest securing any Financial Indebtedness of any such person becomes enforceable;
- 17.1.9 any of the following occurs in relation to the Lessee or any Transaction Company (other than, following Delivery, the Replacement Purchaser):
- (a) it becomes unable to pay its debts as they fall due within the meaning of section 123(1)(e) of the Insolvency Act 1986;

- (b) a winding-up or administration order is made, provided however that, in case only of an order for winding-up, the occurrence of such event shall not constitute a Termination Event if such winding-up has commenced as part of a process of a fully-solvent reorganisation, previously approved by the Lessor, which shall not affect either the timing or amount of any amount payable under this Agreement or any other Transaction Document to the Lessor or the ability of the relevant Transaction Company to perform all its obligations, or the Lessor's ability to exercise its rights, under this Agreement or any of the other Transaction Documents;
- (c) an administrative or other receiver, trustee or liquidator is appointed over all or a part of the assets of the relevant Transaction Company; or
- (d) a petition for the winding-up of the relevant Transaction Company is presented or an application is made for an administration order in relation to the relevant Transaction Company (pursuant to Section 9 of the Insolvency Act 1986) if such petition or application is not withdrawn, discharged or dismissed within thirty (30) days or is not otherwise being contested in good faith by appropriate proceedings;
- (e) the relevant Transaction Company makes, proposes or otherwise threatens an arrangement for the benefit of all or any class of its creditors or an arrangement or composition with or for the benefit of all or any class of its creditors or convenes a meeting with all or any class of its creditors with a view to a composition or arrangement for the benefit of its creditors generally; or
- (f) the relevant Transaction Company ceases or suspends or threatens in writing to cease or suspend to carry on its business;

17.1.10 any litigation, arbitration or administrative action or proceeding is commenced against any Transaction Company (other than, following Delivery, the Replacement Purchaser) or any of its property, undertakings or assets before any court, arbitrator or administrative agency or authority which, if adversely determined, would, or would be reasonably likely to have, a material adverse effect on the financial condition or business or operations of the relevant Transaction Company and, in each case, on its ability to perform its obligations under the Transaction Documents unless:

- (a) the relevant Transaction Company demonstrates in writing to the Lessor (who shall act reasonably in considering such matters) to the Lessor's satisfaction, that such litigation, arbitration or administrative action or proceeding is or may reasonably be considered to be vexatious or frivolous or is unlikely to be adversely determined; or
- (b) it is dismissed or irrevocably stayed within sixty (60) days of commencement;

17.1.11 any event or circumstance occurs as referred to in clause 17.1.9 in relation to any Transaction Company (other than, following Delivery, the Replacement Purchaser) in any jurisdiction other than England and Wales;

17.1.12 any Transaction Company (other than, following Delivery, the Replacement Purchaser) ceases or suspends carrying on its business or a part of its business which, in the reasonable opinion of the Lessor, is or may be likely to be material in the context of this Agreement;

- 17.1.13 the Guarantor transfers or disposes of, or threatens in writing to transfer or dispose of, a substantial part of its business (otherwise than in the normal course of business or for full consideration in money or money's worth);
- 17.1.14 the Guarantee shall for any reason not be in full force and effect or shall be declared to be null and void, or (as applicable) the Guarantor shall contest the validity or enforceability of the Guarantee in writing or deny in writing that it has any further liability under the Guarantee;
- 17.1.15 any Transaction Company repudiates in writing any material provision of a Transaction Document (other than the Time Charter) to which it is a party, or gives notice in writing of its intention to do so;
- 17.1.16 without the Lessor's prior written consent, either of the Lessee or (at any time prior to Delivery) the Replacement Purchaser ceases to be owned (whether directly or indirectly) by the Guarantor;
- 17.1.17 any condition precedent stipulated in clauses 3.1 to 3.3 is waived on a temporary basis and is not fulfilled to the satisfaction of the Lessor by the time stipulated in such waiver;
- 17.1.18 the Ship is subject to any form of execution, attachment, arrest, sequestration or distress, except in relation to a Permitted Security Interest created by the Lessor or a Lessor Security Interest and the Lessee fails to procure the release of the Ship within sixty (60) days, or such longer period to which the Lessor may agree unless such event is covered by the Insurances in which case the relevant period is the period covered by such insurances;
- 17.1.19 after Delivery the registration of the Ship is cancelled or terminated otherwise than in accordance with the terms of this Agreement or as a consequence of any act or omission of the Lessee or any other Transaction Company and is not re-instated within fifteen (15) days after the receipt by the Lessee of a written notification from the Lessor regarding remedy of that breach; or
- 17.1.20 a Termination Event occurs and is continuing under any of the Sister Ship Lease Agreements.

17.2 Mandatory Prepayment Events

Each of the following shall be a Mandatory Prepayment Event for the purpose of this Agreement:

- 17.2.1 any of the Transaction Documents (other than the Time Charter) or any provision thereof (i) for any reason is not or ceases to be in full force and effect other than in accordance with its terms or (ii) is declared null and void or (iii) any of the parties to a Transaction Document (other than the Time Charter) shall contest the validity or enforceability of any Transaction Document (other than the Time Charter) or repudiates in writing any Transaction Document (other than the Time Charter) or any of its obligations thereunder or gives notice in writing of its intention to do so;
- 17.2.2 any consent necessary to enable any Transaction Company to comply with any provision of a Transaction Document (other than the Time Charter) is not granted, expires without being renewed or is revoked and that failure (in the sole opinion of the Lessor, acting in good faith) would have a material adverse effect on the rights of the Lessor under the Transaction Documents (other than the Time Charter) or the ability of any Transaction

Company to perform its material obligations under the Transaction Documents (other than the Time Charter) and the Lessee and the Lessor have negotiated in good faith for a period of thirty (30) days to agree an alternative means to continue the transaction contemplated by this Agreement and have been unable to do so;

17.2.3 there shall occur an Environmental Incident in circumstances where the Lessor believes, acting reasonably, that the Lessor is or will be held to be liable to third parties as a result thereof and either (i) such liability will or could, in the reasonable opinion of the Lessor, reasonably be expected to exceed the limit of the Ship's protection and indemnity insurance, or (ii) the Ship's protection and indemnity insurers have disclaimed or notified in writing an intention to disclaim liability as regards the Lessor;

17.2.4 there occurs a Change of Law or other change of circumstances which will result in the Lessor incurring:

- (a) a liability arising out of its ownership of the Ship which it does not have as at the date of this Agreement; or
- (b) an increase in liability arising out of its ownership of the Ship over and above that liability which it has as at the date of this Agreement,

which liability or increase in liability does not entitle the Lessor to increase the Rental pursuant to the Financial Schedule and is material in the context of the Lessor's maximum existing liabilities arising out of its ownership of the Ship from time to time prior to the date of that Change of Law or other change of circumstances and where, in either case, following consultation with the Lessee as to such liability or increased liability and the matters referred to below:

- (i) the Lessor and the Lessee have endeavoured to mitigate or eliminate that liability or increased liability and have failed to do so prior to commencement of the applicable Change of Law; and
- (ii) that liability or increased liability is not covered by insurance or other security which is, in the opinion of the Lessor acting reasonably, satisfactory having regard to the amount of that liability or increased liability; and
- (iii) that liability or potential liability is not removed or terminated by the Lessee moving the Ship to, and if necessary keeping the Ship in, a location or locations where that liability or increased liability would not be incurred or ensuring that the Ship does not enter into any location where that liability or increased liability would be incurred; or

17.2.5 there occurs a Change of Law as a result of which it becomes unlawful for (a) the Lessor to own and/or lease the Ship and/or continue to exercise its rights and/or perform its obligations under any Transaction Document or (b) any Transaction Company to continue to exercise its rights and/or perform its obligations under any Transaction Document (other than the Time Charter).

17.3 Further Novation Events

Each of the following shall be a Further Novation Event for the purpose of this Agreement:

17.3.1 any Termination Event or Mandatory Prepayment Event occurs prior to the Delivery Date;

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- 17.3.2 the Delivery Date does not occur on or before the Commitment Expiry Date;
- 17.3.3 if (a) the Ship is rejected by the Lessor upon the request of the Supervisor or (b) the Novated Building Contract is terminated or rescinded for any reason or becomes capable of immediate termination or rescission in accordance with article VIII thereof or (c) consequent upon a total loss of the Ship as envisaged by article XVII of the Novated Building Contract unless the Lessor is satisfied in its reasonable opinion that the Ship can be rebuilt in accordance with the specification by the Commitment Expiry Date or (d) the Builder becomes entitled to terminate or rescind the Novated Building Contract or the Builder purports to rescind or terminate the Novated Building Contract under article XI thereof;
- 17.3.4 the Lessee fails to pay when due any Contribution Payment due to the Lessor under clause 3.10 of this Agreement;
- 17.3.5 prior to the Delivery Date the Builder makes a claim against the Lessor under the Novated Building Contract (unless the claim arises as a result of Lessor Misconduct) and:
- (a) such claim is not settled in a manner acceptable to the Lessor acting reasonably on the earlier of the Delivery Date and the date falling thirty (30) days after the making of that claim; and
 - (b) the Lessor is not secured to its reasonable satisfaction in respect of any Loss it may suffer as a direct result of that claim;
- 17.3.6 prior to the Delivery Date the Supervisor commences proceedings against the Builder under the Novated Building Contract and the Lessor has not given its consent to such proceedings pursuant to clause 4.9 of the Supervision Agreement;
- 17.3.7 the Supervisor is in breach of any of its obligations to the Lessor pursuant to the Supervision Agreement or the Supervisor is otherwise acting outside the scope of its authority under the Supervision Agreement in a manner materially detrimental to the rights and interests of the Lessor;
- 17.3.8 the Refund Guarantor fails to comply with any of its obligations under the Refund Guarantee; or
- 17.3.9 the conditions precedent to the Lessor's obligation to make payment of any Instalment or to Delivery are not fulfilled or waived and such failure has, or in the reasonable opinion of the Lessor, is reasonably likely to have a material adverse effect upon the Lessor, or its rights and/or obligations and liabilities in respect of the Ship or under this Agreement and the other Transaction Documents.

18 Lessor's Rights on a Termination Event, Mandatory Prepayment Event or Further Novation Event

18.1 Termination rights

On, or at any time after the repudiation of this Agreement by the Lessee, including the occurrence of any Termination Event (and provided that the same is continuing), the Lessor may by notice to the Lessee, (i) if such repudiation or Termination Event occurs after the Delivery Date, accept such repudiation by the Lessee of this Agreement and shall terminate the Lease Period or (ii) if such repudiation or Termination Event occurs prior to

Delivery, may accept its entitlement to terminate its obligation to acquire and lease the Ship to the Lessee pursuant to this Agreement, and immediately, or on such date as the Lessor shall specify, may terminate its obligation to lease the Ship to the Lessee (whereupon the provision of clause 18.3.2 shall apply).

18.2 Mandatory prepayment

On or at any time after the Delivery Date following the occurrence of a Mandatory Prepayment Event (and provided that the same is continuing):

- 18.2.1 the Lessor may notify the Lessee that the Lessor has elected to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.5 but without reference to a notice period; and
- 18.2.2 on the applicable Lease Termination Date, the Lessee will pay to the Lessor the amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4 as at the required date of that payment; and
- 18.2.3 with effect on and from the date of the payment by the Lessee of all amounts payable by the Lessee to the Lessor under and calculated in accordance with clause 18.4, the Lessee shall cease to be liable to pay Rental under this Agreement but without prejudice to the Lessee's obligations pursuant to the Financial Schedule; and
- 18.2.4 notwithstanding anything else to the contrary in this Agreement, the Lease Period will continue until and end on the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 18.6.

18.3 Further Novation

- 18.3.1 At any time after the occurrence of a Further Novation Event (other than a Termination Event) or at any time after the occurrence of a Mandatory Prepayment Event which occurs before the Delivery Date and in each case whilst such event is continuing:
 - (a) the Lessor may by notice to the Lessee elect (prior to the Delivery Date) to treat the occurrence of that event as constituting notice by the Lessee pursuant to clause 2.2 but without reference to a notice period; and
 - (b) if the Lessor makes an election under paragraph (a) above, the Lessor shall, as contemplated by clause 2.3, give notice to the Replacement Purchaser under clause 6.1 of the Novation Agreement and to the Refund Guarantor pursuant to the Refund Guarantee.
- 18.3.2 On or at any time following the occurrence of a Termination Event which occurs before the Delivery Date and whilst it is continuing, if the Lessor elects to exercise its rights under clause 18.1 following the occurrence of such Termination Event the Lessor shall, as contemplated by clause 2.3, give a notice to the Replacement Purchaser and the other parties to the Novation Agreement pursuant to clause 6.1 of the Novation Agreement and to the Refund Guarantor if obliged to do so pursuant to the Refund Guarantee.

18.4 Payments on the Termination Date after the occurrence of a Termination Event, Mandatory Prepayment Event, Further Novation Event or a Total Loss

- 18.4.1 In the event that:
 - (a) the Lessor has become entitled to treat this Agreement as having been repudiated and the obligation of the Lessor to acquire and lease the Ship to the Lessee or, as the case may be, the Lease Period shall have terminated pursuant to clause 18.1; or

- (b) a Mandatory Prepayment Event shall have occurred after Delivery and the Lessor has issued a notice to the Lessee pursuant to clause 18.2.1; or
- (c) a Mandatory Prepayment Event shall have occurred prior to Delivery or a Further Novation Event shall have occurred and the Lessor has issued a notice to the Lessee pursuant to clause 18.3.1(a); or
- (d) a Total Loss of the Ship shall have occurred after Delivery,

the Lessee will be liable to pay to the Lessor, on the applicable Termination Date or, as the case may be, the Total Loss Payment Date:

- (i) an amount equal to the aggregate of:
 - (A) any amounts of Rental, any Broken Funding Costs and other moneys then due and payable under any of the Lease Documents or any of the other Transaction Documents; and
 - (B) the amount of any Losses in respect of which the Lessee agreed to indemnify the Lessor pursuant to clause 7.4 (but, for the avoidance of doubt, not including any loss of profit) incurred by the Lessor in connection with that termination which are unpaid; and
- (ii) by way of agreed compensation and not as a penalty, the amount of the Termination Amount as at the date of that termination.

18.4.2 The Lessor agrees with the Lessee that in circumstances where the obligation to lease Ship has terminated or, as the case may be, where the Lease Period has terminated and in each case the Lessor has received payment in full of all amounts owing to the Lessor under any of the other Lease Documents in cleared funds and without conditions attached, if the amounts received by the Lessor exceed the total of all the amounts owed to the Lessor, the Lessor shall pay an amount equal to the excess to the Lessee by way of a rebate of Rental.

18.5 Lessor's rights to retake possession

On or at any time after the Termination Date following (i) a termination of the Lease Period pursuant to clause 18.1 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (ii) the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 where the Lessee has failed to satisfy its obligations under clause 18.4 and is not appointed as sales agent pursuant to clause 2.8.1 or (iii) where the Lessee was appointed as sales agent pursuant to clause 2.8.1 but such appointment is terminated pursuant to clause 2.8.3, following the termination of the Lessee's appointment as sales agent; in each case the Lessor shall (as between the Lessor and the Lessee) be entitled to retake possession of the Ship in accordance with the provisions of clause 15.2. The Lessee agrees that the Lessor, for that purpose only, may put into force and exercise all its rights and entitlements at law and may enter upon any premises belonging to or in the occupation or under the control of the Lessee where the Ship is located.

18.6 Sale of the Ship following the Termination Date

At any time following termination of the Lease Period pursuant to clause 18.1 or following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 and following any other Termination Date in circumstances where the Lessor has become entitled to retake possession of the Ship in accordance with clause 18.5, the Lessor, (provided it is not prevented by law from doing so), shall use reasonable endeavours to sell the Ship. The Lessor will notify the Lessee as soon as reasonably practicable of any proposed sale or auction of the Ship by it and of the terms of that sale.

18.7 Application of payments on sale or further renovation

18.7.1 In the event of a sale of the Ship following a termination pursuant to clause 18.1 after Delivery, the Net Sale Proceeds will be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.2 In the event of a sale of the Ship following the occurrence of a Mandatory Prepayment Event pursuant to clause 18.2 after Delivery, the Net Sale Proceeds shall be applied by the Lessor in accordance with clause 2.10 of this Agreement.

18.7.3 In the event of the renovation by the Lessor of its rights and obligations under the Novated Building Contract to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement following the occurrence of (i) a Further Novation Event, or (ii) a Mandatory Prepayment Event prior to Delivery or (iii) a Termination Event prior to Delivery, any moneys received from the Replacement Purchaser pursuant to clause 6.3 of the Novation Agreement or from the Refund Guarantor pursuant to the Refund Guarantee (either before or after such renovation) or from the Builder pursuant to the Novated Building Contract (either before or after such renovation) shall be applied by the Lessor in accordance with clause 2.10 as if those moneys were Net Sale Proceeds.

18.8 Continuation of obligations and storage until sale

Following termination of the Lease Period pursuant to clause 18.1 or 18.2 the Lessee will:

18.8.1 continue to comply with its obligations under this Agreement until the earlier of the date on which the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8 or the date on which the Ship is redelivered to the Lessor in accordance with clause 15; and

18.8.2 pay, or reimburse, to the Lessor on demand all Losses suffered by the Lessor in connection with recovering possession of and in moving, storing, insuring and maintaining the Ship and in carrying out any works or modifications required to cause the Ship to conform with the provisions of clause 15.2 until such time as the Ship is delivered to a purchaser of the Ship following a sale pursuant to clause 2.8.

18.9 Failure to perform insurance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 13, the Lessor, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event:

18.9.1 following notification to the Lessee, may effect and thereafter maintain all such Insurances as the Lessor in its sole discretion may think fit in order to procure compliance with such provisions; or

18.9.2 alternatively, at the Lessee's risk, may require the Ship to remain in, or to proceed to and remain in, a port designated by the Lessor until such provisions are fully complied with.

18.10 Failure to perform maintenance undertakings

If the Lessee fails to comply with any of its obligations pursuant to clause 10, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within fifteen (15) days after receipt of that notification, arrange for the carrying out of such repairs, changes or surveys as are required in order to procure compliance with such provisions.

18.11 Failure to protect Lessor's rights

If the Lessee fails to comply with any of its material obligations pursuant to clause 12.8, the Lessor may, without being obliged so to do, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, following notification to the Lessee and failure by the Lessee to take steps reasonably acceptable to the Lessor to remedy that failure within 15 days after receipt of that notification, take any such measures as may be required for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.12 Failure to Prevent or Release from Arrest

If the Lessee fails to comply with any of the provisions of clause 10.8, the Lessor without being in any way obliged to do so, or responsible for so doing, and without prejudice to the ability of the Lessor to treat that non-compliance as a Termination Event, may, pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions.

18.13 Costs of Remedying Defaults

Without prejudice to the Lessor's rights under each of clauses 7.1, 7.2, 7.3 and 7.4, all Losses of whatsoever nature (including without limitation, Taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Lessor in connection with the exercise by the Lessor of any of its powers under clauses 18.9, 18.10, 18.11, and/or, as the case may be, 18.12 and interest on all such Losses from the date on which the same were suffered, incurred or paid by the Lessor until the date of receipt or recovery thereof (both before and after any relevant judgment) at the Default Rate shall be repayable by the Lessee to the Lessor on demand.

19 Representations and Warranties

19.1 General

The Lessee represents and warrants to the Lessor as follows:

19.2 Status

The Lessee is duly incorporated and validly existing under the laws of the Marshall Islands.

19.3 Share capital and ownership

The Lessee is a wholly-owned direct Subsidiary of the Guarantor.

19.4 Corporate powers

The Lessee has the corporate capacity, and has taken all corporate action and obtained all consents, if any, necessary for it:

19.4.1 to execute this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party; and

19.4.2 to make all the payments and perform all the obligations contemplated by, and to comply with this Agreement and the other Lease Documents and the Transaction Documents to which the Lessee is a party.

19.5 Consents in force

All the consents referred to in clause 19.4 remain in force and nothing has occurred which makes any of them liable to revocation.

19.6 Legal validity

The Lease Documents and the Transaction Documents to which the Lessee is a party, do now or, as the case may be, will, upon execution and delivery (and, where applicable, registration) constitute the Lessee's legal, valid and binding obligations enforceable against the Lessee in accordance with their respective terms.

19.7 No conflicts

The execution by the Lessee of each Lease Document and each Transaction Document to which it is or is to be a party and its compliance with each Lease Document and each Transaction Document to which it is or is to be a party will not involve or lead to a contravention in any material respect of:

19.7.1 any law or regulation; or

19.7.2 the Bye-laws and Articles of Incorporation of the Lessee; or

19.7.3 any contractual or other obligation or restriction which is binding on the Lessee or any of its assets.

19.8 No Relevant Events

No Relevant Event has, to the Lessee's knowledge, occurred and is continuing.

19.9 No litigation

Except as disclosed to the Lessor in writing, and to the best of the Lessee's knowledge and belief, no legal or administrative action involving the Lessee has been commenced or taken which is likely to have a material adverse effect on the ability of the Lessee to perform its obligations under this Agreement.

19.10 Free of Security Interests

Other than Permitted Security Interests, the Novated Building Contract is and, at the Delivery Date, the Ship and the Insurances will be free from all Security Interests.

19.11 Completeness of Transaction Documents

The copy of each Transaction Document delivered to the Lessor before the date of this Agreement is a true and complete copy and, no amendments or additions to any Transaction Document have been agreed nor have the parties to any Transaction Document waived any of their respective rights under the Transaction Documents.

19.12 Compliance with certain undertakings

At the date of this Agreement, the Lessee is in compliance with clause 20.1.

19.13 Taxes paid

The Lessee has paid all Taxes applicable to, or imposed on or in relation to the Lessee and its business.

19.14 Information

To the best knowledge and belief of the Lessee:

19.14.1 all information which has been provided in writing to the Lessor by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement and any other Transaction Document is true and not misleading and does not omit any material fact or consideration taking into account the circumstances in which the information was provided; and

19.14.2 copies of all relevant documents supplied to the Lessor in relation to this Agreement, the other Transaction Documents and transactions contemplated thereby are true and complete copies of the originals of such documents.

19.15 Absence of withholding taxes

All payments to the Lessor by the Lessee under the Lease Documents may be made in full, free of any deduction or withholding in respect of Tax.

19.16 No Stamp Taxes

There are no stamp, documentary, registration or other like duties or Taxes imposed on or in connection with this Agreement, the Novation Agreement, the Supervision Agreement and the other Transaction Documents other than in respect of Slavenburg registrations at Companies House in England and Wales.

19.17 Filings

All registrations or filings required in connection with the enforceability of any Transaction Documents against the Lessee have been made or will be made within any applicable required period and (if applicable) the Lessee shall promptly file particulars of any Security Interest it grants or creates under the Transaction Documents in its Register of Mortgages and Charges.

19.18 Pari Passu

The obligations of the Lessee under the Transaction Documents to which it is a party rank pari passu with all other unsecured indebtedness of the Lessee, other than indebtedness mandatorily preferred by law.

19.19 Choice of law

The choice by the Lessee of English law to govern the Lease Documents and its submission to the jurisdiction of the English courts as contemplated in each of the Lease Documents are valid and enforceable.

19.20 Ship's condition at Delivery

In relation only to Delivery, the Ship will then comply with all requirements of this Agreement including as to its ownership, condition, insurance, class and employment.

19.21 No Money Laundering

In relation to the performance and discharge of its respective obligations and liabilities under this Agreement and the other Transaction Documents, the Lessee confirms that it is acting for its own account and that the foregoing will not involve or lead to contravention of any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive (91/308/EEC) of the Council of the European Communities).

19.22 Reservations

The representations and warranties of the Lessee in this clause are subject to:

- 19.22.1 the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court;
- 19.22.2 the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting or limiting the rights of creditors;
- 19.22.3 the time-barring of claims under any applicable limitation acts;
- 19.22.4 the possibility that a court may strike out provisions for a contract as being invalid for reasons of oppression, undue influence or similar reasons; and
- 19.22.5 any other reservations or qualifications of law expressed in any legal opinions obtained by the Lessor in connection with the Lease Documents.

19.23 Inconsistency

To the extent of any inconsistency between warranties and declarations in any other Transaction Documents and those in this Agreement, those in this Agreement shall prevail.

20 General Undertakings

The Lessee undertakes with the Lessor to comply with the following provisions of this clause at all times until the end of the Lease Period except as the Lessor may otherwise permit.

20.1 Status

20.1.1 The Lessee will maintain its separate corporate existence as a corporation under the laws of the Marshall Islands.

20.1.2 The Lessee will not make a tonnage tax election for the purposes of section 82 of and Schedule 22 of the Finance Act 2000.

20.2 Information provided to be accurate

All financial and other information which is provided to the Lessor in writing by or on behalf of the Lessee concerning the Lessee or any other Transaction Company in connection with this Agreement or any of the other Transaction Documents will be true and not misleading and will not omit any material fact or consideration.

20.3 Provision of financial statements

The Lessee will send, or procure that there be sent, to the Lessor no later than 90 days after the end of the first half of each financial year of each relevant company, in the case of unaudited financial statements, and no later than 180 days after the end of each financial year of each relevant company in the case of audited annual accounts:

20.3.1 unaudited consolidated financial statements in respect of the first half financial year of each Guarantor;

20.3.2 the unaudited annual accounts of the Lessee; and

20.3.3 the consolidated audited annual accounts of the Guarantor and its Subsidiaries.

20.4 Form of financial statements

All accounts (audited and unaudited) delivered under clause 20.3 will:

20.4.1 be prepared in accordance with all applicable laws and generally accepted accounting principles in the principal place of business of the company concerned (or, as the case may be, generally accepted accounting principles in the jurisdiction adopted by a company for the purposes of the preparation of its accounts), consistently applied;

20.4.2 give a true and fair view of the state of affairs of each such company at the date of those accounts and of its profit for the period to which those accounts relate; and

20.4.3 fully disclose or provide for all significant liabilities of each such company.

20.5 Consents

The Lessee will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Lessor of, all consents required:

20.5.1 for the Lessee to perform its obligations under any Transaction Document to which it is a party;

20.5.2 for the validity, enforceability, priority or admissibility in evidence of any such Transaction Document;
and the Lessee will comply with the terms of all such consents.

20.6 Maintenance of Security Interests

The Lessee will:

20.6.1 at its own cost, do and procure that each other Transaction Company will do, all that it reasonably can to ensure that any Transaction Document to which it is a party validly creates the obligations and the Security Interests which it purports to create; and

20.6.2 without limiting the generality of clause 20.6.1, at its own cost, promptly register, file, record or enrol any Transaction Document to which it is a party with any court or authority in all relevant jurisdictions, pay any stamp, registration or similar tax in all relevant jurisdictions in respect of any Transaction Document to which it is a party, give any notice or take any other step which, in the opinion of the Lessor, is or has become necessary or desirable for any Transaction Document to which it is a party to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

20.7 Notification of litigation

The Lessee will provide the Lessor with details of any legal or administrative action involving the Lessee, any other Transaction Company (other than, following Delivery, the Replacement Purchaser), the Ship or any Transaction Document to which it is a party promptly after it becomes aware that such action has been instituted or it becomes apparent to the Lessee that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of the Lease Documents.

20.8 Principal place of business

The Lessee will forthwith notify the Lessor if it has a place of business in any jurisdiction which would require a Lease Document to be registered, filed or recorded with any court or authority in that jurisdiction.

20.9 Confirmation of no default

The Lessee, within five (5) Business Days after service by the Lessor of a written request (such notices to be served no more frequently than is reasonable), will serve on the Lessor a notice which is signed by an authorised signatory of the Lessee and which:

20.9.1 states that no Relevant Event has occurred; or

20.9.2 states that no Relevant Event has occurred, except for any specified event or matter, of which all material details are given.

20.10 Notification of default

The Lessee will notify the Lessor as soon as the Lessee becomes aware of:

20.10.1 any adjustment to the Contractual Delivery Date;

20.10.2 the occurrence of any Relevant Event; and

20.10.3 any matter which indicates that any Relevant Event may have occurred, and will keep the Lessor fully up-to-date with all developments.

20.11 Pari passu

The Lessee will ensure that at all times its liabilities under this Agreement and the other Lease Documents to which it is a party rank at least pari passu in all respects with all its other unsecured liabilities from time to time (apart from liabilities mandatorily preferred by law).

20.12 Provision of information

The Lessee will provide or procure that there is provided to the Lessor, reasonably promptly, such information (i) with respect to the compliance by the Lessee with the terms of this Agreement and each of the other Transaction Documents to which the Lessee is party and (ii) with respect to the compliance by each of the other Transaction Companies with the terms of the other Transaction Documents to which they are respectively party, or (iii) with respect to the Ship, as the Lessor from time to time may reasonably request.

20.13 Negative undertakings

The Lessee will not:

20.13.1 carry on any business other than the leasing in and chartering out of the Ship and each Sister Ship and matters reasonably incidental thereto (as contemplated by the Transaction Documents); or

20.13.2 enter into any form of amalgamation, consolidation, merger or de-merger or any form of reconstruction or reorganisation; or

20.13.3 save by, or as permitted by, the Transaction Documents and the Sister Ship Transaction Documents, transfer, lease, charge or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation.

20.14 Title; negative pledge

The Lessee will:

20.14.1 not attempt or hold itself out as having any power to sell, transfer or otherwise dispose of or abandon the Ship or any shares or interest therein;

- 20.14.2 hold the legal title to, and own the entire beneficial interest in all its assets, free from all Security Interests and other interests and rights of every kind, except for those created by or contemplated to be created pursuant to any of the Transaction Documents and Sister Ship Transaction Documents and (in the case of the Ship and Sister Ships only) except for Permitted Security Interests; and
- 20.14.3 save as contemplated by the Transaction Documents and Sister Ship Transaction Documents, not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

20.15 No amendment to any Transaction Document

The Lessee will not agree or purport to agree and will procure that no other Transaction Company will agree or purport to agree to any amendment or supplement to, or variation of, or waive or fail to enforce, any Transaction Document to which the Lessee or, as the case may be, such other Transaction Company is a party, unless the Lessee, or as the case may be, the applicable Transaction Company acting reasonably considers that the amendment, supplement, variation, or waiver will not prevent the fulfilment by the Lessee or the other Transaction Companies of their respective obligations to the Lessor, and will not adversely affect any of the rights, interests, benefits, powers and remedies of the Lessor under the Lease Documents.

21 Assignments, transfers and sale of the Ship

21.1 Assignment and/or transfer by Lessor

The Lessor may assign all (but not part) of its rights and/or transfer all (but not part) of its obligations under this Agreement and the other Lease Documents together with a contemporaneous transfer of its rights, title and interests in the Ship:

- 21.1.1 without the prior consent of the Lessee where the assignment or transfer is to a Lessor Group Member which is resident in the United Kingdom for the purpose of the charge to corporation tax and which carries on the trade of leasing subject only to:
- (a) the Lessor giving the Lessee not less than thirty (30) days prior written notice of such assignments or transfer;
 - (b) the Lessor Parent Support Letter being in full force and effect and, simultaneously with such assignment or transfer, extended or reissued to cover such assignee or transferee; and
 - (c) the transferee for the time being remaining a Lessor Group Member; and
- 21.1.2 to the Replacement Purchaser in the circumstances contemplated by clause 18.3 of this Agreement and clause 7 of the Novation Agreement; and
- 21.1.3 to any other person after the occurrence of any Termination Event which is continuing; or
- 21.1.4 to any person other than those contemplated in clause 21.1.1 to 21.1.3 above with the prior written consent of the Lessee,

Provided that:

- (a) any transferee under this clause 21.1 shall assume all of the Lessor's obligations;
- (b) no costs, charges or expenses (including stamp duties payable in respect of any transfer) shall be payable by the Lessee; and
- (c) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessee under this Agreement and the other Transaction Documents to which the Lessor and Lessee are respectively party shall be calculated as if no such assignment or transfer had taken place.

21.2 Transfer by Lessee

Subject to no Relevant Event having occurred and then continuing, the Lessee may transfer all (but not part) of its rights and obligations under this Agreement and the other Transaction Documents:

21.2.1 to any other Guarantor Group Member without the prior written consent of the Lessor; or

21.2.2 to any other person (subject to clause 21.2.3 below) with the prior written consent of the Lessor.

21.2.3 Any intended transfer by the Lessee pursuant to clause 21.2.1 or 21.2.2 shall be subject to the further conditions that:

- (a) the Lessee shall give thirty (30) days prior written notice to the Lessor (or such shorter period as the Lessor may agree (acting reasonably)) of any intended transfer;
- (b) the Lessor shall not be subject to any material additional expense or any liability or increased liability as a result thereof (which is not indemnified against by the Lessee and guaranteed by the Guarantor or secured to the Lessor's satisfaction where the same is in the nature of a liability which is capable of being so indemnified, guaranteed or secured);
- (c) the Lessor is satisfied that, following the proposed transfer, the Guarantee, General Assignment and any other security then held by the Lessor in respect of the Lessee's obligations under this Agreement will remain in full force and effect as security for the obligations of the proposed transferee, or the Lessor is satisfied that such Guarantee, General Assignment and other security will be replaced on terms and in accordance with arrangements satisfactory to the Lessor; and
- (d) the intended transfer will not invalidate or result in any adverse effect on the Lessor's claim to UK Capital Allowances;

21.2.4 Following any transfer pursuant to clause 21.2.1 or 21.2.2:

- (a) the Lessee shall reimburse the Lessor in respect of all Losses, costs, charges or expenses (including stamp duties payable in respect of any transfer) properly incurred by the Lessor in connection with any transfer by the Lessee pursuant to this clause 21.2;

- (b) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessor under this Agreement and the other Transaction Documents shall be calculated as if no such transfer had taken place; and
- (c) in the case of any transfer pursuant to clause 21.2.1 the Guarantor shall guarantee to the Lessor the obligations of the transferee on terms satisfactory to the Lessor.

21.2.5 The Lessor agrees to assist the Lessee, upon the request of the Lessee, to restructure any security granted to the Lessor in respect of the Lessee's obligation to pay the Termination Amount to the Lessor in connection with any transfer of rights and obligations pursuant to this clause 21.2.

21.2.6 All costs and expenses (including legal costs and expenses and the relevant fee in respect of the Lessor's Management Time notified by the Lessor to the Lessee as having been properly incurred and which will be charged at the Lessor's Management Time Cost Rate) in connection with any such restructuring shall be borne by the Lessee and any such costs and expenses reasonably incurred by the Lessor shall be reimbursed by the Lessee on demand.

21.3 Sale of the Ship

During the Lease Period the Lessor will not sell, transfer, assign or otherwise dispose of the legal title to, or beneficial interest in, the Ship, or agree so to do, except as expressly contemplated by this Agreement or the other Transaction Documents.

22 Increased Costs

22.1 Increased costs

22.1.1 This clause 22 applies, otherwise than where a payment is made in respect of the effect of a Change of Law in accordance with the provisions of the Financial Schedule, if at any time the Lessor notifies the Lessee that it considers that as a result of:

- (a) any Change of Law; or
- (b) the effect of complying with any regulation which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement,

the Lessor or any Lessor Group Member has incurred or will incur an "increased cost".

22.2 Meaning of "increased cost"

In this clause 22, "increased cost" means, in relation to the Lessor:

22.2.1 the cost or additional cost referred to in clause 22.1 above; or

22.2.2 an additional or increased cost incurred directly as a result of, or in connection with, the Lessor having entered into, or being a party to, the Transaction Documents or funding, maintaining or performing its obligations under the Transaction Documents; or a reduction

- in the amount of any payment to the Lessor or any Lessor Group Member under any of the Transaction Documents or in the effective return which such a payment represents to the Lessor or on its capital; or
- 22.2.3 an additional or increased cost of funding all or maintaining all or any of the Lessor's expenditure under the Novated Building Contract or the Supervision Agreement or (as the case may require) the proportion of that cost attributable to the funding or maintaining of such expenditure; or
- 22.2.4 a liability to make a payment, or interest or the reduction in any amount payable or in the rate of return foregone, which is calculated by reference to any amounts received or receivable by the Lessor under this Agreement or any of the Transaction Documents; or
- 22.2.5 for the avoidance of doubt, any increased costs which relate to the implementation of the matters set out in the Basel II Accord.
- 22.3 Payment of increased costs**
- The Lessee shall pay to the Lessor the amounts which the Lessor from time to time notifies the Lessee that it has determined is necessary to compensate it for the increased cost.
- 22.4 Mitigation and consultation**
- 22.4.1 If circumstances arise which would result in notification under clause 22.1 then, without limiting the rights of the Lessor under clause 22.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or might be considered likely in the Lessor's opinion to:
- (a) have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;
 - (b) involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or
 - (c) involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.
- 23 Funding Problems**
- 23.1 Funding problems**
- If the Lessor notifies the Lessee that LIBOR cannot be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR:
- 23.1.1 the Lessor shall give notice thereof to the Lessee; and
- 23.1.2 the Lessor and the Lessee shall meet to discuss the matter in good faith and, unless within 30 days of the giving of such notice the Lessor and the Lessee arrive, by negotiation in good faith, at an alternative basis reasonably acceptable to the Lessor and the Lessee for continuing the Lessor's funding of its purchase of the Ship and/or continuing the leasing of the Ship under this Agreement and determining LIBOR (and any alternative basis agreed

in writing shall be retroactive to and effective from the commencement of the relevant period and shall continue until LIBOR can be determined in accordance with paragraphs (a) or (b) of the definition of LIBOR), the Lessee shall indemnify the Lessor for its cost of funds from whatever source the Lessor may reasonably select, and for reasonable periods, in any such case following consultation with the Lessee.

24 Illegality, etc

24.1 Illegality

This clause 24 applies if the Lessor notifies the Lessee that it has become, or will with effect from a specified date, become:

24.1.1 unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or

24.1.2 contrary to, or inconsistent with, any regulation,

for the Lessor to continue to lease the Ship to the Lessee under this Agreement.

24.2 Termination

The Lessor is entitled either in its notice to the Lessee pursuant to clause 24.1 or by a subsequent notice, to terminate the Lease Period either immediately or at a future specified date being in any such case not earlier than the date on which it becomes unlawful, prohibited or contrary to, or inconsistent with, any regulation for the Lessor to continue to lease the Ship to the Lessee under this Agreement, but for the avoidance of doubt no Termination Fee shall be payable by the Lessee in such circumstances.

24.3 Manner of termination

A termination under clause 24.2 will be deemed to be a voluntary termination of the Lease Period in accordance with clauses 2.3 or 2.6 (notwithstanding that the Lessor shall not have received 30 days' notice) and the provisions of clauses 2.4 to 2.13 shall apply to that termination.

24.4 Mitigation

If circumstances arise which would result in notification under clause 24.1 then, without limiting the rights of the Lessor under clauses 24.2 and 24.3, the Lessor shall use its reasonable endeavours to take such reasonable steps as may be open to it to mitigate or remove those circumstances Provided that the Lessor shall be under no obligation to take any such steps which shall or, in the Lessor's opinion, might be considered likely to:

24.4.1 have an adverse effect in the Lessor's business operations or financial condition or those of any Lessor Group Member;

24.4.2 involve the Lessor or any Lessor Group Member in any activity which is unlawful or prohibited or any activity which is contrary to, or inconsistent with, any regulation; or

24.4.3 involve it in any expense (unless indemnified to its reasonable satisfaction) or tax disadvantage.

25 Release from Arrest: Lessor's and Lessee's Vessels

25.1 Release from arrest: Lessor's vessels

Other than the Ship or the Sister Ships or any other vessel owned by the Lessor and leased to a company which is owned by the Guarantor, if any vessel which is for the time being owned (in whole or in part) by or leased to any Lessor Group Member shall at any time have a writ or equivalent claim or pleading in admiralty filed against it or be arrested, attached or levied upon pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature, and which arises out of the use or operation of the Ship or the Sister Ships or any other vessel owned in whole or in part by or leased or chartered to the Lessee or to any Transaction Company or other Guarantor Group Member or to any other company owned by the Guarantor with any other company, or otherwise by reason of the act or omission of any of the Lessee or any Transaction Company or other Guarantor Group Member, except where that lien or claim arises as a result of any Lessor Misconduct or the equivalent in relation to a Lessor Group Member (but excluding for this purpose any act or omission relating to the operation of the Ship or the Sister Ships or any other vessel owned by any Lessor Group Member and leased or chartered to the Lessee or any Transaction Company or any other Guarantor Group Member for which the Lessee or such Transaction Company or other Guarantor Group Member is responsible pursuant to this Agreement or the relevant leasing or chartering contracts):

25.1.1 the Lessee forthwith upon receiving notice thereof at its expense shall procure the release of such vessel from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty by providing bail or procuring the provision of security or otherwise as the circumstances may require; and

25.1.2 the Lessee shall be responsible for discharging each and every liability in connection with any such process, claim, lien or other action.

Without prejudice to the generality of the other indemnities contained in this Agreement or any of the other Transaction Documents, should any such other vessel owned (in whole or in part) by or leased or chartered to any Lessor Group Member and leased or chartered by it (otherwise than to the Lessee or any other Transaction Company or Guarantor Group Member) be arrested, detained, attached or levied upon or be the subject of or have a writ or equivalent claim or pleading in admiralty filed against it in such circumstances, the Lessee shall indemnify the Lessor against all Losses imposed on, suffered or incurred or expended by the Lessor and/or such Lessor Group Member in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty, together with any costs and expenses (including the provision of any guarantee or bond) or other outgoings which may be suffered or paid by the Lessor and/or any Lessor Group Member in releasing such vessel from any such arrest, seizure, custody, detention, attachment or distress.

25.2 Release from arrest: Lessee's vessels

If:

25.2.1 the Ship or the Sister Ships or any other vessel owned or operated by any Guarantor Group Member or any company owned by the Guarantor, at any time has a writ or equivalent claim or pleading in admiralty filed against it or is arrested, attached or levied upon

pursuant to any legal process or purported legal process or is detained in exercise or purported exercise of any lien or claim of whatsoever nature in each such case arising out of the use or operation of any other vessel for the time being owned by any Lessor Group Member and leased or chartered by it otherwise than to the Lessee or any Transaction Company or to any other Guarantor Group Member or to any company owned by the Guarantor; and

25.2.2 should the charterers of such other vessel (being in that situation under obligations to the Lessor or the Lessor Group Member equivalent to those assumed by the Lessee under clause 25.1) fail to fulfil those obligations,

Provided that the Lessee shall first have given prior notice thereof to the Lessor and, to the extent practicable, consulted with the Lessor or such Lessor Group Member as far in advance as is reasonable in all the circumstances, the Lessee shall:

- (a) be entitled to act as agent for the Lessor or the Lessor Group Member to procure release of the Ship or the Sister Ships or such other vessel (as the case may require) from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or equivalent claim or pleading in admiralty and the discharge of all liabilities in connection with such process, claim, lien or other action; and
- (b) be entitled to be indemnified by the Lessor or the Lessor Group Member against claims made on the Lessee by the charterers of such other vessel in connection with such arrest, detention, attachment, levy, writ or equivalent claim or pleading in admiralty and all losses and expenses reasonably and properly so incurred by it.

26 Confidentiality

26.1 Confidentiality

At all times during the Lease Period, each of the Lessor and the Lessee shall keep confidential and shall not, without the prior written consent of the other:

26.1.1 issue any press release or make any other public announcement or statement in relation to the transactions evidenced by this Agreement and the other Transaction Documents; or

26.1.2 disclose to any other person (i) the financial details of this Agreement or any other Transaction Document or the transactions contemplated by this Agreement or any other Transaction Document or any other agreement entered into after the date of this Agreement by the Lessor or the Lessee in connection with this Agreement or any other Transaction Document or (ii) any information provided pursuant to any of the Transaction Documents; or

26.1.3 release copies of drafts of this Agreement or any other Transaction Document which disclose or reveal the identity of the parties (or any of them),

the information contemplated by clauses 26.1.1 to 26.1.3 above being “ **Confidential Information** ”

Provided that the parties shall be entitled, without any such consent, to disclose such Confidential Information:

- (a) if the same is already known to the receiving person at the time of disclosure as shown by the receiving person’s files and records immediately prior to that disclosure or is developed by the receiving person independently of such disclosure; or

-
- (b) in connection with any proceedings arising out of or in connection with this Agreement or any of the other Transaction Documents; or
 - (c) if required to do so by an order of a court of competent jurisdiction whether in pursuance of any procedure for discovery of documents or otherwise; or
 - (d) if it is reasonably believed by such party to be disclosable pursuant to any applicable law, stock exchange regulations or by a governmental order, decree, regulation or rule; or
 - (e) to any fiscal, monetary, tax, governmental or other competent authority; or
 - (f) to the auditors, legal or professional or insurance advisors, underwriters or brokers of the Lessee or the Lessor who (A) shall have a need to have such knowledge of the same in connection with carrying out work related to the transaction contemplated by this Agreement and the other Transaction Documents and (B) shall be advised of the confidential nature of any such information supplied to them and shall be instructed to maintain the confidentiality of any information supplied to them; or
 - (g) in any manner contemplated by any of the Transaction Documents; or
 - (h) if the same is in the public domain or shall become publicly known otherwise than as a result of a breach by such party or by the receiving person or any other person to whom disclosure is made of this clause 26.1; or
 - (i) if the same is acquired independently from a third party without breach of that third party's obligations of confidentiality; or
 - (j) in the case of the Lessee, to any director, officer, employee, agent or representative of any Guarantor Group Member, the Time Charterer or the Approved Manager and its Affiliates, and, in the case of the Lessor, any director, officer, employee, agent or representative of any Lessor Group Member provided that in each case the Lessee or the Lessor shall procure that the party to whom such disclosure is made shall comply with the requirements of this clause,

provided that if the Confidential Information is provided by a party on the basis that it is to be kept confidential, but the party providing the information discloses it to another person on a non-confidential basis, then the receiving parties shall no longer be obliged to treat such information as confidential.

26.1.4 The Lessor and the Lessee shall be responsible for ensuring that where Confidential Information is disclosed to persons under clause 26.1.3 such persons shall keep the information confidential and shall not disclose or divulge the same to any unauthorised person.

27 Notices

27.1 General

Unless otherwise specifically provided, any notice under or in connection with this Agreement shall be given by letter or fax; and references in this Agreement to notices in writing and notices signed by particular persons shall be construed accordingly.

27.2 Addresses for communications

A notice shall be sent:

to the Lessee:

Seaspan Finance I Co. Ltd
Unit 2
7th Floor Bupa Centre
141 Connaught Road West
Hong Kong F4 0000
China

Fax No: +852 2450 1689

Attn: Gerry Wang

with a copy to:

Seaspan Management Services Limited
c/o 2600-200 Granville Street
Vancouver, BC
Canada V6C 1S4

Fax No: +604 648 9351 / +604 676 2296

Attn: Gerry Wang

to the Lessor:

Peony Leasing Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Fax No: +44 20 7012 9455

Attn: Head of Structured Marine Finance

or to such other address as the relevant party may notify the other.

27.3 Effective date of notices

Subject to clauses 27.4 and 27.5:

27.3.1 a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is received;

27.3.2 a notice which is sent by fax shall be deemed to be served, and shall take effect, upon the confirmed despatch by the sender.

27.4 Service outside business hours

However, if under clause 27.3 a notice would be deemed to be served:

27.4.1 on a day which is not a business day in the place of receipt; or

27.4.2 on such a business day, but after 5 p.m. local time,

the notice shall be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

27.5 English language

Any notice under or in connection with this Agreement shall be in English.

27.6 Meaning of “notice”

In this clause “ **notice** ” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

28 Supplemental

28.1 Rights cumulative, non-exclusive

The rights and remedies which this Agreement and the other Transaction Documents give to the Lessor are:

28.1.1 cumulative;

28.1.2 may be exercised as often as appears expedient; and

28.1.3 shall not, unless this Agreement or any Transaction Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

28.2 Severability of provisions

If any provision of this Agreement or any Transaction Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of this Agreement or that Transaction Document or of the provisions of any other Transaction Document.

28.3 Variations, waivers etc.

A document shall only be effective to vary, waive, suspend or limit any provision of this Agreement or any Transaction Document, or the Lessor’s or the Lessee’s rights or remedies under such a provision or the general law, if the document is signed, or specifically agreed to in writing by the Lessor and the Lessee.

28.4 Counterparts

This Agreement and any Transaction Document may be executed in any number of counterparts and one such counterpart executed by each of the parties thereto and, provided that all parties sign, each executed counterpart duly executed and delivered shall be deemed an original but taken together they shall constitute one instrument.

28.5 Set-off

The Lessee authorises the Lessor without prejudice to any of the Lessor's rights of set-off at law, in equity or otherwise, at any time after the occurrence of a Termination Event, a Mandatory Prepayment Event or a Further Novation Event and whilst it is continuing to set-off or withhold from any sum or sums expressed in the Lease Documents to be payable to the Lessee by the Lessor any amount due and payable but unpaid to the Lessor from the Lessee under the Lease Documents. The Lessor shall not be obliged to exercise any right given to it by this clause 28.5. The Lessor shall notify the Lessee upon the exercise or purported exercise by the Lessor of any right of set-off or withholding.

28.6 Further Assurance

As soon as practicable after any such request by the Lessor and at its own expense, the Lessee shall execute, sign, perfect and do any and every such further assurances, document, act or thing as is, in the reasonable opinion of the Lessor:

28.6.1 necessary to carry out the transactions contemplated by this Agreement and the other Transaction Documents; or

28.6.2 necessary to protect or enforce any of the Lessor's rights under this Agreement or the other Transaction Documents or title of the Lessor in the Ship.

28.7 Time of the essence

Subject to any periods of grace provided for by or referred to in this Agreement and the other Transaction Documents, time shall be of the essence as regards performance by the Lessee of its obligations under this Agreement and the other Transaction Documents.

28.8 Entire Agreement

As at the date of this Agreement, the Transaction Documents constitute the entire agreement between the parties in relation to the leasing of the Ship by the Lessor to the Lessee and supersedes all previous proposals, agreements and other written or oral communications in relation thereto.

28.9 Third party rights

With the exception of Indemnified Persons, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed. However, notwithstanding any term of this Agreement to the contrary, no variation of this Agreement, and no release or compromise of any liability hereunder and no termination by the Lessor of the leasing of the Ship or of its obligation hereunder to lease the Ship shall require consent or approval of any third party.

29 Law and Jurisdiction

29.1 English law

This Agreement shall be governed by, and construed in accordance with, English law.

29.2 Exclusive English jurisdiction

Subject to clause 29.3, the courts of England shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and the Lessee irrevocably designates, appoints and empowers WFW Legal Services Limited of 15 Appold Street, London EC2A 2HB to receive for it and on its behalf service of process issued out of the English courts in connection with any such dispute.

29.3 Choice of forum

Clause 29.2 is for the exclusive benefit of the Lessor which reserves the rights:

29.3.1 to commence proceedings in relation to any matter which arises out of or in connection with this Agreement in the court of any country other than England which has jurisdiction in respect of that matter; or

29.3.2 to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

29.4 Lessee rights unaffected

Nothing in this clause 29 shall exclude or limit any right which the Lessor may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

29.5 Meaning of “proceedings”

In this clause 29, “ **proceedings** ” means proceedings of any kind, including an application for a provisional or protective measure.

THIS AGREEMENT has been executed by the parties to it on the date stated at the beginning of this Agreement.

Schedule 1
Financial Schedule

(see attached)

Schedule 2
Description of Ship

The Ship to be constructed by the Builder under the Novated Building Contract with Builder's Hull No. 1855 to the following approximate principal specifications as at the date of this Agreement and subject to alteration pursuant to any amendment to the Novated Building Contract in accordance with the terms and conditions of this Agreement and the other Lease Documents.

Length overall	268.5m
Length between perpendiculars	254.3m
Breadth (moulded)	35.0m
Depth (moulded) to upper deck	19.5m
Draught (design), moulded	11.0m
Classification Society	Det norske Veritas
Class	DNC, +1A1 Container Carrier, NAUTICUS (Newbuilding), EO, BIS, TMON, COMF-V(3)C(3), NAUT-OC, BMW-E(d), CLEAN, Green Passport

Schedule 3
Part A - Form of Lessor Parent Support Letter (Lessee)

[On Bank of Scotland plc notepaper]

To: [Lessee]

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
UK Finance Lease for Samsung Hull no. [—] (the “Ship”)

We refer to the Lease of even date herewith between the Subsidiary and yourselves (the “**Lessee**”) relating to the Ship (the “**Lease**”). Terms defined in the Lease shall have the same meanings when used in this letter.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Lessee under the Transaction Documents.

In consideration of the Lessee agreeing to lease the Ship from the Subsidiary we confirm that throughout the term of the Transaction Documents we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Lessee arising from the Transaction Documents.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Lessee under the Transaction Documents, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Lessee and, if the Lessee so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Transaction Documents are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Lessee and so as to ensure that the Lessee shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Transaction Documents to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Without prejudice to or limitation of our other statements and undertakings in this letter, and our contractual obligations and liabilities in respect of the foregoing, nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Transaction Documents.

This letter is intended to create legal relations between us and will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

The Letter is confidential and shall not be disclosed to any party save as permitted by clause 26 of the Lease.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Part B - Form of Lessee Parent Support Letter (Builder)

[On Bank of Scotland plc notepaper]

To: Samsung Heavy Industries Co. Ltd.,
34th Floor, Samsung Life Insurance Seocho Tower
1321-15 Seoul
South Korea

2007

Dear Sir/Madam,

[—] **Limited (the “Subsidiary”)**
Samsung Hull no. [—] (the “Ship”)

We refer to the Novation Agreement to be entered into on or about the date hereof between (among others) the Subsidiary and yourselves (the “**Builder**”) pursuant to which the Subsidiary will become the new buyer of the Ship under a Shipbuilding Contract dated [—] 2007 originally between Seaspans Corporation and the Builder. Such novated Shipbuilding Contract is herein referred to as the “**Contract**”.

We confirm that the Subsidiary is a wholly owned UK subsidiary of Bank of Scotland plc and that we are aware of the Subsidiary’s current obligations and liabilities to the Builder under the Contract.

We further confirm that throughout the term of the Contract we will ensure that the Subsidiary is able to and will perform its obligations and discharge its liabilities to the Builder arising from the Contract.

If, at a time whilst the Subsidiary continues to have any obligations or liabilities to the Builder under the Contract, shares in the Subsidiary or any intermediate shareholding company are intended to be transferred (whether by ourselves or any intermediate holding company) so that the Subsidiary will cease to be a wholly-owned direct or indirect subsidiary of Bank of Scotland plc, we will give notice of such intended transfer to the Builder and, if the Builder so requests in writing within 20 Business Days after receipt of such notice, we will, prior to such transfer of shares, procure that the rights, interests and obligations of the Subsidiary under the Contract are transferred to another company (“**Transferee**”) which is itself a wholly-owned direct or indirect Subsidiary of Bank of Scotland plc.

The provisions of this letter shall apply to a Transferee as if references to the “Subsidiary” in this letter were references to such Transferee.

Any transfer of the rights, interests and obligations pursuant to this letter shall be effected at no cost to the Builder and so as to ensure that the Builder shall be under no greater liability nor receive any lesser benefit, financial or otherwise, under the Contract to which the Subsidiary is party as a result of such transfer than would have been the case had no such transfer taken place.

Nothing in this letter shall constitute, or shall be deemed to constitute, a guarantee of the Subsidiary’s obligations under the Contract.

This letter will be governed by and construed in accordance with English law.

No term of this letter is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to this Letter.

Yours faithfully

For and on behalf of
Bank of Scotland plc

Schedule 4
Lessee's Condition Precedent Documents

Part A

Lessor's Conditions Precedent to the First Instalment

The following are the documents and actions referred to in clause 3.1.1 as conditions precedent to the obligations of the Lessor under this Agreement and the payment of the First Instalment pursuant to the Novated Building Contract and the Novation Agreement:

- 1 An original of this Agreement, the Novation Agreement, the Supervision Agreement, the Refund Guarantee, the Guarantee, the QEL, the General Assignment, the Indexation Relief Letter, the Tax Consultation Letter and the Non Discrimination Letter and each other Transaction Document to which the Lessor is or is then to be a party (and each notice or document required to be delivered by each such Transaction Document), each duly signed by all parties thereto.
- 2 Copies of the certificate of incorporation and constitutional documents of the Lessee, the Guarantor and the Supervisor.
- 3 Copies of resolutions of the directors and, if necessary for the purposes of obtaining the opinions referred to in paragraph 12 in form and substance satisfactory to the Lessor, the shareholders of the Lessee, the Guarantor and the Supervisor or equivalent documents authorising the execution of each of the Transaction Documents to which any of them is or is to be a party and authorising named persons to give all notices under this Agreement and each Transaction Document.
- 4 The original of any power of attorney under which any Transaction Document is executed on behalf of the Lessee, the Guarantor and the Supervisor.
- 5 Copies of any governmental or other third-party consents, licences, approvals, registrations and filings (“ **Consents** ”) necessary for any matter contemplated by the Lease Documents and for the legality, validity, enforceability, and admissibility in evidence and effectiveness thereof having been obtained or effected and remain in full force and effect, including, but not limited to, such Consents required to make any payment under any Transaction Document or evidence that no such Consents are required.
- 6 Certified true copies of the Building Contract, the Time Charter and all of the other Transaction Documents to which the Lessor is not a party which have been executed at such time and all documents to be delivered pursuant to each of such documents each duly signed by all parties.
- 7 Evidence reasonably acceptable to the Lessor of the amounts of all payments already made by the Original Purchaser under the Building Contract to the Builder together with details relating to each payment including what the payment was for and the date on which payment was made, and an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement.

-
- 8 Documentary evidence that the novation of the Building Contract contemplated in the Novation Agreement has or, simultaneously with the Lessor's obligations referred to in clause 3.1.1 becoming effective, shall become effective.
 - 9 Receipt by the Lessor of any fees, costs and expenses payable by the Lessee which are due for payment on or prior to the date for the payment of the First Instalment and which are not rentalised in the Financial Schedule.
 - 10 Documentary evidence that the agents for service of process in England appointed by the Lessee, the Guarantor, the Supervisor and the Time Charterer (as applicable) in relation to all Transaction Documents have accepted such appointment.
 - 11 Opinions from:
 - (a) Kim & Chang as special Korean legal counsel in relation to the Builder and the Refund Guarantor and the execution of the Novation Agreement by the Builder and the Refund Guarantee by the Refund Guarantor, and as to matters of Korean law;
 - (b) Cozen O'Connor, as special Marshall Islands legal counsel in relation to the Lessee, the Guarantor, this Agreement, the Novation Agreement, the Guarantee, and as to matters of Marshall Islands law,
 - (c) Conyers, Dill & Pearman, as special Bermudan legal counsel in relation to the Supervisor, the Supervision Agreement and as to matters of Bermudan law;
 - (d) Halpern Law Office, as special Japanese legal counsel in relation to the Time Charterer, the QEL and as to matters of Japanese law; and
 - (e) The Lessor's insurance advisers, Marsh, in respect of the insurance provisions of this Agreement and insurance arrangements with respect to the Ship and the Sister Ships generally,
each in form and substance satisfactory to the Lessor.
 - 12 If the Lessor reasonably requires, in respect of any of the documents referred to above which may be provided in a language other than English, a certified English translation prepared by a translator approved by the Lessor.
 - 13 The Lessee has confirmed that the conditions precedent to its obligations set out in Schedule 5 have been satisfied or waived by the Lessee.
 - 14 Completion of all relevant money laundering compliance checks by the Lessor in respect of the Lessee, the Replacement Purchaser, the Guarantor and any other relevant company, in accordance with the Lessor Group's current procedural requirements.

Part B

Lessor's Conditions Precedent to each Instalment

The Lessor shall have received each of the following, in form and substance satisfactory to the Lessor:

- 1 evidence that the relevant Instalment has fallen due for payment under the terms of the Novated Building Contract and the Novation Agreement, which evidence shall be constituted by notice from the Builder to the Supervisor (and copied to the Lessor) in accordance with clause 7.2 of the Novation Agreement;
- 2 evidence as to the amount of the relevant Instalment and the account to which it is to be paid, which evidence shall be constituted by an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement;
- 3 if the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, the other Lease Amounts and the amount of the Instalments previously paid, cause the Maximum Commitment to be exceeded, the Lessor shall have received the required amount to be paid by the Lessee to the Lessor as a Contribution Payment under clause 3.10 within the time permitted under clause 3.10;
- 4 confirmation from a duly authorised officer of each of the Lessee, the Replacement Purchaser, the Guarantor and the Supervisor that there has been no change in the constitutive documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended and in full force and effect; and
- 5 receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clause 3.2 of this Agreement have been satisfied.

Part C

Lessor's Conditions Precedent to the Final Instalment

The following are the documents referred to in clause 3.3.1:

- 1 An Intended Delivery Notice in accordance with the terms of this Agreement;
- 2 The commercial invoice of the Builder addressed to the Lessor in respect of the Final Instalment payable under the Novated Building Contract;
- 3 Drafts of the Builder's Certificate and the Protocol of Delivery and Acceptance together with drafts of certain of the other documents referred to in article VII of the Novated Building Contract and evidence that, at Delivery, originals of all these documents (where applicable, signed for the Builder) will be delivered to, or to the order of, the Lessor;
- 4 Evidence that the obligations of the Lessee under clauses 10.10, 13.2 and 13.3 of this Agreement will be complied with, as from Delivery;
- 5 Confirmation from the Supervisor that the Ship has been constructed in compliance with the terms of the Novated Building Contract and any minor works identified by the Supervisor in the Intended Delivery Notice which are to be rectified by the Builder after the Delivery Date; and
- 6 If the Lessor advises the Lessee that the amount of the relevant Instalment would, when aggregated with the Arrangement Fee, and the other Lease Amounts and the amount of the Instalments previously paid cause the Maximum Commitment to be exceeded, receipt by the Lessor of the required amount to be paid as a Contribution Payment under clause 3.10 within the period of time permitted by clause 3.10.

Part D

Lessor's conditions precedent to Delivery

The following are the documents referred to in clause 3.3.2:

- 1 Duly executed originals of the documents specified in Part C paragraph 3 of this Schedule;
- 2 Evidence that the Ship is duly registered under a flag referred to in clause 12.3 in the name of the Lessor;
- 3 Evidence that the Ship has been granted the classification referred to in clause 10.3.2 free of overdue conditions affecting the Ship's class unless waived;
- 4 Copies of any Document of Compliance, Safety Management Certificate and/or International Ship Security Certificate and all other documents required at that time for the Ship pursuant to the ISM Code and ISPS Code;
- 5 Evidence that the obligations of the Lessee in relation to Insurances under clauses 13.2 and 13.3 of this Agreement have been complied with;
- 6 If so requested by the Lessor, an insurance report, paid for by the Lessee, from an independent adviser selected by the Lessor (subject to prior agreement on their fee) confirming that the Ship's Insurances comply with the requirements of clause 13;
- 7 Copies of any consents which are required to be obtained and maintained in respect of the Ship and its operation;
- 8 The certificate of delivery and acceptance in the form of schedule 7 to this Agreement duly signed by the Lessee, and a copy of the protocol of delivery and acceptance in the form required by the Time Charter signed by the Time Charterer;
- 9 Confirmation from a duly authorised officer of each of the Lessee, the Supervisor and the Guarantor that there has been no change in the constitutional or organisational documents of the relevant Transaction Company since the date on which the same were provided to the Lessor pursuant to paragraph 2 of Part A of Schedule 4 or, as the case may be, a copy of any amendments thereto certified by a duly authorised officer of the relevant Transaction Company and confirmation that the board resolutions, the powers of attorney or other corporate authorisations referred to in paragraphs 3 and 4 of Part A of schedule 4 remain unamended in full force and effect and that all the Transaction Documents to which they are a party remain in full force and effect;
- 10 Receipt of certificates from the Lessee and the Guarantor in respect of clause 3.2.2 of this Agreement and evidence that the other conditions referred to in clauses 3.2 and 3.3 of the Lease Agreement have been satisfied;
- 11 Confirmatory opinions each confirming that the opinions expressed in the legal opinions issued pursuant to paragraph 14 of Part A of Schedule 4 need not be altered or modified in any way or, as the case may be, supplemental opinions in respect of any matters in respect of which such confirmations cannot be given in form and content acceptable to the Lessor; and

-
- 12 An opinion from counsel selected by the Lessor in the proposed flag state for the Ship, in relation to the registration of the Ship, in form and content acceptable to the Lessor.

General Note

- 1 All copies of documents to be provided under any part of this Schedule 4 must be certified to be true, complete and up-to-date as at the date of certification, and must be certified by an authorised signatory of the person providing such copies.
- 2 In the event that any of the representations and warranties on the part of any of the Lessee, the Replacement Purchaser, the Supervisor, the Time Charterer and/or the Guarantor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 5
Lessee's Pre-Delivery Condition Precedent Documents

The following are the documents referred to in clause 3.4:

- 1 An original of each Transaction Document to which the Lessor or the Lessor Parent is a party duly executed by the Lessor or, as the case may be, the Lessor Parent;
- 2 Copies of resolutions of the directors of the Lessor authorising execution of each of the Transaction Documents to which it is a party by the persons signing them;
- 3 Certified copies of any power of attorney under which any Transaction Document is executed on behalf of the Lessor; and
- 4 Evidence of the due execution by the Bank of the Lessor Parent Support Letter given in favour of the Lessee in a form satisfactory to the Lessee (acting reasonably).

Schedule 6
Form of Instalment Request

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated: [—]

Dear Sirs

Lease Agreement (the “Lease Agreement”) dated [*] 2007 relating to Samsung Hull No. [—]

We refer to the Lease Agreement and give you notice that the expected date for the [—] Instalment of the Purchase Price is [—] .

We further notify you that the payments due on that date [is/are] as follows:

[—]

We confirm that no Relevant Event has occurred which is continuing.

Words and expressions defined in the Lease Agreement shall have the same meanings when used in this Instalment Request.

For and on behalf of
[Lessee]

Schedule 7
Form of Certificate of Delivery and Acceptance

Pursuant to a lease agreement (the “**Lease**”) dated [—] 2007 made between (i) [—] Limited (the “**Lessor**”) and (ii) [—] (the “**Lessee**”) in respect of the m.v. “ [—] ” (the “**Ship**”), registered under the laws and flag of [—] with Official Number [—] and on the basis of the confirmation given by the Lessee in this Certificate, the Ship was delivered by the Lessor to the Lessee, and accepted by the Lessee from the Lessor, at [—] hours [GMT]/[BST] on [—] at [—] under, and in accordance with the terms and conditions of, the Lease.

The Lessee confirms that as at the date of this Certificate:

- (a) no Relevant Event has occurred and is continuing; and
- (b) the representations and warranties set out in clause 19 of the Lease are true and correct as if each was made with reference to the facts and circumstances existing at the date of this Certificate.

Dated: [—]

For and on behalf of
[Lessee]

Schedule 8
Form of Intended Delivery Notice

To: [—] Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London
EC2M 3YB

Attention: Head of Structured Marine Finance

Dated : [—]

Dear Sirs

m.v. “ [—] ” - Lease Agreement dated [•] 2007 (the “Lease”)

We refer to the Lease. Words and expressions defined in the Lease shall have the same meaning when used in this notice.

The Supervisor hereby advises you that the anticipated date of Delivery is [—] and confirms that the Ship is built in accordance with the Novated Building Contract [subject only to []]*.

The Lessee hereby requests the Lessor to take delivery of the Ship on that date, to make all necessary arrangements to fund the Final Instalment of the Purchase Price and to lease the Ship to the Lessee pursuant to the Lease (subject to any revised or replacement notice which may be served on the Lessor if the anticipated date of Delivery is postponed). The Lessee confirms that:

- (a) no Relevant Event has occurred and is continuing, either now or at the anticipated Delivery Date;
- (b) each of the representations and warranties contained in clause 19 of the Lease is true and correct by reference to the facts and circumstances now existing, and will be true and correct by reference to the facts and circumstances existing on the anticipated Delivery Date**.

Yours faithfully

for and on behalf of
[—], as Lessee

for and on behalf of
[—] as Supervisor

* [any qualifications disclosed to and agreed by the Lessor to be inserted] .

** In the event that any of the representations and warranties on the part of the Lessee or the Supervisor are incorrect or inaccurate in any way, the applicable person shall have disclosed to the Lessor the circumstances and nature of such inaccuracy or incorrectness.

Schedule 9
Form of Notice of Assignment of Builder Warranties

To: [Samsung]

Dated: []

m.v. “[—] ”

[—] Limited (the “ **Lessor** ”), of which the principal mailing address is currently c/o Bank of Scotland Structured Asset Finance Limited, PO Box 39900, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB, the Lessor of the vessel currently under construction with yourselves (the “ **Builder** ”) having Builder’s Hull No. [—] (the “ **Ship** ”) **GIVES NOTICE** that by an assignment dated [] 2007 made by the Lessor in favour of [—] (the “ **Assignee** ”) we have assigned to the Assignee absolutely the full benefit of all guarantees, warranties and indemnities of every kind (the “ **Warranties** ”) to which we are entitled now or at any later time to, in or in connection with a Building Contract dated [—] (the “ **Building Contract** ”) made between the Builder and Seaspan Corporation, in respect of the construction and sale of the Ship as novated from Seaspan Corporation to the Lessor by a Novation Agreement dated [] 2007 (the “ **Novation Agreement** ”) and made between (i) the Builder, (ii) Seaspan Corporation, (iii) the Lessor and (iv) [—] (the Building Contract, as novated and amended by the Novation Agreement, the “ **Novated Building Contract** ”).

The Assignee is entitled, as from the Delivery Date, to exercise and enforce all rights in respect of the Warranties including without limitation the right to receive damages and other sums in connection with the Novated Building Contract (but subject always to any express provisions in the Novation Agreement) and the Lessor shall, unless the Lessor notifies the Builder in writing to the contrary, have no further responsibility or liability in respect of such matters.

The Lessor instructs the Builder to comply with the instructions contained in this notice until otherwise notified by both the Lessor and Assignee. Until such time the instructions contained herein are irrevocable.

This notice is governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice by delivering a copy endorsed as set out below to the Lessor and the Assignee.

For an on behalf of
[Lessor]

To: [—] Limited
c/o Bank of Scotland Structured Asset Finance Limited
Level 6
Bishopsgate Exchange
155 Bishopsgate
London EC2M 3YB

Attention: Head of Structured Marine Finance

cc: [Lessee]

m.v. “[—]”

We hereby acknowledge receipt of the notice set out above and hereby confirm:

- 1 our agreement to the assignment referred to therein; and
- 2 that we have not received any other notice of assignment in respect of the same matter.

For and on behalf of
[Samsung]

Dated :

Schedule 10
Standby Loan Transaction Characteristics

Borrower:	a company in the Guarantor Group
Guarantor:	the Guarantor will guarantee the obligations of the Borrower in the same form as the Guarantee (but subject to such amendments to the financial covenants therein as may be determined during the Lessor Standby Lender Review)
Lender:	Bank of Scotland plc
Amount:	an amount equal to the Final Rental under the Lease Agreement
Currency:	US Dollars
Maturity Date:	the loan shall be fully repaid by the seventh (7th) anniversary of the Lease Period End Date
Interest:	US\$[1/3] month LIBOR plus Margin, payable [monthly/quarterly]
Margin:	110 bps
Repayments:	the repayments will be [monthly/quarterly] and calculated so as to amortise to a final principal repayment on the Maturity Date of an amount equal to 30% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)
Security:	in addition to the Guarantee referred to above, the Borrower shall grant to the Lender a mortgage over the Ship, an assignment over the earnings, insurances and requisition compensation, and such other Security as may be required by the Lessor, all in a form satisfactory to it
Documentation:	to be prepared by the Lender's legal counsel, based on the appropriate Loan Market Association form but adapted to reflect the provisions of the Lease Agreement (particularly in the case of representations and warranties, operational covenants, undertakings and indemnities, and events of default)
Costs:	for the account of the Borrower

The following additional provisions shall apply to any Standby Loan Transaction entered into pursuant clause 2.14:

Amount: an amount equal to the relevant Termination Sum under the Lease Agreement plus, in the case of any termination under clause 2.2.1(a), all further amounts to be advanced under the Standby Loan Agreement during the Construction Period in respect of the Contract Price

Repayment: the repayments will be calculated so as to amortise initially to an amount as at the original Lease Period End Date equal to 80% of the amount paid by the Lessor to the Builder under the Novated Building Contract (less any Contribution Payment)

**Standby Lender
Review:**

the Standby Lender Review referred to in clause 16 of the Lease Agreement shall continue to apply (*mutatis mutandis*) and, in the event of an adverse determination by the Lender, the Lender shall be entitled to require a repayment of the standby loan on the original Lease Period End Date

Schedule 11

Specimen Profit and Loss Account for Lessor

(referred to in clause 6.8)

[LESSOR NAME]
PROFIT AND LOSS ACCOUNT
FOR THE [YEAR] [[—] MONTHS] ENDED [date]

		[period]	[period]
	Note	\$000	\$000
INCOME FROM FINANCE LEASES		[—]	[—]
Administrative expenses		([—])	([—])
OPERATING PROFIT		[—]	[—]
Interest payable and similar charges		([—])	([—])
PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION		[—]	[—]
Tax on profit on ordinary activities		([—])	([—])
PROFIT FOR THE FINANCIAL PERIOD		[—]	[—]

Specimen Balance Sheet for Lessor
(referred to in clause 6.4)

[LESSOR NAME]
BALANCE SHEED AS AT [date]

	<u>Note</u>	<u>200[—]</u> <u>\$000</u>	<u>200[—]</u> <u>\$000</u>
CURRENT ASSETS			
Debtors amounts falling due:			
within one year		[—]	[—]
after one year		<u>[—]</u>	<u>[—]</u>
Total Debtors		[—]	[—]
CREDITIORS: amounts falling due within one year		<u>([—])</u>	<u>([—])</u>
NET CURRENT ASSETS		[—]	[—]
CREDITORS: amounts falling due after more than one year			
PROVISIONS FOR LIABILITIES AND CHARGES		<u>([—])</u>	<u>([—])</u>
NET ASSETS		<u>[—]</u>	<u>[—]</u>
CAPITAL AND RESERVES			
Called up equity share capital		[—]	[—]
Profit and loss account		<u>[—]</u>	<u>[—]</u>
EQUITY SHAREHOLDERS' FUNDS		<u>[—]</u>	<u>[—]</u>

LESSOR

SIGNED by)

for and on behalf of)

PEONY LEASING LIMITED)

in the presence of:)

Jus Lyall
Norton Rose LLP SE1
Associate

) /s/ Keith Roderick Glasscoe

Keith Roderick Glasscoe

LESSEE

SIGNED by)

for and on behalf of)

SEASPAN FINANCE I CO. LTD.)

in the presence of:)

) /s/ Hanno Erwes

Hanno Erwes
Attorney-In-Fact

Dated 4 February 2008

PEONY LEASING LIMITED (1)
as Lessor

and

SEASPAN FINANCE I CO. LTD. (2)
as Lessee

AMENDMENT AGREEMENT

**relating to five lease agreements each in
respect of one 4520 TEU container carrier
to be built at Samsung Heavy Industries
Co., Ltd with Hull No.
1851/1852/1853/1854/1855, respectively**

dated 27 December 2007

 **NORTON ROSE**

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THIS AGREEMENT is made on 4 February 2008,

BETWEEN

- (1) **PEONY LEASING LIMITED**, a company incorporated in England and Wales with company number 4442275 and whose registered office is at PO Box 39900, Level 7, Bishopsgate Exchange, 155 Bishopsgate, London EC2M 3YB (the “**Lessor**”); and
- (2) **SEASPAN FINANCE I CO. LTD.**, a corporation incorporated in the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960 (the “**Lessee**”).

IT IS AGREED as follows:

1 Definitions and Interpretation

1.1 In this Agreement:

Original Agreements means the five lease agreements dated 27 December 2007 between the Lessor and the Lessee each in respect of one 4520 TEU container carrier to be built at Samsung Heavy Industries Co., Ltd with Hull No. 1851/1852/1853/1854/1855, respectively.

1.2 No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone other than a party to this Agreement.

1.3 This Agreement may be executed in counterparts.

2 Amendments and restatement

Amendment and restatement

2.1 With effect from the date of this Agreement, the Original Agreements will be amended and restated as per the relevant pages set out in Schedule 1 (*Amended and restated pages of the Original Agreements*) to this Agreement.

Continuing obligations

2.2 The provisions of the Original Agreements will, except as amended by this Agreement, continue in full force and effect.

3 Governing law

This Agreement is governed by English law.

This Agreement has been entered into on the date stated at the beginning of this Agreement .

Schedule 1
Amended and restated pages of the Original Agreements

- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within paragraphs (a) to (e) if the references to the debtor referred to the other person;

but excludes any liability under a fully non-recourse project finance facility;

“Financial Schedule” means the financial schedule set out in Schedule 1;

“Funding Costs” has the meaning given to that term in the Financial Schedule;

“Further Novation Event” means any of the events or circumstances described in clause 17.3;

“Further Novation Notice” means a notice which the Lessor (as new purchaser) may issue to the Replacement Purchaser pursuant to clause 6.1 of the Novation Agreement or, as the case may be, a notice which the Builder may issue to the Lessor and the Replacement Purchaser pursuant to clause 6.2 of the Novation Agreement;

“General Assignment” means the assignment ~~dated on or about the date hereof to be entered into~~ pursuant to which the Guarantor and the Lessee (as assignors) assign to the Lessor (as assignee) the benefit of (i) ~~the Time Charter and any other certain~~ earnings of the Ship, (ii) the Insurances, and (iii) any Requisition Compensation;

“Government Entity” means and includes (whether having a distinct legal personality or not) any national or local government authority, board, commission, department, division, organ, instrumentality, court or agency and any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant;

“Guarantee” means the guarantee issued or to be issued by the Guarantor in favour of the Lessor in respect of the obligations of, the Lessee, the Manager, the Supervisor and the Replacement Purchaser under the Transaction Documents;

“Guarantor” means Seaspan Corporation, a company incorporated in the Republic of the Marshall Islands with its principal office at Unit 2, 7th Floor, Bupa Centre, 141 Connaught Road West, Hong Kong, F4 000, People’s Republic of China;

“Guarantor Group” means each of the Guarantor and any company which is a Subsidiary of the Guarantor from time to time;

“Guarantor Group Member” means as at the date hereof and from time to time any member of the Guarantor Group;

“HMRC” means H.M. Revenue & Customs;

“Holding Company” in relation (i) to a company incorporated in England and Wales, has the meaning given in Section 736 Companies Act 1985 and (ii) in relation to a company or other person incorporated or formed outside England and Wales means a company or other person of which such company is the Subsidiary;

“IACS” means the International Association of Classification Societies;

“ICTA” means the Income and Corporation Taxes Act 1988;

“Indemnified Person” means the Lessor, the Bank, any other Lessor Group Member and their respective officers, directors, secondees, agents and employees;

“ISPS Code” means the International Ship and Port Facility Security Code adopted by the International Maritime Organisation Assembly as the same may have been or may be amended or supplemented from time to time;

“Lease Amounts” means the amounts payable by the Lessor pursuant to clause 3.7 of this Agreement;

“Lease Documents” means this Agreement, the Certificate of Delivery and Acceptance, the Novated Building Contract, the Refund Guarantee, ~~the QEL~~, the Guarantee, the Indexation Relief Letter, the Novation Agreement, the Supervision Agreement, the Tax Consultation Letter, the Non Discrimination Letter, the General Assignment, the Pooling Benefits Letter, the Capital Commitment Fee Letter, the Pre-Tax Loss Letter, the Technical Note Letter and any other document, notice, acknowledgement, letter or instrument entered into, issued or given pursuant to the terms of any of the foregoing and to which the Lessor is a party and any other documents, notice, letter or instrument designated as a Lease Document by the Lessor and the Lessee;

“Lease Period” means the period during which the Lessee is entitled under the terms of this Agreement to possession and use of the Ship commencing on the Delivery Date and ending on the earlier of:

- (a) the Lease Period End Date; and
- (b) the date of termination of the leasing of the Ship under this Agreement;

“Lease Period End Date” means the date falling four years and three hundred and sixty days after the Delivery Date;

“Lease Rental Date” has the meaning given to such term in the Financial Schedule;

“Lease Termination Date” means the date on which the leasing of the Ship by the Lessor to the Lessee terminates under this Agreement, being:

- (a) the Lease Period End Date; or
- (b) where the leasing of the Ship ends following the occurrence of a Total Loss, the Total Loss Payment Date; or
- (c) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) by virtue of the fact that the leasing of the Ship pursuant to this Agreement has become Economically Burdensome, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(a), being a date not less than five (5) Business Days after service of that notice; or
- (d) where the leasing of the Ship ends pursuant to clause 2.5 (Voluntary Termination after Delivery) for any reason other than that specified in paragraph (c) above, the date specified by the Lessee in the notice served on the Lessor by the Lessee pursuant to clause 2.5.2(b) being a date no less than thirty (30) days after service of that notice; or
- (e) where the leasing of the Ship ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
- (f) where the leasing of the Ship ends pursuant to clause 18.2, by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice; or
- (g) where the leasing of the Ship ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee by the Lessor pursuant to clause 24.1;

“Lessor” includes the successors and permitted assigns and transferees of the Lessor;

“Lessor Breach” means any breach by the Lessor or any Lessor Group Member and their respective agents, assigns, directors, officers, secondees and servants (each a **“Lessor Party”**) of its

pending such appeal and for the payment of which adequate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of, the Ship or any interest in the Ship; and

- (i) Security Interests arising by operation of law in respect of Taxes which are not overdue for payment or Taxes which are overdue for payment but which are being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made so long as any such proceedings or the continued existence of such Security Interest shall not and may reasonably be considered unlikely to lead to the arrest, sale, forfeiture or loss of the Ship, or any interest in the Ship;

“Pooling Benefits Letter” means the letter so called issued or to be issued in respect of any pooling benefits relating to this Agreement and the Sister Ship Lease Agreements addressed by the Lessor to the Lessee;

“Pre-Delivery Termination Date” means the date on which the Lessor’s obligation to acquire the Ship pursuant to the Novated Building Contract and lease the Ship to the Lessee terminates, being:

- (a) where the obligation of the Lessor to acquire the Ship and lease the Ship to the Lessee ends by virtue of the fact that the transaction has become Economically Burdensome or the Lessee has determined that the transaction has become Commercially Burdensome, the date specified in the notice served on the Lessor by the Lessee pursuant to clause 2.2.1;
- (b) if the Ship becomes a Total Loss, the earlier of the date on which the Supervisor (acting on behalf of the Lessor and in accordance with the Supervision Agreement) agrees with the Builder that the damage shall not be repaired and that the Novated Building Contract shall be deemed to be rescinded and all amounts paid by the Lessor thereunder (together with interest thereon) be refunded by the Builder or, where no agreement is reached by the Builder and the Supervisor, the date falling six (6) months after the occurrence of the Total Loss;
- (c) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 18.1 by virtue of the service by the Lessor of a notice on the Lessee, the date stipulated in that notice;
- (d) where a Further Novation Event occurs, the date stipulated in the notice served on the Replacement Purchaser by the Lessor pursuant to clause 18.3.1; and
- (e) where the obligation of the Lessor to acquire the Ship and lease it to the Lessee ends pursuant to clause 24.2, the date specified by the Lessor in the notice served on the Lessee pursuant to clause 24.1;

“Pre-Tax Loss Letter” means the letter so called issued or to be issued in respect of any pre-tax loss relating to this Agreement addressed by the Lessor to the Lessee;

“Purchase Price” means the price for the Ship payable by the Lessor under the Novation Agreement and the Novated Building Contract, which price shall be reduced by any amounts payable by the Builder to the Lessor under article III.2 (*Adjustment of Contract Price - Speed*), article III.3 (*Adjustment of Contract Price - Fuel Consumption*), article III.4 (*Adjustment of Contract Price - Deadweight*), article III.5 (*Adjustment of Contract Price - Container Capacity*) of the Novated Building Contract, but shall not be reduced by any amounts payable by the Builder to the Lessor under article III.1 (*Adjustment of Contract Price - Delivery*) of the Novated Building Contract; ~~“QEL” means the quiet enjoyment letter in respect of the Ship between the Lessor and the Time Charterer;~~

“Recoverable VAT” means any amounts paid or payable by or on behalf of the Lessor in respect of Value Added Tax which is not Irrecoverable VAT;

“Refund Guarantee” means the refund guarantee issued or, as the context may require, to be issued by the Refund Guarantor in favour of the Lessor pursuant to the Novation Agreement;

“Technical Note Letter” means the letter agreement of that name issued or to be issued in relation to this Agreement addressed from the Lessor to the Lessee;

“Termination Amount” means the aggregate of the Termination Sum and the Termination Fee (if any);

“Termination Date” means, as the context may require, the Pre-Delivery Termination Date or the Lease Termination Date;

“Termination Event” means any of the events or circumstances described in clause 17.1;

“Termination Fee” has the meaning given in the Financial Schedule;

“Termination Payment Date” means:

- (a) in the case of a voluntary termination pursuant to clause 2.2, the Pre-Delivery Termination Date;
- (b) in the case of a voluntary termination pursuant to clause 2.5, the Lease Termination Date;
- (c) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.1, the Pre-Delivery Termination Date;
- (d) in the case of any termination of the leasing of the Ship pursuant to clause 18.1, the Lease Termination Date;
- (e) in the case of any termination of the Lessor’s obligation to acquire the Ship and to lease the Ship to the Lessee pursuant to clause 18.2, the Pre-Delivery Termination Date;
- (f) in the case of any termination of the leasing of the Ship pursuant to clause 18.2, the Lease Termination Date; and
- (g) in the case of the occurrence of a Further Novation Event, the Pre-Delivery Termination Date; and
- (h) in the case of a Total Loss, the Total Loss Payment Date;

“Termination Sum” has the meaning given to such term in the Financial Schedule;

“Time Charter” means the time charter agreement in respect of the Ship dated ~~on or about the date hereof~~ 16 November 2007 and entered into between the Guarantor and the Time Charterer (as the same has been or may be supplemented or amended to enable the transfer of the Guarantor’s rights and obligations in favour of another company in the Guarantor Group or as the same has been or may be novated or assigned by the Guarantor in favour of any other company in the Guarantor Group);

“Time Charterer” means Kawasaki Kisen Kaisha, Ltd., a company incorporated in Japan;

“Total Loss” means:

- (a) an actual, constructive, compromised or arranged total loss of the Ship; or
- (b) any Compulsory Acquisition of the Ship; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship (other than where the same amounts to the Compulsory Acquisition of the Ship) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Ship be released and restored to the Lessee or the Lessor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within sixty (60) days after the occurrence thereof; or

15.1.3 Upon the termination of the leasing of the Ship under this Agreement where the Lessee is not acting as sales agent of the Lessor, the Lessee, at its own expense, shall redeliver the Ship safely afloat to the Lessor at a safe port worldwide to be designated by the Lessor acting reasonably and bearing in mind the location and trading pattern of the Ship as at the time of any required redelivery.

15.2 Redelivery condition

The Lessee shall ensure that on any redelivery of the Ship to the Lessor in accordance with clause 15.1.3 above and on any deemed redelivery to the Lessor in accordance with clause 15.1.2 above where the purchaser of the Ship so requires:

- 15.2.1 the Ship shall be in class free of conditions not complied with in accordance with their terms and overdue recommendations affecting the Ship's class;
- 15.2.2 the Ship shall be in no worse structure, state and condition as at Delivery (fair wear and tear alone excepted) and have installed the machinery and equipment installed thereon at Delivery or replacements or substitutions therefor made in accordance with the terms of this Agreement;
- 15.2.3 the last consignment of containers carried on board the Ship shall have been unloaded;
- 15.2.4 the Ship shall be free of Security Interests other than any Lessor's Security Interest; and
- 15.2.5 the Ship shall be free of any charter or other contract of employment or affreightment other than the Time Charter in circumstances where the Time Charterer's rights ~~under the QEL thereunder~~ are subsisting.

The Lessee shall further ensure that, prior to re-delivery, all arrears of wages of the Master and crew of the Ship are fully paid.

15.3 Redelivery survey

- 15.3.1 In case only of redelivery of the Ship consequent upon termination of the Lease Period where the Lessee is not acting as sales agent or upon the expiry of the Lessee's sales agency rights pursuant to clauses 2.8.2 or 2.8.3, at or about the time of redelivery, a survey shall be made to determine the state and condition of the Ship, unless the Lessor agrees that no such survey is required or the Ship is to be sold.
- 15.3.2 The Lessee and the Lessor shall each appoint surveyors to be present at such survey and the surveyors present shall determine the state and condition of the Ship and shall identify the repairs or work necessary to place the Ship at the date of redelivery in the class and the structure, state and condition referred to in clause 15.2.
- 15.3.3 The surveyors referred to in clause 15.3.2 shall both be acting as experts, not arbitrators and, in case of disagreement, the matter shall be resolved pursuant to clause 29.
- 15.3.4 All proper costs occasioned by any such survey including the costs of the said surveyors appointed by the Lessee and the Lessor and, if appointed, the cost of the senior surveyor of the Ship's Classification Society shall be payable by the Lessee.

15.4 Consumable stores

All consumable stores, unused lubricating oils and bunkers on board the Ship at the time of redelivery shall be purchased by the Lessor from the Lessee and sold by the Lessor to the purchaser of the Ship. The price payable by the Lessor to the Lessee pursuant to this clause 15.4 will be the same as the price received at the same time by the Lessor from the purchaser of the Ship for those items.

15.5 Continuing performance of obligations

From the end of the Lease Period until the Ship has been sold in accordance with clause 2, the Lessee shall, at no cost to the Lessor, but subject to the Lessor permitting the Lessee continued possession of the Ship, continue to perform all its obligations under this Agreement other than its

20.12 Provision of information

The Lessee will provide or procure that there is provided to the Lessor, reasonably promptly, such information (i) with respect to the compliance by the Lessee with the terms of this Agreement and each of the other Transaction Documents to which the Lessee is party and (ii) with respect to the compliance by each of the other Transaction Companies with the terms of the other Transaction Documents to which they are respectively party, or (iii) with respect to the Ship, as the Lessor from time to time may reasonably request.

20.13 Negative undertakings

The Lessee will not:

- 20.13.1 carry on any business other than the leasing in and chartering out of the Ship and each Sister Ship and matters reasonably incidental thereto (as contemplated by the Transaction Documents); or
- 20.13.2 enter into any form of amalgamation, consolidation, merger or de-merger or any form of reconstruction or reorganisation; or
- 20.13.3 save by, or as permitted by, the Transaction Documents and the Sister Ship Transaction Documents, transfer, lease, charge or otherwise dispose of:
 - (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
 - (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation.

20.14 Title; negative pledge

The Lessee will:

- 20.14.1 not attempt or hold itself out as having any power to sell, transfer or otherwise dispose of or abandon the Ship or any shares or interest therein;
- 20.14.2 hold the legal title to, and own the entire beneficial interest in all its assets, free from all Security Interests and other interests and rights of every kind, except for those created by or contemplated to be created pursuant to any of the Transaction Documents and Sister Ship Transaction Documents and (in the case of the Ship and Sister Ships only) except for Permitted Security Interests; and
- 20.14.3 save as contemplated by the Transaction Documents and Sister Ship Transaction Documents, not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

20.15 No amendment to any Transaction Document

The Lessee will not agree or purport to agree and will procure that no other Transaction Company will agree or purport to agree to any amendment or supplement to, or variation of, or waive or fail to enforce, any Transaction Document to which the Lessee or, as the case may be, such other Transaction Company is a party, unless the Lessee, or as the case may be, the applicable Transaction Company acting reasonably considers that the amendment, supplement, variation, or waiver will not prevent the fulfilment by the Lessee or the other Transaction Companies of their respective obligations to the Lessor, and will not adversely affect any of the rights, interests, benefits, powers and remedies of the Lessor under the Lease Documents.

1.1 Time Charter Payments

The Lessee shall, forthwith upon being requested by the Lessor to do so:

- 1.1.1 open an account with the Bank (the "Charterhire Account");

1.1.2 grant a charge over the Charterhire Account in favour of the Lessor; and

1.1.3 procure that all payments to be made by the Time Charterer under the Time Charter (and, following any termination of the Time Charter, any other earnings relating to the employment of the Ship) are paid into the Charterhire Account until otherwise directed by the Lessor.

21 Assignments, transfers and sale of the Ship

21.1 Assignment and/or transfer by Lessor

The Lessor may assign all (but not part) of its rights and/or transfer all (but not part) of its obligations under this Agreement and the other Lease Documents together with a contemporaneous transfer of its rights, title and interests in the Ship:

21.1.1 without the prior consent of the Lessee where the assignment or transfer is to a Lessor Group Member which is resident in the United Kingdom for the purpose of the charge to corporation tax and which carries on the trade of leasing subject only to:

- (a) the Lessor giving the Lessee not less than thirty (30) days prior written notice of such assignments or transfer;
- (b) the Lessor Parent Support Letter being in full force and effect and, simultaneously with such assignment or transfer, extended or reissued to cover such assignee or transferee; and
- (c) the transferee for the time being remaining a Lessor Group Member; and

21.1.2 to the Replacement Purchaser in the circumstances contemplated by clause 18.3 of this Agreement and clause 7 of the Novation Agreement; and

21.1.3 to any other person after the occurrence of any Termination Event which is continuing; or

21.1.4 to any person other than those contemplated in clause 21.1.1 to 21.1.3 above with the prior written consent of the Lessee,
Provided that:

- (a) any transferee under this clause 21.1 shall assume all of the Lessor's obligations;
- (b) no costs, charges or expenses (including stamp duties payable in respect of any transfer) shall be payable by the Lessee; and
- (c) notwithstanding any other provision of this Agreement or any of the other Transaction Documents, all amounts payable or receivable by the Lessee under this Agreement and the other Transaction Documents to which the Lessor and Lessee are respectively party shall be calculated as if no such assignment or transfer had taken place.

21.2 Transfer by Lessee

Subject to no Relevant Event having occurred and then continuing, the Lessee may transfer all (but not part) of its rights and obligations under this Agreement and the other Transaction Documents:

21.2.1 to any other Guarantor Group Member without the prior written consent of the Lessor; or

21.2.2 to any other person (subject to clause 21.2.3 below) with the prior written consent of the Lessor.

21.2.3 Any intended transfer by the Lessee pursuant to clause 21.2.1 or 21.2.2 shall be subject to the further conditions that:

- (a) the Lessee shall give thirty (30) days prior written notice to the Lessor (or such shorter period as the Lessor may agree (acting reasonably)) of any intended transfer;

Schedule 4
Lessee's Condition Precedent Documents

Part A

Lessor's Conditions Precedent to the First Instalment

The following are the documents and actions referred to in clause 3.1.1 as conditions precedent to the obligations of the Lessor under this Agreement and the payment of the First Instalment pursuant to the Novated Building Contract and the Novation Agreement:

- 1 An original of this Agreement, the Novation Agreement, the Supervision Agreement, the Refund Guarantee, the Guarantee, the ~~QEL~~, the General Assignment, the Indexation Relief Letter, the Tax Consultation Letter and the Non Discrimination Letter and each other Transaction Document to which the Lessor is or is then to be a party (and each notice or document required to be delivered by each such Transaction Document), each duly signed by all parties thereto.
- 2 Copies of the certificate of incorporation and constitutional documents of the Lessee, the Guarantor and the Supervisor.
- 3 Copies of resolutions of the directors and, if necessary for the purposes of obtaining the opinions referred to in paragraph 12 in form and substance satisfactory to the Lessor, the shareholders of the Lessee, the Guarantor and the Supervisor or equivalent documents authorising the execution of each of the Transaction Documents to which any of them is or is to be a party and authorising named persons to give all notices under this Agreement and each Transaction Document.
- 4 The original of any power of attorney under which any Transaction Document is executed on behalf of the Lessee, the Guarantor and the Supervisor.
- 5 Copies of any governmental or other third-party consents, licences, approvals, registrations and filings (“**Consents**”) necessary for any matter contemplated by the Lease Documents and for the legality, validity, enforceability, and admissibility in evidence and effectiveness thereof having been obtained or effected and remain in full force and effect, including, but not limited to, such Consents required to make any payment under any Transaction Document or evidence that no such Consents are required.
- 6 Certified true copies of the Building Contract, the Time Charter and all of the other Transaction Documents to which the Lessor is not a party which have been executed at such time and all documents to be delivered pursuant to each of such documents each duly signed by all parties.
- 7 Evidence reasonably acceptable to the Lessor of the amounts of all payments already made by the Original Purchaser under the Building Contract to the Builder together with details relating to each payment including what the payment was for and the date on which payment was made, and an invoice from the Builder to the Lessor in accordance with clause 7.2 of the Novation Agreement.
- 8 Documentary evidence that the novation of the Building Contract contemplated in the Novation Agreement has or, simultaneously with the Lessor's obligations referred to in clause 3.1.1 becoming effective, shall become effective.
- 9 Receipt by the Lessor of any fees, costs and expenses payable by the Lessee which are due for payment on or prior to the date for the payment of the First Instalment and which are not rentalised in the Financial Schedule.
- 10 Documentary evidence that the agents for service of process in England appointed by the Lessee, the Guarantor, the Supervisor and the Time Charterer (as applicable) in relation to all Transaction Documents have accepted such appointment.

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- 11 Opinions from:
- (a) Kim & Chang as special Korean legal counsel in relation to the Builder and the Refund Guarantor and the execution of the Novation Agreement by the Builder and the Refund Guarantee by the Refund Guarantor, and as to matters of Korean law;
 - (b) Cozen O'Connor, as special Marshall Islands legal counsel in relation to the Lessee, the Guarantor, this Agreement, the Novation Agreement, the Guarantee, and as to matters of Marshall Islands law,
 - (c) Conyers, Dill & Pearman, as special Bermudan legal counsel in relation to the Supervisor, the Supervision Agreement and as to matters of Bermudan law;
 - (d) ~~(d) and Halpern Law Office, as special Japanese legal counsel in relation to the Time Charterer, the QEL and as to matters of Japanese law, and~~
 - (e) (e) The Lessor's insurance advisers, Marsh, in respect of the insurance provisions of this Agreement and insurance arrangements with respect to the Ship and the Sister Ships generally, each in form and substance satisfactory to the Lessor.
- 12 If the Lessor reasonably requires, in respect of any of the documents referred to above which may be provided in a language other than English, a certified English translation prepared by a translator approved by the Lessor.
- 13 The Lessee has confirmed that the conditions precedent to its obligations set out in Schedule 5 have been satisfied or waived by the Lessee.
- 14 Completion of all relevant money laundering compliance checks by the Lessor in respect of the Lessee, the Replacement Purchaser, the Guarantor and any other relevant company, in accordance with the Lessor Group's current procedural requirements.

LESSOR

SIGNED by)
)
for and on behalf of) /s/ Keith Glasscoe
PEONY LEASING LIMITED) _____
in the presence of:) Keith Glasscoe
)

Jus Lyall
Norton Rose LLP

LESSEE

SIGNED by)
)
for and on behalf of) /s/ Sai W. Chu
SEASPAN FINANCE I CO. LTD.) _____
in the presence of:) Sai W. Chu
)

Jus Lyall
Norton Rose LLP

Subsidiaries of Seaspac Corporation

Seaspac Finance I Co. Ltd.

Seaspac Finance II Co. Ltd.

Seaspac Finance III Co. Ltd.

CERTIFICATION

I, Gerry Wang, Chief Executive Officer of the company, certify that:

1. I have reviewed this report on Form 20-F of Seaspan Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the consolidated 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 Company'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)) for the Company and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company 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 consolidated financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the period covered by the report that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Dated: March 24, 2008

By: /s/ Gerry Wang

Gerry Wang
Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, Sai W. Chu, Chief Financial Officer of the Company, certify that:

1. I have reviewed this report on Form 20-F of Seaspan Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the consolidated 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 company'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)) for the Company and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company 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 consolidated financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the Company's internal control over financial reporting that occurred during the period covered by the report that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Dated: March 24, 2008

By: /s/ Sai W. Chu
Sai W. Chu
Chief Financial Officer
(Principal Financial and Accounting Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the annual report of Seaspan Corporation (the “*Company*”) on Form 20-F for the year ended December 31, 2007 as filed with the Securities and Exchange Commission on the date hereof (the “*Form 20-F*”), I Gerry Wang, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Form 20-F fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) The information contained in the Form 20-F fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 24, 2008

By: /s/ Gerry Wang

Gerry Wang
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the annual report of Seaspan Corporation (the “*Company*”) on Form 20-F for the year ended December 31, 2007 as filed with the Securities and Exchange Commission on the date hereof (the “*Form 20-F*”), I Sai W. Chu, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Form 20-F fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) The information contained in the Form 20-F fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 24, 2008

By: /s/ Sai W. Chu

Sai W. Chu

Chief Financial Officer

(Principal Financial and Accounting Officer)