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

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**FORM 6-K**

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**REPORT OF FOREIGN PRIVATE ISSUER  
PURSUANT TO RULE 13a-16 OR 15d-16  
OF THE SECURITIES EXCHANGE ACT OF 1934**

**Dated: December 4, 2020**

**Commission File No. 001-34104**

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**NAVIOS MARITIME ACQUISITION CORPORATION**

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**7 Avenue de Grande Bretagne, Office 11B2  
Monte Carlo, MC 98000 Monaco  
(Address of Principal Executive Offices)**

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Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F: Form 20-F  Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1): Yes  No

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7): Yes  No

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934. Yes  No

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b): N/A

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NAVIOS MARITIME ACQUISITION CORPORATION

FORM 6-K

TABLE OF CONTENTS

<a href="#">Operating and Financial Review</a>	Page 2
<a href="#">Exhibit List</a>	22
<a href="#">Financial Statements Index</a>	F-1

This Report on Form 6-K is hereby incorporated by reference into the Navios Maritime Acquisition Corporation Registration Statement on Form F-3, File No. 333-235369.

**Operating and Financial Review and Prospects**

The following is a discussion of the financial condition and results of operations for the three and nine month periods ended September 30, 2020 and 2019 of Navios Maritime Acquisition Corporation (referred to herein as “we,” “us” or “Navios Acquisition”). All of the financial statements have been stated in accordance with generally accepted accounting principles in the United States of America (“U.S. GAAP”). You should read this section together with the consolidated financial statements and the accompanying notes included in Navios Acquisition’s 2019 Annual Report filed on Form 20-F with the U.S. Securities and Exchange Commission (the “SEC”).

This Report contains forward-looking statements (as defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended) concerning future events and expectations, including with respect to Navios Acquisition’s future dividends, expected cash flow generation and Navios Acquisition’s growth strategy and measures to implement such strategy; including expected vessel acquisitions and entering into further employment contracts. Words such as “may,” “expects,” “intends,” “plans,” “believes,” “anticipates,” “hopes,” “estimates,” and variations of such words and similar expressions are intended to identify forward-looking statements. Such statements include comments regarding expected revenue and employment contracts. These forward-looking statements are based on the information available to, and the expectations and assumptions deemed reasonable by, Navios Acquisition at the time this filing was made. Although Navios Acquisition believes that the expectations reflected in such forward-looking statements are reasonable, no assurance can be given that such expectations will prove to have been correct. These statements involve risks and are based upon a number of assumptions and estimates which are inherently subject to significant uncertainties and contingencies, many of which are beyond the control of Navios Acquisition. Actual results may differ materially from those expressed or implied by such forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to, global and regional economic and political conditions including the impact of the COVID-19 pandemic and efforts throughout the world to contain its spread, including effects on global economic activity, demand for seaborne transportation of the products we ship, the ability and willingness of charterers to fulfill their obligations to us and prevailing charter rates, shipyards performing scrubber installations, drydocking and repairs, changing vessel crews and availability of financing, potential disruption of shipping routes due to accidents, diseases, pandemics, political events, piracy or acts by terrorists, including the impact of the COVID-19 pandemic and the ongoing efforts throughout the world to contain it, the creditworthiness of our charterers and the ability of our contract counterparties to fulfill their obligations to us, tanker industry trends, including charter rates and vessel values and factors affecting vessel supply and demand, the aging of our vessels and resultant increases in operation and dry docking costs, the loss of any customer or charter or vessel, our ability to repay outstanding indebtedness, to obtain additional financing and to obtain replacement charters for our vessels, in each case, at commercially acceptable rates or at all, increases in costs and expenses, including but not limited to: crew wages, insurance, provisions, port expenses, lube oil, bunkers, repairs, maintenance and general and administrative expenses, the expected cost of, and our ability to comply with, governmental regulations and maritime self-regulatory organization standards, as well as standard regulations imposed by our charterers applicable to our business, potential liability from litigation and our vessel operations, including discharge of pollutants, general domestic and international political conditions, competitive factors in the market in which Navios Acquisition operates; risks associated with operations outside the United States; and other factors listed from time to time in the Navios Acquisition’s filings with the SEC, including its annual and interim reports filed on Form 20-F and Form 6-K. Navios Acquisition expressly disclaims any obligations or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in Navios Acquisition’s expectations with respect thereto or any change in events, conditions or circumstances on which any statement is based. Navios Acquisition makes no prediction or statement about the performance of its common stock.

## [Table of Contents](#)

### **Recent Developments**

#### **Delivery of one VLCC**

On October 28, 2020, a newbuilding VLCC of 313,433 dwt under bareboat lease, the Baghdad, was delivered from a Japanese shipyard.

The vessel has been chartered out to a high-quality counterparty for a ten-year period at a bareboat rate of \$27,816 net per day. The charter party has an option for an additional five-year period at a bareboat rate of \$29,751 net per day.

#### **Dividend**

The Board of Directors declared a quarterly cash dividend in respect of the third quarter of 2020 of \$0.05 per share of common stock which will be paid on February 10, 2021 to stockholders of record as of January 12, 2021. The declaration and payment of any further dividends remain subject to the discretion of the Board of Directors and will depend on, among other things, Navios Acquisition's cash requirements as measured by market opportunities and restrictions under its credit agreements and other debt obligations and such other factors as the Board of Directors may deem advisable.

#### **Debt developments**

During the third quarter of 2020 and up to December 2, 2020, Navios Acquisition repurchased \$55.4 million of its ship mortgage notes for a cash consideration of \$39.4 million.

In October 2020, Navios Acquisition extended the maturity date to February 2021 of its existing loan with a commercial bank, having an outstanding amount of \$17.6 million.

In October 2020, Navios Acquisition extended the maturity date to October 2024 of its existing loan with a commercial bank, having an outstanding amount of \$28.4 million. The remaining balance of the facility is repayable in 16 quarterly installments of \$0.8 million each with a final balloon payment of \$14.9 million repayable on the last repayment date.

In November 2020, Navios Acquisition arranged financing with a commercial bank of up to \$95.8 million in order to refinance one VLCC, two chemical tankers and seven containerships, subject to the refinancing of its ship mortgage notes and to definitive documentation. The facility is repayable through a period of two to four years, in consecutive quarterly installments of up to \$1.5 million each, with a balloon payment of up to \$62.7 million in total. The facility bears interest at LIBOR plus 400 bps per annum.

#### **Continuous Offering Program**

On November 29, 2019, Navios Acquisition entered into a Continuous Offering Program Sales Agreement, pursuant to which Navios Acquisition may issue and sell from time to time through the sales agent shares of common stock having an aggregate offering price of up to \$25.0 million. As of December 2, 2020, since the commencement of the program, Navios Acquisition has issued 956,110 shares of common stock and received net proceeds of \$5.3 million.

#### **Fleet**

As of December 2, 2020, our core fleet consisted of a total of 47 double-hulled tanker vessels, aggregating approximately 6.0 million deadweight tons, or dwt. The fleet includes 14 Very Large Crude Carriers ("VLCC") tankers (over 200,000 dwt per ship) which transport crude oil, including one bareboat chartered-in VLCC that has been delivered on October 28, 2020 and three bareboat chartered-in VLCCs expected to be delivered in each of the first and the third quarters of 2021 and the second quarter of 2022, ten Long Range 1 ("LR1") product tankers (60,000-85,000 dwt per ship), 18 Medium Range 2 ("MR2") product tankers (47,000-52,000 dwt per ship), three Medium Range one ("MR1") product tankers (35,000-45,000 dwt per ship) and two chemical tankers (25,000 dwt per ship), which transport refined petroleum products and bulk liquid chemicals. Navios Acquisition also owns seven containerships that are accounted for as held for sale. All of our vessels are currently chartered-out to quality counterparties with an average remaining charter period of approximately one year. As of December 2, 2020, we had charters covering 55.9% of available days for our core fleet in 2021.

## Table of Contents

Vessels	Type	Year built	Dwt	Net Charter Rate (1)	Profit Sharing Arrangements	Charter Expiration Date (2)
<b>Core fleet</b>						
<b>Owned Vessels of Navios Acquisition</b>						
Nave Polaris	Chemical Tanker	2011	25,145	Floating Rate (3)	None	March 2021
Nave Cosmos	Chemical Tanker	2010	25,130	Floating Rate (3)	None	March 2021
Star N	MR1 Product Tanker	2009	37,872	\$13,894	None	February 2021
Hector N	MR1 Product Tanker	2008	38,402	\$14,813	None	January 2021
Nave Alderamin	MR2 Product Tanker	2013	49,998	\$12,898(6)	None	November 2021
Nave Bellatrix	MR2 Product Tanker	2013	49,999	\$16,047	None	March 2021
Nave Capella	MR2 Product Tanker	2013	49,995	\$15,800	None	December 2020
Nave Orion	MR2 Product Tanker	2013	49,999	\$15,159	None	December 2020
				\$12,898 (6)	None	December 2021
Nave Titan	MR2 Product Tanker	2013	49,999	\$14,072(27)	None	July 2021
Nave Aquila	MR2 Product Tanker	2012	49,991	\$10,863	None	March 2021
				\$12,838(28)	None	November 2021
Nave Atria	MR2 Product Tanker	2012	49,992	\$14,072(16)	None	October 2021
Nave Estella	LR1 Product Tanker	2012	75,000	\$17,036	None	December 2020
				\$13,234 (7)	None	December 2021
Nave Andromeda	LR1 Product Tanker	2011	75,000	Floating Rate (8)	None	January 2021
Nave Buena Suerte	VLCC	2011	297,491	\$47,906 (9)	As per footnote (9)	June 2025
Nave Quasar	VLCC	2010	297,376	\$16,788 (10)	As per footnote (10)	January 2023
Nave Synergy	VLCC	2010	299,973	\$32,588	None	May 2022
Nave Spherical	VLCC	2009	297,188	Floating Rate (11)	None	December 2022
Nave Neutrino	VLCC	2003	298,287	\$24,688	None	May 2021
Nave Photon	VLCC	2008	297,395	\$47,906 (9)	As per footnote (9)	June 2026
Nave Constellation	VLCC	2010	298,000	\$18,170 (12)	As per footnote (12)	February 2021
Nave Universe	VLCC	2011	297,066	\$17,775(13)	As per footnote (13)	April 2022
Nave Celeste	VLCC	2003	298,717	\$18,170 (14)	As per footnote (14)	December 2020
Nave Galactic	VLCC	2009	297,168	\$20,475(15)	50%/50%(15)	December 2020/
				/\$17,775 (13)	/As per footnote (13)	July 2022
Baghdad	VLCC	2020	313,433	\$27,816 (29)	None	October 2030
<b>Vessels to be delivered (31)</b>						
Erbil	VLCC	Q1 2021	310,000	\$27,816 (29)	None	January 2031
Nave Electron	VLCC	Q3 2021	310,000	As per footnote (18)	—	—
TBN IV	VLCC	Q2 2022	310,000	—	—	—
<b>Owned Vessels of Navios Midstream</b>						
Perseus N^	MR1 Product Tanker	2009	36,264	\$12,146	None	December 2021
Nave Velocity	MR2 Product Tanker	2015	49,999	\$12,344(17)	None	May 2021
Nave Sextans^	MR2 Product Tanker	2015	49,999	\$17,250 (19)	None	May 2021
Nave Pyxis	MR2 Product Tanker	2014	49,998	\$15,500	None	December 2020
Nave Luminosity	MR2 Product Tanker	2014	49,999	\$17,034 (20)	None	December 2021
Nave Jupiter	MR2 Product Tanker	2014	49,999	\$15,306 (5)	None	February 2021
Bougainville	MR2 Product Tanker	2013	50,626	\$15,600 (21)	100%	September 2023
Nave Orbit	MR2 Product Tanker	2009	50,470	\$14,000	None	September 2021
Nave Equator	MR2 Product Tanker	2009	50,542	\$16,250	None	January 2022
Nave Equinox	MR2 Product Tanker	2007	50,922	\$14,813(22)	ice-transit premium (4)	October 2021
Nave Pulsar	MR2 Product Tanker	2007	50,922	\$14,072(23)	ice-transit premium (4)	November 2021
Nave Dorado	MR2 Product Tanker	2005	47,999	\$7,653(30)	None	February 2021
Nave Atropos	LR1 Product Tanker	2013	74,695	\$29,625	None	May 2021
Nave Rigel	LR1 Product Tanker	2013	74,673	\$16,088 (24)	None	January 2022
Nave Cassiopeia^	LR1 Product Tanker	2012	74,711	Floating Rate (8)	None	January 2021
Nave Cetus^	LR1 Product Tanker	2012	74,581	\$16,088 (24)	None	January 2022
Nave Ariadne	LR1 Product Tanker	2007	74,671	Floating Rate (25)	None	March 2021

## Table of Contents

Vessels	Type	Year built	Dwt	Net Charter Rate (1)	Profit Sharing Arrangements	Charter Expiration Date (2)
Nave Cielo	LR1 Product Tanker	2007	74,671	\$28,875	None	May 2021
Aurora N	LR1 Product Tanker	2008	63,495	Floating Rate (25)	None	March 2021
Lumen N	LR1 Product Tanker	2008	63,599	Floating Rate (25)	None	March 2021
<b>• Owned Vessels held for sale</b>						
Acrux N	Container	2010	23,338	\$8,759	None	December 2020
Allegro N	Container	2014	46,999	\$14,250	None	October 2021
Fleur N	Container	2012	41,130	\$10,369	None	May 2021
Ete N	Container	2012	41,139	\$9,628	None	April 2021
Spectrum N	Container	2009	34,333	\$7,941	None	December 2020
				\$15,800	None	April 2022
Solstice N	Container	2007	44,023	\$8,470	None	May 2021
Vita N	Container	2010	23,359	\$5,294 (26)	None	January 2021

- (1) Net time charter-out rate per day (net of commissions), presented in U.S. Dollars.
- (2) Estimated dates assuming the midpoint of the redelivery period by charterers, including owner's extension options not declared yet.
- (3) Rate based on Delta-8 pool earnings.
- (4) The premium for the Nave Equinox and the Nave Pulsar when vessels are trading on ice or follow ice breaker is \$1,500 per day.
- (5) Charterer's option to extend the charter for up to four months at \$15,306 net per day.
- (6) Charterer has the option to charter the vessel for an optional year at a rate of \$14,438 net per day.
- (7) Charterer has the option to charter the vessel for an optional year at a rate of \$14,630 net per day.
- (8) Rate based on LR8 pool earnings.
- (9) Profit sharing arrangement of 35% above \$54,388, 40% above \$59,388 and 50% above \$69,388.
- (10) Contract provides 100% of BTR TD3C-TCE index up to \$37,031 and 50% thereafter with \$16,788 floor.
- (11) Contract provides 100% of BTR TD3C-TCE index plus \$5,000 premium. Premium of \$2,500 if vessel not fitted with scrubber.
- (12) Contract provides 100% of BTR TD3C-TCE index plus \$2,000 up to \$39,006 and 50% thereafter with \$18,170 floor.
- (13) Contract provides adjusted BTR TD3C-TCE index up to \$38,759 and 50% thereafter with \$17,775 floor.
- (14) Contract provides 100% of BTR TD3C-TCE index plus \$2,000 up to \$38,513 and 50% thereafter with \$18,170 floor.
- (15) Profit sharing arrangement 50% on actual pool earnings. Any adjustment by the charterers for the expense/loss will be provisionally settled on a quarterly basis and finally settled at the end of the charter period.
- (16) Charterer's option to extend the charter for up to six months at \$14,072 net per day.
- (17) Charterer's option to extend the charter for up to six months at \$13,331 net per day
- (18) To take over Nave Photon's charter of \$47,906 net per day from July 1st, 2021 plus profit sharing arrangement of 35% above \$54,388, 40% above \$59,388 and 50% above \$69,388.
- (19) Charterer's option to extend the charter for one year at \$18,750 net per day.
- (20) Charterer has the option to charter the vessel for an optional year at a rate of \$18,022 net per day.
- (21) Rate can reach a maximum of \$18,525 net per day calculated basis on a formula.
- (22) Charterer has the option to charter the vessel for an optional year at a rate of \$16,294 net per day.
- (23) Charterer's option to extend the charter for six months at \$15,553 net per day plus ice-transit premium.
- (24) Charterer has the option to charter the vessel for an optional year at a rate of \$17,063 net per day.
- (25) Rate based on Penfield pool earnings.
- (26) Charterer has the option to charter the vessel for four to six months at a rate of \$8,663 net per day.
- (27) Charterer's option to extend the charter for up to four months at \$14,072 net per day.
- (28) Charterer's option to extend the charter for up to four months at \$12,838 net per day.
- (29) Charterer's option to extend the bareboat charter for five years at \$29,751 net per day.
- (30) Charterer's option to extend the charter for up to ten months: a) up to three months at \$7,653 net per day; b) up to four months at \$9,875 net per day; and c) up to three months at \$11,850 net per day.
- (31) Bareboat chartered-in vessels with purchase option, expected to be delivered in each of the first and the third quarters of 2021. In the second quarter of 2020, Navios Acquisition exercised its option for a fourth Japanese newbuild VLCC under a twelve year bareboat charter agreement with de-escalating purchase options and expected delivery in the second quarter of 2022.

^ Under process of completion of documentation.

### Charter Policy and Industry Outlook

Our core fleet currently consists of 47 vessels, of which 14 are VLCCs (including one bareboat chartered-in VLCC that has been delivered on October 28, 2020 and three bareboat chartered-in VLCCs expected to be delivered in each of the first and the third quarters of 2021 and the second quarter of 2022), 31 are product tankers, and two are chemical tankers. Navios Acquisition also owns seven containerships that are accounted for as held for sale. All of our vessels are currently chartered-out to quality counterparties with an average remaining charter period of approximately one year. Many of our contracts have profit sharing arrangements (see fleet

## Table of Contents

table above). While all of our vessels are currently chartered-out, we intend to deploy any vessels that would become open—not chartered-out—to leading charterers in a mix of long, medium and short-term time charters, depending on the vessels' positions, seasonality and market outlook. This chartering strategy is intended to allow us to capture increased profits during strong charter markets, while developing relatively stable cash flows from longer-term time charters. We will also seek profit sharing arrangements in our employment contracts, to provide us with potential incremental revenue above the contracted minimum charter rates.

Using Navios Tankers Management Inc.'s (the "Manager") global network of relationships and extensive experience in the maritime transportation industry, coupled with its commercial, financial and operational expertise, we plan to opportunistically grow our fleet through the timely and selective acquisition of high-quality newbuilding or secondhand vessels when we believe those acquisitions will result in attractive returns on invested capital and increased cash flow. We also intend to engage in opportunistic dispositions where we can achieve attractive values for our vessels as we assess the market cycle. We believe our diverse and versatile fleet, combined with the experience and long-standing relationships of Manager's with participants in the maritime transportation industry, position us to identify and take advantage of attractive acquisition opportunities.

### **Factors Affecting Navios Acquisition's Results of Operations**

We believe the principal factors that will affect our future results of operations are the economic, regulatory, political and governmental conditions that affect the shipping industry generally and that affect conditions in countries and markets in which our vessels engage in business. Other key factors that will be fundamental to our business, future financial condition and results of operations include:

- the demand for seaborne transportation services;
- the ability of Manager's commercial and chartering operations to successfully employ our vessels at economically attractive rates, particularly as our fleet expands and our charters expire;
- the effective and efficient technical management of our vessels;
- the Manager's ability to satisfy technical, health, safety and compliance standards of major commodity traders; and
- the strength of and growth in the number of our customer relationships, especially with major commodity traders.

In addition to the factors discussed above, we believe certain specific factors will impact our consolidated results of operations. These factors include:

- the charter hire earned by our vessels under our charters;
- our access to capital required to acquire additional vessels and/or to implement our business strategy;
- our ability to sell vessels at prices we deem satisfactory;
- our level of debt and the related interest expense and amortization of principal;
- the level of any dividend to our stockholders; and
- the recent global outbreak of novel coronavirus disease (COVID-19) or other epidemics or pandemics.

### **Voyage, Time Charter and Pooling Arrangements**

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

- the duration of the charters;
- the level of spot market rates at the time of charters;
- decisions relating to vessel acquisitions and disposals;
- the amount of time spent positioning vessels;
- the amount of time that vessels spend in dry dock undergoing repairs and upgrades;
- the age, condition and specifications of the vessels; and
- the aggregate level of supply and demand in the tanker shipping industry.

Time charters are available for varying periods, ranging from a single trip (spot charter) to long-term which may be many years. In general, a long-term time charter assures the vessel owner of a consistent stream of revenue. Operating the vessel in the spot market affords the owner greater spot market opportunity, which may result in high rates when vessels are in high demand or low rates when vessel availability exceeds demand. Vessel charter rates are affected by world economics, international events, weather conditions, strikes, governmental policies, supply and demand, and many other factors that might be beyond the control of management.

## [Table of Contents](#)

For vessels operating in pooling arrangements, the Company earns a portion of total revenues generated by the pool, net of expenses incurred by the pool. The amount allocated to each pool participant vessel, including the Company's vessels, is determined in accordance with an agreed-upon formula, which is determined by the points awarded to each vessel in the pool based on the vessel's age, design and other performance characteristics.

The cost to maintain and operate a vessel increases with the age of the vessel. Older vessels are less fuel efficient, cost more to insure and require upgrades from time to time to comply with new regulations. As of December 2, 2020, the average age of Navios Acquisition's owned fleet was 9.3 years. But, as such fleet ages or if Navios Acquisition expands its fleet by acquiring previously owned and older vessels the cost per vessel would be expected to rise and, assuming all else, including rates, remains constant, vessel profitability would be expected to decrease.

Navios Acquisition reports financial information and evaluates its operations by charter revenues. Navios Acquisition does not use discrete financial information to evaluate operating results for each type of charter. As a result, management reviews operating results solely by revenue per day and operating results of the fleet and thus Navios Acquisition has determined that it operates under one reportable segment.

Set forth below are selected historical and statistical data for Navios Acquisition for each of the three and nine month periods ended September 30, 2020 and 2019 that the Company believes may be useful in better understanding the Company's financial position and results of operations.

	Three month period ended September 30,		Nine month period ended September 30,	
	2020 (unaudited)	2019 (unaudited)	2020 (unaudited)	2019 (unaudited)
<b>FLEET DATA</b>				
Available days <sup>(1)</sup>	4,520	3,491	12,134	10,678
Operating days <sup>(2)</sup>	4,477	3,472	12,036	10,642
Fleet utilization <sup>(3)</sup>	99.1%	99.4%	99.2%	99.7%
Vessels operating at period end	50	39	50	39
<b>AVERAGE DAILY RESULTS</b>				
Time charter equivalent rate per day <sup>(4)</sup>	\$ 16,870	\$ 15,349	\$ 22,812	\$ 16,888

Navios Acquisition believes that the important measures for analyzing trends in its results of operations consist of the following:

- (1) Available days: Available days for the fleet are total calendar days the vessels were in Navios Acquisition's possession for the relevant period after subtracting off-hire days associated with major repairs, drydocking or special surveys. The shipping industry uses available days to measure the number of days in a relevant period during which vessels should be capable of generating revenues.
- (2) Operating days: Operating days are the number of available days in the relevant period less the aggregate number of days that the vessels are off-hire due to any reason, including unforeseen circumstances.
- (3) Fleet utilization: Fleet utilization is the percentage of time that Navios Acquisition's vessels were available for generating revenue, and is determined by dividing the number of operating days during a relevant period by the number of available days during that period.
- (4) TCE Rate: Time charter equivalent rate per day is defined as voyage and time charter revenues less voyage expenses during a period divided by the number of available days during the period. The TCE Rate per day is a standard shipping industry performance measure used primarily to present the actual daily earnings generated by vessels of various types of charter contracts for the number of available days of the fleet.

### **Period-over-Period Comparisons**

#### **For the Three Month Period ended September 30, 2020 compared to the Three Month Period ended September 30, 2019**

The following table presents consolidated revenue and expense information for the three month periods ended September 30, 2020 and 2019. This information was derived from the unaudited condensed consolidated statements of operations of Navios Acquisition for the respective periods.

## Table of Contents

<u>Expressed in thousands of U.S. dollars</u>	<u>Three Month period Ended September 30, 2020 (unaudited)</u>	<u>Three Month period Ended September 30, 2019 (unaudited)</u>
Revenue	\$ 78,807	\$ 58,965
Time charter and voyage expenses	(2,559)	(5,377)
Direct vessel expenses	(3,766)	(2,439)
Vessel operating expenses (management fees entirely through related party transactions)	(33,969)	(26,837)
General and administrative expenses	(4,719)	(3,732)
Depreciation and amortization	(16,682)	(17,216)
Impairment loss	—	(39,976)
Gain on debt repurchase	7,010	—
Interest income	25	2,384
Interest expense and finance cost	(20,441)	(22,849)
Equity in net earnings of affiliated companies	—	936
Other income	—	10
Other expense	(470)	(265)
<b>Net income/ (loss)</b>	<b>\$ 3,236</b>	<b>\$ (56,396)</b>

**Revenue:** Revenue for the three month period ended September 30, 2020 increased by \$19.8 million, or 33.6%, to \$78.8 million, as compared to \$59.0 million for the same period of 2019. The increase was mainly attributable to an: (i) increase in revenue by \$6.0 million due to the acquisition of five product tankers from Navios Europe I in December 2019 and by \$5.2 million due to the acquisition of seven containers from Navios Europe II in June 2020; and (ii) increase in market rates during the three month period ended September 30, 2020 as compared to the same period of 2019; partially mitigated by the sale of three VLCCs in 2019. Available days of the fleet increased to 4,520 days for the three month period ended September 30, 2020, as compared to 3,491 days for the three month period ended September 30, 2019, due to the reasons mentioned above. The time charter equivalent rate, or TCE Rate, increased to \$16,870 for the three month period ended September 30, 2020, from \$15,349 for the three month period ended September 30, 2019.

**Time charter and voyage expenses:** Time charter and voyage expenses for the three month period ended September 30, 2020 decreased by \$2.8 million, or 51.9%, to \$2.6 million, as compared to \$5.4 million for the same period of 2019. The decrease was mainly attributable to a \$3.1 million decrease in bunkers consumption and voyage expenses related to the spot voyages incurred in the period; partially mitigated by a \$0.3 million increase in brokers' commission.

**Direct vessel expenses:** Direct vessel expenses, comprised of the amortization of dry dock and special survey costs, of certain vessels of our fleet amounted to \$3.8 million for the three month period ended September 30, 2020, as compared to \$2.4 million for the three month period ended September 30, 2019.

**Vessel operating expenses (management fees):** Vessel operating expenses amounted to \$34.0 million for the three month period ended September 30, 2020, as compared to \$26.8 million for the three month period ended September 30, 2019. The increase was mainly as a result of the acquisition of five product tankers of Navios Europe I in December 2019 and seven containers of Navios Europe II in June 2020; partially mitigated by the sale of three VLCCs in 2019. Please see Related Party Transactions for discussion on the vessel operating expenses (management fees).

**General and administrative expenses:** Total general and administrative expenses for the three month period ended September 30, 2020 increased by \$1.0 million to \$4.7 million compared to \$3.7 million for the three month period ended September 30, 2019, mainly as a result of the acquisition of five product tankers from Navios Europe I in December 2019 and seven containers from Navios Europe II in June 2020; partially mitigated by the sale of three VLCCs in 2019. For the three month periods ended September 30, 2020 and 2019, the expenses charged by the Manager for administrative services were \$3.5 million and \$2.8 million, respectively.

**Depreciation and amortization:** Depreciation and amortization amounted to \$16.7 million for the three month period ended September 30, 2020, as compared to \$17.2 million for the three month period ended September 30, 2019, mainly due to the sale of three VLCCs in 2019; partially mitigated by the acquisition of five product tankers of Navios Europe I in December. Depreciation of a vessel is calculated using an estimated useful life of 25 years from the date the vessel was originally delivered from the shipyard.

## [Table of Contents](#)

**Impairment loss:** There was no impairment loss for the three month period ended September 30, 2020 as compared to \$40.0 million for the three month period ended September 30, 2019, that resulted from: (i) \$32.7 million accelerated amortization of intangible assets in connection with early termination of certain contracts; and (ii) \$7.3 million impairment loss relating to the sale of the Nave Electron as a result of the impairment testing performed.

**Gain on debt repurchase:** Gain on debt repurchase for the three month period ended September 30, 2020 was \$7.0 million as compared to \$0 for the same period in 2019. During the third quarter of 2020, Navios Acquisition repurchased \$19.0 million of its ship mortgage notes for a cash consideration of \$11.9 million resulting in a gain on bond repurchase of \$7.0 million net of deferred fees written-off.

**Interest income:** Interest income for the three month period ended September 30, 2020 decreased by \$2.4 million to \$0 compared to \$2.4 million for the three month period ended September 30, 2019.

**Interest expense and finance cost:** Interest expense and finance cost for the three month period ended September 30, 2020 decreased by \$2.4 million to \$20.4 million, as compared to \$22.8 million for the three month period ended September 30, 2019. The decrease was mainly due to the decrease of the weighted average interest rate for the three month period ended September 30, 2020 to 6.21% as compared to 7.05% in the same period in 2019 and the decrease of the average outstanding balance. The average outstanding balance of our credit facilities (other than the 2021 Notes, as defined in “Long- Term Debt Obligations and Credit Arrangements – Ship Mortgage Notes”) increased to \$540.6 million for the three month period ended September 30, 2020 as compared to \$ 537.1 million for the three month period ended September 30, 2019. As of September 30, 2020 and 2019, the outstanding balance under Navios Acquisition’s total borrowings was \$1,140.2 million and \$1,237.7 million, respectively.

**Equity in net earnings of affiliated companies:** Equity in net earnings of affiliated companies for the three month period ended September 30, 2020 amounted to \$0 as compared to \$0.9 million for the three month period ended September 30, 2019 which related to income recognized for Navios Europe I and Navios Europe II.

**Other income:** Other income was \$0 for each of the three month periods ended September 30, 2020 and 2019.

**Other expense:** Other expense for the three month period ended September 30, 2020 was \$0.5 million. For the comparative period of 2019 other expense was \$0.3 million.

### **For the Nine Month Period ended September 30, 2020 compared to the Nine Month Period ended September 30, 2019**

The following table presents consolidated revenue and expense information for the nine month periods ended September 30, 2020 and 2019. This information was derived from the unaudited condensed consolidated statements of operations of Navios Acquisition for the respective periods.

<u>Expressed in thousands of U.S. dollars</u>	<u>Nine Month period Ended September 30, 2020 (unaudited)</u>	<u>Nine Month period Ended September 30, 2019 (unaudited)</u>
Revenue	\$ 288,888	\$ 194,669
Time charter and voyage expenses	(12,091)	(14,340)
Direct vessel expenses	(10,371)	(7,117)
Vessel operating expenses (management fees entirely through related party transactions)	(93,642)	(81,224)
General and administrative expenses	(14,966)	(15,677)
Depreciation and amortization	(49,931)	(52,257)
Gain on sale of vessels/ Impairment loss	—	(36,731)
Gain on debt repurchase	7,010	—
Interest income	32	6,840
Interest expense and finance cost	(63,964)	(69,474)
Impairment of receivable in affiliated company / Equity in net earnings of affiliated companies	(13,900)	2,670
Other income	—	1,343
Other expense	(1,943)	(787)
<b>Net income/ (loss)</b>	<b>\$ 35,122</b>	<b>\$ (72,085)</b>

**Revenue:** Revenue for the nine month period ended September 30, 2020 increased by \$94.2 million, or 48.4%, to \$288.9 million, as compared to \$194.7 million for the same period of 2019. The increase was mainly attributable to an: (i) increase in revenue by \$22.9 million due to the acquisition of five product tankers from Navios Europe I in December 2019 and by \$5.2 million due to the acquisition of seven containers from Navios Europe II in June 2020; and (ii) increase in market rates during the nine month period ended September 30, 2020 as compared to the same period of 2019; partially mitigated by the sale of three VLCCs in 2019.

## [Table of Contents](#)

Available days of the fleet increased to 12,134 days for the nine month period ended September 30, 2020, as compared to 10,678 days for the nine month period ended September 30, 2019, due to the reasons mentioned above. The TCE Rate increased to \$22,812 for the nine month period ended September 30, 2020, from \$16,888 for the nine month period ended September 30, 2019.

**Time charter and voyage expenses:** Time charter and voyage expenses for the nine month period ended September 30, 2020 decreased by \$2.2 million, or 15.4%, to \$12.1 million, as compared to \$14.3 million for the same period of 2019. The decrease was mainly attributable to a \$4.6 million decrease in bunkers consumption and voyage expenses related to the spot voyages incurred in the period; partially mitigated by a: (i) \$1.6 million increase in port expenses; and (ii) \$0.8 million increase in brokers' commission.

**Direct vessel expenses:** Direct vessel expenses, comprising of the amortization of dry dock and special survey costs of certain vessels of our fleet, amounted to \$10.4 million for the nine month period ended September 30, 2020, as compared to \$7.1 million for the nine month period ended September 30, 2019.

**Vessel operating expenses (management fees):** Vessel operating expenses for the nine month period ended September 30, 2020 increased by \$12.4 million to \$93.6 million, as compared to \$81.2 million for the nine month period ended September 30, 2019. The increase was mainly as a result of the acquisition of five product tankers from Navios Europe I in December 2019 and the acquisition of seven containers from Navios Europe II in June 2020; partially mitigated by the sale of three VLCCs in 2019. Please see Related Party Transactions for discussion on the vessel operating expenses (management fees).

**General and administrative expenses:** Total general and administrative expenses for the nine month period ended September 30, 2020 decreased by \$0.7 million to \$15.0 million compared to \$15.7 million for the nine month period ended September 30, 2019, mainly due to the decrease in legal and professional fees. For the nine month periods ended September 30, 2020 and 2019, the expenses charged by the Manager for administrative services were \$10.0 million and \$8.3 million, respectively.

**Depreciation and amortization:** Depreciation decreased by \$2.4 million to \$49.9 million for the nine month period ended September 30, 2020 as compared to \$52.3 million for the nine month period ended September 30, 2019, mainly due to the sale of three VLCCs in 2019; partially mitigated by the acquisition of five product tankers of Navios Europe I in December 2019. Depreciation of a vessel is calculated using an estimated useful life of 25 years from the date the vessel was originally delivered from the shipyard.

**Gain on sale of vessels/ Impairment loss:** There was no gain on sale of vessel/ Impairment loss for the nine month period ended September 30, 2020 as compared to a \$36.7 million for the nine month period ended September 30, 2019, that resulted from: (i) \$32.7 million accelerated amortization of intangible assets in connection with early termination of certain contracts; and (ii) \$7.3 million impairment loss relating to the sale of the Nave Electron as a result of the impairment testing performed; partially mitigated by a \$3.2 million gain on sale of vessel for the nine month period ended September 30, 2019.

**Gain on debt repurchase:** Gain on debt repurchase for the nine month period ended September 30, 2020 was \$7.0 million as compared to \$0 for the same period in 2019. During the nine month period ended September 30, 2020, Navios Acquisition repurchased \$19.0 million of its ship mortgage notes for a cash consideration of \$11.9 million resulting in a gain on bond repurchase of \$7.0 million net of deferred fees written-off.

**Interest income:** Interest income for the nine month period ended September 30, 2020 decreased by \$6.8 million to \$0, as compared to \$6.8 million for the nine month period ended September 30, 2019.

**Interest expense and finance cost:** Interest expense and finance cost for the nine month period ended September 30, 2020 decreased by \$5.5 million to \$64.0 million, as compared to \$69.5 million for the nine month period ended September 30, 2019. The decrease was mainly due to the decrease of the weighted average interest rate for the nine month period ended September 30, 2020 to 6.48% compared to 7.17% in the same period in 2019 and the decrease of the average outstanding balance. The average outstanding balance of our credit facilities (other than the 2021 Notes, as defined in "Long-Term Debt Obligations and Credit Arrangements – Ship Mortgage Notes") decreased to \$525.8 million for the nine month period ended September 30, 2020 as compared to \$541.3 million for the nine month period ended September 30, 2019. As of September 30, 2020 and 2019, the outstanding balance under Navios Acquisition's total borrowings was \$1,140.2 million and \$1,237.7 million, respectively.

**Impairment of receivable in affiliated company / Equity in net earnings of affiliated companies:** Impairment of receivable in affiliated companies for the nine month period ended September 30, 2020 amounted to \$13.9 million and related to the other-than-temporary impairment recognized in the Navios Acquisition's receivable from Navios Europe II. Equity in net earnings of affiliated companies for the nine month period ended September 30, 2019 amounted to \$2.7 million which related to income recognized for Navios Europe I and Navios Europe II.

**Other income:** Other income for the nine month period ended September 30, 2020 was \$0 as compared to \$1.3 million for the same period in 2019.

## [Table of Contents](#)

**Other expense:** Other expense for the nine month period ended September 30, 2020 was \$1.9 million as compared to \$0.8 million for the same period in 2019.

### **Liquidity and Capital Resources**

Our primary short-term liquidity needs are to fund general working capital requirements, dry docking expenditures, minimum cash balance maintenance as per our credit facility agreements and debt repayment, and other obligations from time to time, while our long-term liquidity needs primarily relate to expansion and investment capital expenditures and other maintenance capital expenditures and debt repayment. Expansion capital expenditures are primarily for the purchase or construction of vessels to the extent the expenditures increase the operating capacity of or revenue generated by our fleet, while maintenance capital expenditures primarily consist of dry docking expenditures and expenditures to replace vessels in order to maintain the operating capacity of or revenue generated by our fleet. We anticipate that our primary sources of funds for our short-term liquidity needs will be cash flows from operations, long-term borrowings and proceeds from asset sales. As of September 30, 2020, Navios Acquisition's current assets totaled \$174.4 million, while current liabilities totaled \$170.0 million, resulting in a positive working capital position of \$4.4 million. Navios Acquisition's cash forecast indicates that it will generate sufficient cash for at least the next 12 months following December 4, 2020 to make the required principal and interest payments on its indebtedness and provide for the normal working capital requirements. Generally, our long-term sources of funds derive from cash from operations, long-term bank borrowings and other debt or equity financings. We expect that we will rely upon cash from operations and upon external financing sources, including bank borrowings, to fund acquisitions, expansion and investment capital expenditures and other commitments we have entered into. We cannot assure you that we will be able to secure adequate financing or obtaining additional funds on favorable terms, to meet our liquidity needs.

Navios Acquisition may use funds to repurchase its outstanding capital stock and/or indebtedness from time to time. Repurchases may be made in the open market, or through privately negotiated transactions or otherwise, in compliance with applicable laws, rules and regulations, at prices and on terms Navios Acquisition deems appropriate and subject to its cash requirements for other purposes, compliance with the covenants under Navios Acquisition's debt agreements, and other factors management deems relevant.

In February 2018, the Board of Directors of Navios Acquisition authorized a stock repurchase program for up to \$25.0 million of Navios Acquisition's common stock, for two years. Stock repurchases were made from time to time for cash in open market transactions at prevailing market prices or in privately negotiated transactions. The timing and amount of repurchases under the program were determined by management based upon market conditions and other factors. Repurchases were made pursuant to a program adopted under Rule 10b5-1 under the Securities Exchange Act of 1934, as amended. The program did not require any minimum repurchase or any specific number or amount of shares of common stock and was suspended or reinstated at any time in Navios Acquisition's discretion and without notice. Repurchases were subject to restrictions under Navios Acquisition's credit facilities and indenture. Up to the expiration of the stock repurchase program in February 2020, Navios Acquisition had repurchased 735,251 shares since the program was initiated for approximately \$7.5 million.

In the fourth quarter of 2019, Navios Acquisition repurchased \$12.0 million of its 2021 Notes (as defined in "Long-Term Debt Obligations and Credit Arrangements—Ship Mortgage Notes") from unaffiliated third parties in open market transactions for a cash consideration of \$10.0 million. During the third quarter of 2020 and up to December 2, 2020, Navios Acquisition repurchased \$55.4 million of its ship mortgage notes for a cash consideration of \$39.4 million.

In October 2019, Navios Acquisition completed a registered direct offering of 1,875,000 shares of its common stock at \$8.00 per share, raising gross proceeds of \$15.0 million. Total net proceeds of the above transactions, net of agents' costs of \$0.7 million and offering costs \$0.9 million, amounted to \$13.4 million.

On November 29, 2019, Navios Acquisition entered into a Continuous Offering Program Sales Agreement for the issuance and sale from time to time shares of Navios Acquisition's common stock having an aggregate offering price of up to \$25.0 million. An amended Sales Agreement was entered into on December 23, 2019. As before, the Sales Agreement contains, among other things, customary representations, warranties and covenants by Navios Acquisition and indemnification obligations of the parties thereto as well as certain termination rights for such parties. As of December 2, 2020, since the commencement of the program, Navios Acquisition has issued 956,110 shares of common stock and received net proceeds of \$5.3 million.

### **Cash Flow**

#### ***Cash flows for the nine month period ended September 30, 2020 compared to the nine month period ended September 30, 2019:***

The following table presents cash flow information for the nine month periods ended September 30, 2020 and 2019.

<b>Expressed in thousands of U.S. dollars</b>	<b>Nine Month Period Ended September 30, 2020 (unaudited)</b>	<b>Nine Month Period Ended September 30, 2019 (unaudited)</b>
Net cash provided by operating activities	\$ 85,985	\$ 21,058
Net cash (used in)/ provided by investing activities	(46,408)	31,343
Net cash (used in)/ provided by financing activities	(23,375)	3,862
<b>Net increase in cash, cash equivalents and restricted cash</b>		
<b>cash</b>	<b>\$ 16,202</b>	<b>\$ 56,263</b>
Cash, cash equivalents and restricted cash, beginning of period	44,051	46,609
<b>Cash, cash equivalents and restricted cash, end of period</b>	<b>\$ 60,253</b>	<b>\$ 102,872</b>

***Cash provided by operating activities for the nine month period ended September 30, 2020 as compared to the nine month period ended September 30, 2019:***

Net cash provided by operating activities increased by \$64.9 million to \$86.0 million for the period ended September 30, 2020 as compared to \$21.1 million for the period ended September 30, 2019. The increase is analyzed as follows:

The net income for the nine month period ended September 30, 2020 was \$35.1 million compared to net loss of \$72.1 million for the nine month period ended September 30, 2019. In determining net cash provided by operating activities for the nine month period ended September 30, 2020, the net income was adjusted for the effect of depreciation and amortization of \$49.9 million, \$13.9 million impairment of receivable in affiliated company, \$9.8 million for the amortization of drydock and special survey costs, \$7.0 million for gain on debt repurchase, \$4.4 million for amortization and write-off of deferred finance fees and bond premium and \$0.4 million for stock based compensation.

The net cash inflow resulting from the change in operating assets, liabilities and payments for drydock and special survey costs of \$20.5 million for the nine month period ended September 30, 2020 mainly resulted from a \$5.3 million increase in deferred revenue, a \$20.2 million decrease in accounts receivable, a \$3.9 million decrease in prepaid expense, a \$0.6 million decrease in inventories and an \$11.5 million increase in accrued expenses. These were partially offset by a \$30.9 million payment for drydock and special survey costs, a \$20.1 million decrease in the balance due to related parties short-term, an \$8.0 million decrease in accounts payable, a \$0.6 million increase in other long term assets and a \$2.4 million increase in the balance due from related parties, short- term.

In determining net cash provided by operating activities for the nine month period ended September 30, 2019, the net loss was adjusted for the effect of depreciation and amortization of \$52.3 million, \$36.7 million for gain on sale of vessels and impairment loss, \$7.1 million for the amortization of drydock and special survey costs, \$3.3 million for amortization and write-off of deferred finance fees and bond premium, \$2.7 million for equity in net earnings of affiliated companies, net of dividends received and \$0.7 million for stock based compensation.

The net cash outflow resulting from the change in operating assets, liabilities and payments for drydock and special survey costs of \$4.3 million for the nine month period ended September 30, 2019 mainly resulted from a \$6.4 million increase in the balance due from related parties, short-term, a \$17.1 million decrease in the balance due to related parties, a \$6.8 million payment for drydock and special survey costs, a \$1.7 million decrease in deferred revenue and a \$0.7 million decrease in accounts payable. These were partially offset by a \$12.0 million increase in accrued expenses, an \$11.9 million decrease in accounts receivable, a \$2.9 million decrease in the balance due from related parties, long-term and a \$1.6 million decrease in prepaid expenses.

***Cash (used in)/ provided by investing activities for the nine month period ended September 30, 2020 as compared to the nine month period ended September 30, 2019:***

Net cash (used in)/ provided by investing activities decreased by \$77.7 million to \$46.4 million outflow for the nine month period ended September 30, 2020 from \$31.3 million inflow for the nine month period ended September 30, 2019.

Net cash used in investing activities for the nine month period ended September 30, 2020, resulted from \$46.4 million from the acquisition of seven containers from Navios Europe II in June 2020 and vessels improvements.

Net cash provided by investing activities for the nine month period ended September 30, 2019, resulted from \$46.4 million net proceeds from sale of vessel; partially mitigated by: (i) \$13.1 million from vessels additions; and (ii) \$2.0 million from loans to affiliates.

[Table of Contents](#)

**Cash (used in)/ provided by financing activities for the nine month period ended September 30, 2020 as compared to the nine month period ended September 30, 2019:**

Net cash (used in)/ provided by financing activities decreased by \$27.2 million to \$23.4 million outflow for the nine month period ended September 30, 2020 from \$3.9 million inflow for the nine month period ended September 30, 2019.

Net cash used in financing activities for the nine month period ended September 30, 2020 resulted from: (a) \$144.8 million of loan repayments; and (b) \$14.5 million of dividends paid; and was partially mitigated by: (i) \$132.8 million loan proceeds, net of deferred finance costs; and (ii) \$3.0 million in equity offering proceeds.

Net cash provided by financing activities for the nine month period ended September 30, 2019 resulted from the receipt of \$156.6 million in loan proceeds, net of deferred finance costs, which was partially offset by: the use of (i) \$144.1 million of loan repayments; (ii) \$8.2 million of dividends paid; and (iii) \$0.4 million for acquisition of treasury stock.

**Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities**

	Three Month Period Ended September 30, 2020 <i>(unaudited)</i>	Three Month Period Ended September 30, 2019 <i>(unaudited)</i>	Nine Month Period Ended September 30, 2020 <i>(unaudited)</i>	Nine Month Period Ended September 30, 2019 <i>(unaudited)</i>
<b>Expressed in thousands of U.S. dollars</b>				
Net cash provided by operating activities	\$ 35,262	\$ 19,513	\$ 85,985	\$ 21,058
Net (increase)/ decrease in operating assets	(20,341)	(5,311)	(21,710)	132
Net (decrease)/ increase in operating liabilities	(7,376)	(15,735)	11,342	(2,633)
Net interest cost	20,416	20,465	63,932	62,634
Amortization and write-off of deferred finance costs and bond premium	(1,359)	(1,053)	(4,404)	(3,346)
Impairment of receivable in Navios Europe II / Equity in net earnings of affiliated companies	—	936	(13,900)	2,670
Payments for dry dock and special survey costs	10,448	5,119	30,869	6,781
Gain on sale of vessels	—	—	—	3,245
Impairment loss	—	(7,287)	—	(7,287)
Gain on debt repurchase	7,010	—	7,010	—
Stock-based compensation	(124)	(234)	(370)	(694)
<b>EBITDA</b>	<b>\$ 43,936</b>	<b>\$ 16,413</b>	<b>\$ 158,754</b>	<b>\$ 82,560</b>
Gain on sale of vessels	—	—	—	(3,245)
Impairment of receivable in Navios Europe II	—	7,287	13,900	7,287
Gain on debt repurchase	(7,010)	—	(7,010)	—
Stock-based compensation	124	234	370	694
<b>Adjusted EBITDA</b>	<b>\$ 37,050</b>	<b>\$ 23,934</b>	<b>\$ 166,014</b>	<b>\$ 87,296</b>
	Three Month Period Ended September 30, 2020 <i>(unaudited)</i>	Three Month Period Ended September 30, 2019 <i>(unaudited)</i>	Nine Month Period Ended September 30, 2020 <i>(unaudited)</i>	Nine Month Period Ended September 30, 2019 <i>(unaudited)</i>
Net cash provided by operating activities	\$ 35,262	\$ 19,513	\$ 85,985	\$ 21,058
Net cash (used in)/ provided by investing activities	\$ (1,785)	\$ 5,605	\$ (46,408)	\$ 31,343
Net cash (used in)/ provided by financing activities	\$ (41,706)	\$ 35,792	\$ (23,375)	\$ 3,862

## [Table of Contents](#)

EBITDA in this document represents net income/ (loss) before interest and finance costs, before depreciation and amortization and before income taxes. Adjusted EBITDA in this document represents EBITDA excluding certain items, such as stock-based compensation, gain on sale of vessels, gain/ (loss) on debt repayment and other than temporary investment loss on equity investment.

We use Adjusted EBITDA as liquidity measure and reconcile EBITDA and Adjusted EBITDA to net cash provided by operating activities, the most comparable U.S. GAAP liquidity measure. EBITDA in this document is calculated as follows: net cash provided by operating activities adding back, when applicable and as the case may be, the effect of: (i) net (increase)/ decrease in operating assets; (ii) net increase in operating liabilities; (iii) net interest cost; (iv) amortization and write-off of deferred finance costs and bond premium; (v) impairment of receivable in Navios Europe II / Equity in net earnings of affiliated companies; (vi) payments for dry dock and special survey costs; (vii) gain on sale of vessel; and (viii) stock-based compensation. Navios Acquisition believes that EBITDA and Adjusted EBITDA are each the basis upon which liquidity can be assessed and present useful information to investors regarding Navios Acquisition's ability to service and/or incur indebtedness, pay capital expenditures, meet working capital requirements and pay dividends. Navios Acquisition also believes that EBITDA and Adjusted EBITDA are used: (i) by potential lenders to evaluate potential transactions; (ii) to evaluate and price potential acquisition candidates; and (iii) by securities analysts, investors and other interested parties in the evaluation of companies in our industry.

EBITDA and Adjusted EBITDA have limitations as an analytical tool, and should not be considered in isolation or as a substitute for the analysis of Navios Acquisition's results as reported under U.S. GAAP. Some of these limitations are: (i) EBITDA and Adjusted EBITDA do not reflect changes in, or cash requirements for, working capital needs; and (ii) although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future. EBITDA and Adjusted EBITDA do not reflect any cash requirements for such capital expenditures. Because of these limitations, EBITDA and Adjusted EBITDA should not be considered as a principal indicator of Navios Acquisition's performance. Furthermore, our calculation of EBITDA and Adjusted EBITDA may not be comparable to that reported by other companies due to differences in methods of calculation.

Adjusted EBITDA affected by the items described in the table above, for the three month period ended September 30, 2020 increased by \$13.2 million to \$37.1 million, as compared to \$23.9 million for the same period of 2019. The increase in Adjusted EBITDA was mainly due to a: (a) \$19.8 million increase in revenue; and (b) \$2.8 million decrease in time charter and voyage expenses; partially mitigated by a: (i) \$7.2 million increase in operating expenses mainly due to the acquisition of the five product tankers from Navios Europe I in December 2019 and to the seven containers from Navios Europe II in June 2020 and to the amendment of the fees under the management agreement, partially mitigated by the sale of three VLCCs in 2019; (ii) \$1.1 million increase in general and administrative expenses (excluding stock-based compensation); (iii) \$0.9 million decrease in equity in net earnings of affiliated companies; and (iv) \$0.2 million increase in other expense.

Adjusted EBITDA affected by the items described in the table above, for the nine month period ended September 30, 2020 increased by \$78.7 million to \$166.0 million, as compared to \$87.3 million for the same period of 2019. The increase in Adjusted EBITDA was mainly due to a: (a) \$94.2 million increase in revenue; (b) \$2.2 million decrease in time charter and voyage expenses; and (c) \$0.4 million decrease in general and administrative expenses (excluding stock-based compensation); partially mitigated by a: (i) \$12.4 million increase in operating expenses mainly due to the acquisition of the five product tankers from Navios Europe I in December 2019 and due to the acquisition of seven containers from Navios Europe II in June 2020 and to the amendment of the fees under the management agreement, partially mitigated by the sale of three VLCCs in 2019; (ii) \$2.7 million decrease in equity in net earnings of affiliated companies; (iii) \$1.3 million decrease in other income; (iv) \$1.2 million increase in other expense; and (v) \$0.6 million increase in direct vessel expenses (other than amortization of dry dock and special survey cost).

## **Long-Term Debt Obligations and Credit Arrangements**

### **Ship Mortgage Notes**

*8 1/8% First Priority Ship Mortgages:* On November 13, 2013, the Company and its wholly owned subsidiary, Navios Acquisition Finance (US) Inc. ("Navios Acquisition Finance" and together with the Company, the "2021 Co-Issuers") issued \$610.0 million in first priority ship mortgage notes (the "Existing Notes") due on November 15, 2021 at a fixed rate of 8.125%.

On March 31, 2014, the Company completed a sale of \$60.0 million of its first priority ship mortgage notes due in 2021 (the "Additional Notes," and together with the Existing Notes, the "2021 Notes"). The terms of the Additional Notes are identical to the Existing Notes and were issued at 103.25% plus accrued interest from November 13, 2013.

The 2021 Notes are fully and unconditionally guaranteed on a joint and several basis by all of Navios Acquisition's subsidiaries with the exception of Navios Acquisition Finance (a co-issuer of the 2021 Notes) and the exception of Navios Maritime Midstream Partners L.P. ("Navios Midstream") subsidiaries.

## [Table of Contents](#)

The 2021 Co-Issuers currently have the option to redeem the 2021 Notes in whole or in part, at a fixed price of 106.094% of the principal amount, which price declined ratably until it reached par in 2019, plus accrued and unpaid interest, if any.

In addition, upon the occurrence of certain change of control events, the holders of the 2021 Notes will have the right to require the 2021 Co-Issuers to repurchase some or all of the 2021 Notes at 101% of their face amount, plus accrued and unpaid interest to the repurchase date.

The 2021 Notes contain covenants which, among other things, limit the incurrence of additional indebtedness, issuance of certain preferred stock, the payment of dividends, redemption or repurchase of capital stock or making restricted payments and investments, creation of certain liens, transfer or sale of assets, entering in transactions with affiliates, merging or consolidating or selling all or substantially all of the 2021 Co-Issuers' properties and assets and creation or designation of restricted subsidiaries.

Following the acquisition of the Star N and the Hector N MR1 product tankers from Navios Europe I, the vessels were offered as collateral under its ship mortgage notes, in substitution of an amount of \$25.4 million that was held as cash collateral from the sale proceeds of the Nave Electron.

In the fourth quarter of 2019, Navios Acquisition repurchased \$12.0 million of its ship mortgage notes for a cash consideration of \$10.0 million resulting in a gain on bond repurchase of \$1.9 million net of deferred fees written-off.

In the third quarter of 2020, Navios Acquisition repurchased \$19.0 million of its ship mortgage notes for a cash consideration of \$11.9 million resulting in a gain on bond repurchase of \$7.0 million net of deferred fees written-off.

The 2021 Co-Issuers were in compliance with the covenants as of September 30, 2020.

The Existing Notes and the Additional Notes are treated as a single class for all purposes under the indenture including, without limitation, waivers, amendments, redemptions and other offers to purchase and the Additional Notes rank evenly with the Existing Notes. The Additional Notes and the Existing Notes have different CUSIP numbers.

The Company's 2021 Notes are fully and unconditionally guaranteed on a joint and several basis by all of the Company's subsidiaries with the exception of Navios Acquisition Finance (a co-issuer of the 2021 Notes) and the exception of Navios Midstream subsidiaries. The Company's 2021 Notes are unregistered. The guarantees of our subsidiaries that own mortgaged vessels are senior secured guarantees and the guarantees of our subsidiaries that do not own mortgaged vessels are senior unsecured guarantees. All subsidiaries, including Navios Acquisition Finance and Navios Midstream subsidiaries are 100% owned. Navios Acquisition does not have any independent assets or operations.

The Company intends to engage in discussions with holders of the 2021 Notes and other prospective investors with respect to a potential refinancing of the 2021 Notes with new, later maturing senior secured notes (the "New Secured Notes"). The New Secured Notes would be expected to be secured by the same collateral that secures the 2021 Notes and may also include additional collateral that may be available, including guarantees and equity pledges of currently unrestricted subsidiaries. The terms of the New Secured Notes would be based on the 2021 Notes, but may include additional provisions, including provisions that may restrict the Company's reinvestment of excess cash flow, subject to certain conditions. There can be no assurance that the Company will be able to refinance the 2021 Notes with the New Secured Notes, or at all.

This notice shall not constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of 2021 Notes or New Secured Notes, in any jurisdiction in which such an offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. The 2021 Notes have not been, and any New Secured Notes would not be, registered under the Securities Act of 1933, as amended (the "Securities Act"), or any state securities laws, and unless so registered, may not be offered or sold in the United States or to U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws.

### **Credit Facilities**

As of September 30, 2020, the Company had secured credit facilities with various commercial banks with a total outstanding balance of \$0.1 billion.

The purpose of the facilities was to finance the construction or acquisition of vessels or refinance existing indebtedness. All of the facilities are denominated in U.S. Dollars and bear interest based on LIBOR plus spread ranging from 230 bps to 410 bps per annum. The facilities are repayable in either semi-annual or quarterly installments, followed by balloon payments with maturities, ranging from February 2021 to October 2027. See also "Contractual obligations" below.

On December 6, 2010, Navios Acquisition entered into a loan agreement with Eurobank Ergasias S.A. of up to \$52.0 million out of which \$46.2 million has been drawn (divided into two tranches of \$23.1 million each) to partially finance the acquisition costs of two LR1 product tanker vessels. Each tranche of the facility was repayable in 32 equal quarterly installments of \$0.3 million each with a final balloon payment of \$13.3 million, to be repaid on the last repayment date. The maturity date of the loan was in the third and fourth quarter of 2020. The repayment of each tranche started three months after the delivery date of the respective vessel. It bore interest at a rate of LIBOR plus 300 bps. The loan also required compliance with certain financial covenants. The outstanding balance under the facility of \$27.5 million was fully prepaid in June 2020.

In November 2015, Navios Acquisition, entered into a term loan facility of up to \$125.0 million (divided into five tranches) with Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB for the: (i) financing of the purchase price of the Nave Spherical; and (ii) the refinancing of the existing facility with Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB, dated July 18, 2014. Four of the five tranches of the facility are repayable in 20 quarterly installments of between approximately \$0.4 million and \$1.9 million, each with a final balloon repayment to be made on the last

## [Table of Contents](#)

repayment date. The fifth tranche is repayable in 16 quarterly installments of between approximately \$0.07 million and \$0.8 million, each. The maturity date of the loan is in the fourth quarter of 2020. The credit facility bears interest at LIBOR plus 295 bps per annum. On March 23, 2018, Navios Acquisition prepaid \$26.8 million, being the respective tranche of the Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB facility that was drawn to finance the Nave Equinox and the Nave Pyxis, which substituted the Nave Galactic as collateral vessels under the 8 1/8% 2021 Notes. On June 18, 2020, Navios Acquisition prepaid \$16.3 million, being the respective tranche of the Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB facility that was drawn to finance the Nave Sextans. As of September 30, 2020, the outstanding balance under this facility was \$17.6 million. In October 2020, Navios Acquisition extended the maturity date of the loan to February 2021.

In October 2019, Navios Acquisition entered into a loan agreement with Hamburg Commercial Bank AG of up to \$31.8 million in order to refinance one VLCC. The facility is repayable in 4 quarterly installments of \$0.8 million each with a final balloon payment of \$28.4 million repayable on the last repayment date. The facility matures in October 2020 and bears interest at LIBOR plus 280 bps per annum. As of September 30, 2020, \$29.3 million was outstanding under this facility. In October 2020, Navios Acquisition extended the maturity date of the loan to October 2024. The remaining balance of the facility is repayable in 16 quarterly installments of \$0.8 million each with a final balloon payment of \$14.9 million repayable on the last repayment date.

In December 2019, Navios Acquisition entered into a loan agreement with Deutsche Bank AG Filiale Deutschlandgeschäft of up to \$32.5 million in order to finance one MR1 and two LR1s acquired from Navios Europe I. The facility was repayable in one single repayment on the last repayment date. The facility matured in June 2020 and bore interest at LIBOR plus 400 bps per annum. In the second quarter of 2020, Navios Acquisition fully repaid the amount of \$32.5 million.

In June 2020, Navios Acquisition entered into a loan agreement with Eurobank S.A. of \$20.8 million in order to refinance two LR1s. The facility is repayable in 16 quarterly installments of \$0.8 million each with a final balloon payment of \$8.0 million repayable on the last repayment date. The facility matures in June 2024 and bears interest at LIBOR plus 300 bps per annum. As of September 30, 2020, an amount of \$20.0 million was outstanding under this facility.

In June 2020, Navios Acquisition entered into a loan agreement with Hamburg Commercial Bank AG of \$41.7 million in order to acquire seven containerships. The facility is repayable in 4 quarterly installments with a final balloon payment of \$21.7 million repayable on the last repayment date. The facility matures in May 2021 and bears interest at LIBOR plus 375 bps per annum and top up fee ranging from 225 bps to 425 bps per annum. As of September 30, 2020, an amount of \$36.7 million was outstanding under this facility and is presented under "Liabilities associated with assets held for sale". (Please refer to Note 7)

Amounts drawn under the agreements are secured by first preferred mortgages on Navios Acquisition's vessels and other collateral and are guaranteed by each vessel-owning subsidiary. The agreements contain a number of restrictive covenants that prohibit or limit Navios Acquisition from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions; changing the flag, class, management or ownership of Navios Acquisition's vessels; changing the commercial and technical management of Navios Acquisition's vessels; selling Navios Acquisition's vessels; and subordinating the obligations under each credit facility to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the Management Agreement. The credit facilities also require Navios Acquisition to comply with the ISM Code and ISPS Code and to maintain valid safety management certificates and documents of compliance at all times.

As of September 30, 2020, no amount was available to be drawn from the Company's facilities.

### **Sale and Leaseback Agreements**

As of September 30, 2020, the Company had sale and leaseback agreements with various unrelated third parties with a total outstanding balance of \$0.4 billion.

As of September 30, 2020 and December 31, 2019, the deposits under the sale and leaseback agreements were \$9.1 million and \$5.5 million, respectively, and are presented under "Other long term assets" in the condensed consolidated balance sheets.

In June 2020, Navios Acquisition entered into sale and leaseback agreements with unrelated third parties for \$72.1 million in order to refinance one MR1, one MR2 and two LR1s. Navios Acquisition has a purchase obligation to acquire the vessels at the end of the lease term and under ASC 842-40, the transaction was determined to be a failed sale. The agreements will be repaid through periods ranging from four to seven years in consecutive quarterly installments of up to \$1.8 million each, with a repurchase obligation of up to \$27.0 million in total. The sale and leaseback arrangements bear interest at LIBOR plus a margin ranging from 390 bps to 410 bps per annum, depending on the vessel financed. As of September 30, 2020, the outstanding balance under the agreements was \$70.3 million.

Amounts drawn under the facilities are secured by first preferred mortgages on Navios Acquisition's vessels and other collateral and are guaranteed by each vessel-owning subsidiary. The credit facilities contain a number of restrictive covenants that prohibit or limit Navios Acquisition from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions;

## [Table of Contents](#)

changing the flag, class, management or ownership of Navios Acquisition's vessels; changing the commercial and technical management of Navios Acquisition's vessels; selling Navios Acquisition's vessels; and subordinating the obligations under each credit facility to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the Management Agreement. The credit facilities also require Navios Acquisition to comply with the ISM Code and ISPS Code and to maintain valid safety management certificates and documents of compliance at all times.

As of September 30, 2020, the Company was in compliance with its covenants.

### Off-Balance Sheet Arrangements – Legal Proceedings

The Company is involved in various disputes and arbitration proceedings arising in the ordinary course of business. Provisions have been recognized in the financial statements for all such proceedings where the Company believes that a liability may be probable, and for which the amounts are reasonably estimable, based upon facts known at the date of the financial statements were prepared. In the opinion of the management, the ultimate disposition of these matters individually and in aggregate will not materially affect the Company's financial position, results of operations or liquidity.

### Contractual Obligations

The following table summarizes our long-term contractual obligations as of September 30, 2020:

(In thousands of U.S. dollars)	Payments due by period (Unaudited)				Total
	Less than 1 year	1-3 years	3-5 years	More than 5 years	
Long-term debt obligations <sup>(1)</sup>	\$ 88,677	\$806,255	\$ 129,546	\$ 115,739	\$ 1,140,217
Lease Obligations (Time Charters) for vessels to be delivered <sup>(2)</sup>	15,297	62,700	66,960	256,526	401,483
<b>Total contractual obligations</b>	<b>\$ 103,974</b>	<b>868,955</b>	<b>196,506</b>	<b>372,265</b>	<b>\$ 1,541,700</b>

- (1) The amount identified does not include interest costs associated with the outstanding credit facilities, which are based on LIBOR, plus the costs of complying with any applicable regulatory requirements and a margin ranging from 230 bps to 410 bps per annum or the \$670.0 million 2021 Notes fixed rate of 8.125%.
- (2) In August 2018, Navios Acquisition agreed to the main terms of a 12-year bareboat charter-in agreement with de-escalating purchase options for two newbuild Japanese VLCCs delivering in each of the fourth quarter of 2020 and the first quarter of 2021. In the first quarter of 2019, we exercised our option for a third VLCC newbuilding under a bareboat operating lease with an expected delivery in the second quarter of 2021. In the second quarter of 2020, Navios Acquisition exercised its option for a fourth Japanese newbuild VLCC under a bareboat operating lease with an expected delivery in the second quarter of 2022.

Navios Acquisition leases office space in Monaco pursuant to a five year lease agreement, dated July 1, 2018, that expires in June 2023, for a monthly rent of approximately \$0.01 million.

### Related Party Transactions

**Vessel operating expenses (management fees):** Pursuant to the Management Agreement dated May 28, 2010 and as amended in May 2012, May 2014, May 2016 and May 2018, the Manager provided commercial and technical management services to Navios Acquisition's vessels for a fixed daily fee of: (a) \$6,500 per MR2 product tanker and chemical tanker vessel; (b) \$7,150 per LR1 product tanker vessel; and (c) the current daily fee of \$9,500 per VLCC, through May 2020.

Following the Merger with Navios Midstream, completed on December 13, 2018, the Management Agreement covers vessels acquired.

On August 29, 2019, Navios Acquisition entered into a sixth amendment (the "Sixth Amendment") to the Management Agreement (as amended, the "Management Agreement") with Navios Tankers Management Inc. The Sixth Amendment, among other changes, extends the duration of the Management Agreement until January 1, 2025, with an automatic renewal for an additional five years, unless earlier terminated by either party, and provides for payment of a termination fee by Navios Acquisition in the event the Management Agreement is terminated on or before December 31, 2024. The Sixth Amendment also sets forth the fixed vessel operating expenses for the period through December 31, 2019 and the two-year period commencing January 1, 2020, which fixed vessel operating expenses exclude dry-docking expenses, which are reimbursed at cost by Navios Acquisition: (a) \$7,150 and \$7,225, respectively, daily rate per owned LR1 product tanker vessel; (b) \$6,500 and \$6,825, respectively, daily rate per owned MR2 product tanker vessel and chemical tanker vessel; (c) \$9,500 and \$9,650, respectively, daily rate per VLCC tanker vessel; and (d) effective in both periods, \$50 per vessel daily rate for technical and commercial management services. Commencing January 1, 2022, the fees described in subsections (a) through (c) are subject to an annual increase of 3%, unless otherwise agreed and provides for payment of a termination fee, equal to the fees charged for the full calendar year preceding the termination date, by Navios Acquisition in the event the Management Agreement is terminated on or before December 31, 2024.

## [Table of Contents](#)

Following the liquidation of Navios Europe I (“Liquidation of Navios Europe I”) in December 2019, which resulted in the acquisition of three MR1 product tankers and two LR1 product tankers, as per the terms of the Management Agreement, vessel operating expenses are fixed for two years commencing from January 1, 2020 at: (a) \$6,825 per day per MR1, MR2 product tanker and chemical tanker; (b) \$7,225 per day per LR1 product tanker vessel; and (c) \$9,500 per VLCC. The Management Agreement also provides for a technical and commercial management fee of \$50 per day per vessel and an annual increase of 3% after January 1, 2022 for the remaining period unless agreed otherwise.

Following the Liquidation of Navios Europe II, Navios Acquisition acquired seven containerships on June 29, 2020. As per the amendment to the Management Agreement dated June 26, 2020, the vessel operating expenses are fixed at: (a) \$5,250 per day per Container vessel of 1,500 TEU up to 1,999 TEU; and (b) \$6,100 per day per Container vessel of 2,000 TEU up to 3,450 TEU. The Management Agreement also provides for a technical and commercial management fee of \$50 per day per vessel and an annual increase of 3% after January 1, 2022 for the remaining period unless agreed otherwise.

Drydocking expenses are reimbursed at cost for all vessels.

For the nine month periods ended September 30, 2020 and 2019 certain extraordinary fees and costs related to regulatory requirements, including ballast water treatment system installation and exhaust gas cleaning system installation and under Company’s Management Agreement amounted to \$4.4 million and \$13.1 million, respectively, and are presented under “Container vessel owning companies acquisition / vessels improvements” in the condensed Consolidated Statements of Cash Flows. (Please refer to Note 5)

Total fixed vessel operating expenses for the three month periods ended September 30, 2020 and 2019 amounted to \$34.0 million and \$26.8 million, respectively. Total fixed vessel operating expenses for the nine month periods ended September 30, 2020 and 2019 amounted to \$93.6 million and \$81.2 million, respectively.

**General and administrative expenses:** On May 28, 2010, Navios Acquisition entered into an Administrative Services Agreement with the Manager, pursuant to which the Manager provides certain administrative management services to Navios Acquisition which include: bookkeeping, audit and accounting services, legal and insurance services, administrative and clerical services, banking and financial services, advisory services, client and investor relations and other services. The Manager is reimbursed for reasonable costs and expenses incurred in connection with the provision of these services. In May 2014, Navios Acquisition extended the duration of its existing Administrative Services Agreement with the Manager, until May 2020.

In August 2019, Navios Acquisition extended the duration of its existing Administrative Services Agreement with the Manager until January 1, 2025, to be automatically renewed for another five years. The agreement also provides for payment of a termination fee, equal to the fees charged for the full calendar year preceding the termination date, by Navios Acquisition in the event the Administrative Services Agreement is terminated on or before December 31, 2024.

Following the Liquidation of Navios Europe I in December 2019, Navios Acquisition acquired three MR1 product tankers and two LR1 product tankers. The Administrative Services Agreement also covers the vessels acquired.

Following the Liquidation of Navios Europe II, Navios Acquisition acquired seven containerships on June 29, 2020. The Administrative Services Agreement also covers the vessels acquired.

For each of the three month periods ended September 30, 2020 and 2019 the expense arising from administrative services rendered by the Manager amounted to \$3.5 million and \$2.8 million, respectively. For each of the nine month periods ended September 30, 2020 and 2019 the expense arising from administrative services rendered by the Manager amounted to \$9.5 million and \$8.4 million, respectively.

**Balance due from/ (to) related parties:** Balance due from related parties (both short and long-term) as of September 30, 2020, was \$17.1 million (December 31, 2019: \$14.7 million) and balance due to related parties as of September 30, 2020 was \$0 (December 31, 2019:\$32.2 million). The balances mainly consisted of administrative expenses, costs related to regulatory requirements including ballast water treatment system, special survey and dry docking expenses, as well as operating expenses and working capital deposits, in accordance with the Management Agreement. The amount of \$1.8 million related to seven containerships acquired after the liquidation of Navios Europe II is included under “Assets held for sale” in the condensed consolidated balance sheets.

**Navios Midstream Merger Agreement:** On December 13, 2018, Navios Acquisition completed the Merger contemplated by the Merger Agreement, dated as of October 7, 2018, by and among Navios Acquisition, its direct wholly-owned subsidiary Merger Sub, Navios Midstream and NAP General Partner. Pursuant to the Merger Agreement, Merger Sub merged with and into Navios Midstream, with Navios Midstream surviving as a wholly-owned subsidiary of Navios Acquisition.

## Omnibus Agreements

**Acquisition Omnibus Agreement:** Navios Acquisition entered into an omnibus agreement (the “Acquisition Omnibus Agreement”) with Navios Maritime Holdings Inc. (“Navios Holdings”) and Navios Maritime Partners L.P. (“Navios Partners”) in connection with the closing of Navios Acquisition’s initial vessel acquisition, pursuant to which, among other things, Navios Holdings and Navios Partners agreed not to acquire, charter-in or own liquid shipment vessels, except for container vessels and vessels that are primarily employed in operations in South America without the consent of an independent committee of Navios Acquisition. In addition, Navios Acquisition, under the Acquisition Omnibus Agreement, agreed to cause its subsidiaries not to acquire, own, operate or charter-in drybulk carriers under specific exceptions. Under the Acquisition Omnibus Agreement, Navios Acquisition and its subsidiaries grant to Navios Holdings and Navios Partners a right of first offer on any proposed sale, transfer or other disposition of any of its drybulk carriers and related charters owned or acquired by Navios Acquisition. Likewise, Navios Holdings and Navios Partners agreed to grant a similar right of first offer to Navios Acquisition for any liquid shipment vessels they might own. These rights of first offer will not apply to a: (a) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the existing terms of any charter or other agreement with a counterparty; or (b) merger with or into, or sale of substantially all of the assets to, an unaffiliated third party.

**Midstream Omnibus Agreement:** Navios Acquisition entered into an omnibus agreement (the “Midstream Omnibus Agreement”), with Navios Midstream, Navios Holdings and Navios Partners in connection with the Navios Midstream IPO, pursuant to which Navios Acquisition, Navios Midstream, Navios Holdings, Navios Partners and their controlled affiliates generally have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, liquefied petroleum gas (“LPG”) tankers or chemical tankers under time charters of five or more years without the consent of the Navios Midstream General Partner. The Midstream Omnibus Agreement contains significant exceptions that have allowed Navios Acquisition, Navios Holdings, Navios Partners or any of their controlled affiliates to compete with Navios Midstream under specified circumstances.

Under the Midstream Omnibus Agreement, Navios Midstream and its subsidiaries have granted to Navios Acquisition a right of first offer on any proposed sale, transfer or other disposition of any of its VLCCs or any crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers and related charters owned or acquired by Navios Midstream. Likewise, Navios Acquisition have agreed (and will cause its subsidiaries to agree) to grant a similar right of first offer to Navios Midstream for any of the VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under charter for five or more years it might own. These rights of first offer do not apply to a: (a) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the terms of any charter or other agreement with a charter party, or (b) merger with or into, or sale of substantially all of the assets to, an unaffiliated third-party.

**Navios Containers Omnibus Agreement:** In connection with the Navios Maritime Containers Inc. (“Navios Containers”) private placement and listing on the Norwegian over-the-counter market effective June 8, 2017, Navios Acquisition entered into an omnibus agreement with Navios Containers, Navios Midstream, Navios Holdings and Navios Partners, pursuant to which Navios Acquisition, Navios Holdings, Navios Partners and Navios Midstream have granted to Navios Containers a right of first refusal over any container vessels to be sold or acquired in the future. The omnibus agreement contains significant exceptions that will allow Navios Acquisition, Navios Holdings, Navios Partners and Navios Midstream to compete with Navios Containers under specified circumstances.

**Navios Midstream General Partner Option Agreement with Navios Holdings:** Navios Acquisition entered into an option agreement, dated November 18, 2014, with Navios Holdings under which Navios Acquisition grants Navios Holdings the option to acquire any or all of the outstanding membership interests in Navios Midstream General Partner and all of the incentive distribution rights in Navios Midstream representing the right to receive an increasing percentage of the quarterly distributions when certain conditions are met. The option shall expire on November 18, 2024. Any such exercise shall relate to not less than twenty-five percent of the option interest and the purchase price for the acquisition of all or part of the option interest shall be an amount equal to its fair market value.

**Balance due from Navios Europe II:** Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe II revolving loans up to \$43.5 million to fund working capital requirements. In March 2017, the availability under the Navios Revolving Loans II was increased by \$14.0 million.

The decline in the fair value of the investment was considered as other-than-temporary and, therefore, an aggregate loss of \$13.9 million was recognized and included in the accompanying condensed consolidated statements of income for the three month period ended March 31, 2020, and the nine month period ended September 30, 2020, as “Impairment of receivable in affiliated company/Equity in net earnings of affiliated companies.” The fair value of the Company’s investment was determined based on the liquidation value of Navios Europe II, determined on the individual fair values assigned to the assets and liabilities of Navios Europe II.

## [Table of Contents](#)

Following the Liquidation of Navios Europe II, the balance due from Navios Europe II as of September 30, 2020 was \$0. The balance due from Navios Europe II as of December 31, 2019 was \$44.9 million which included the Navios Revolving Loans II of \$20.7 million, the non-current amount of \$7.6 million related to the accrued interest income earned under the Navios Term Loans II under the caption “Due from related parties, long-term” and the accrued interest income earned under the Navios Revolving Loans II of \$16.7 million under the caption “Due from related parties, short-term.”

### **Quantitative and Qualitative Disclosures about Market Risks**

#### ***Foreign Exchange Risk***

Our functional and reporting currency is the U.S. dollar. We engage in worldwide commerce with a variety of entities. Although our operations may expose us to certain levels of foreign currency risk, our transactions are predominantly U.S. dollar denominated. Transactions in currencies other than U.S. dollars are translated at the exchange rate in effect at the date of each transaction. Differences in exchange rates during the period between the date a transaction denominated in a foreign currency is consummated and the date on which it is either settled or translated, are recognized in the statements of income.

#### ***Interest Rate Risk***

As of September 30, 2020, Navios Acquisition had a total of \$1,140.2 million in long-term and short-term indebtedness. Borrowings under our credit facilities bear interest at rates based on a premium over LIBOR in U.S. dollars except for the interest rate on the Existing Notes and the Additional Notes which is fixed. Therefore, we are exposed to the risk that our interest expense may increase if interest rates rise. For the three month period ended September 30, 2020, we paid interest on our outstanding debt at a weighted average interest rate of 6.21%. A 1% increase in LIBOR would have increased our interest expense for the three month period ended September 30, 2020 by \$1.4 million. For the nine month period ended September 30, 2020, we paid interest on our outstanding debt at a weighted average interest rate of 6.48%. A 1% increase in LIBOR would have increased our interest expense for the nine month period ended September 30, 2020 by \$4.0 million.

#### **Concentration of Credit Risk**

Financial instruments, which potentially subject us to significant concentrations of credit risk, consist principally of trade accounts receivable. We closely monitor our exposure to customers for credit risk. We have policies in place to ensure that we trade with customers with an appropriate credit history. For the nine month period ended September 30, 2020, Navig8 Chemicals Shipping and Trading Co (“Navig8”) accounted for 29.1%, China ZhenHua Oil Co., Ltd accounted for 12.6% and China Shipping Development (Hong Kong) accounted for 10.3%, respectively, of Navios Acquisition’s revenue. For the year ended December 31, 2019, Navig8 and COSCO Shipping Tanker (Dalian) Co., Ltd. accounted for 34.6%, and 10.0%, respectively, of Navios Acquisition’s revenue.

#### **Cash and Cash Equivalents**

Cash deposits and cash equivalents in excess of amounts covered by government-provided insurance are exposed to loss in the event of non-performance by financial institutions. Navios Acquisition does maintain cash deposits and equivalents in excess of government-provided insurance limits. Navios Acquisition also minimizes exposure to credit risk by dealing with a diversified group of major financial institutions.

#### **Inflation**

Inflation has had a minimal impact on vessel operating expenses and general and administrative expenses. Our management does not consider inflation to be a significant risk to expenses in the current and foreseeable economic environment.

#### **Recent Accounting Pronouncements**

In March 2020, the FASB issued ASU 2020-04, “Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting”, which provides guidance to alleviate the burden in accounting for reference rate reform by allowing certain expedients and exceptions in applying generally accepted accounting principles to contract modifications, hedging relationships, and other transactions impacted by reference rate reform. The provisions of ASU 2020-04 apply only to those transactions that reference LIBOR or another reference rate expected to be discontinued due to reference rate reform. Adoption of the provisions of ASU 2020-04 is optional and is effective from March 12, 2020 through December 31, 2022. We are currently evaluating the impact of ASU 2020-04 on our condensed consolidated financial statements.

## [Table of Contents](#)

In August 2018, FASB issued ASU 2018-13, “Fair Value Measurement (Topic 820): Disclosure Framework-Changes to the Disclosure Requirements for Fair Value Measurement”. This update modifies the disclosure requirements on fair value measurements. ASU 2018-13 is effective for fiscal years beginning after December 15, 2019, and earlier adoption is permitted. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In October 2018, FASB issued ASU 2018-17, Consolidation (Topic 810): “Targeted Improvements to Related Party Guidance for Variable Interest Entities” (“ASU 2018-17”). ASU 2018-17 provides that indirect interests held through related parties in common control arrangements should be considered on a proportional basis for determining whether fees paid to decision makers and service providers are variable interests. This is consistent with how indirect interests held through related parties under common control are considered for determining whether a reporting entity must consolidate a Variable Interest Entity (“VIE”). For Public business entities the amendments are effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, Intangibles-Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment. The ASU is effective for periods beginning after December 15, 2019, with an election to adopt early. The ASU requires only a one-step quantitative impairment test, whereby a goodwill impairment loss will be measured as the excess of a reporting unit’s carrying amount over its fair value. It eliminates Step 2 of the current two-step goodwill impairment test, under which a goodwill impairment loss is measured by comparing the implied fair value of a reporting unit’s goodwill with the carrying amount of that goodwill. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In June 2016, FASB issued ASU 2016-13, “Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments.” This standard requires entities to measure all expected credit losses of financial assets held at a reporting date based on historical experience, current conditions, and reasonable and supportable forecasts in order to record credit losses in a more timely matter. ASU 2016-13 also amends the accounting for credit losses on available-for-sale debt securities and purchased financial assets with credit deterioration. The standard is effective for interim and annual reporting periods beginning after December 15, 2019, although early adoption is permitted for interim and annual periods beginning after December 15, 2018. In November 2018, FASB issued ASU 2018-19 “Codification Improvements to topic 326, Financial Instruments-Credit Losses”. The amendments in this update clarify that operating lease receivables are not within the scope of ASC 326-20 and should instead be accounted for under the new leasing standard, ASC 842. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

### **Critical Accounting Policies**

Navios Acquisition’s interim consolidated financial statements have been prepared in accordance with U.S. GAAP. The preparation of these financial statements requires Navios Acquisition to make estimates in the application of our accounting policies based on the best assumptions, judgments and opinions of management. Actual results may differ from these estimates under different assumptions or conditions.

Critical accounting policies are those that reflect significant judgments or uncertainties, and potentially result in materially different results under different assumptions and conditions. Other than as described below, all significant accounting policies are as described in Note 2 to the consolidated financial statements included in the Company’s Annual Report on Form 20-F for the year ended December 31, 2019 filed with the SEC on March 6, 2020. It is the Company’s policy to dispose of vessels and other fixed assets when suitable opportunities occur and not necessarily to keep them until the end of their useful life. The Company classifies assets and disposal groups as being held for sale when the following criteria are met: management has committed to a plan to sell the asset (disposal group); the asset (disposal group) is available for immediate sale in its present condition; an active program to locate a buyer and other actions required to complete the plan to sell the asset (disposal group) have been initiated; the sale of the asset (disposal group) is probable, and transfer of the asset (disposal group) is expected to qualify for recognition as a completed sale within one year; the asset (disposal group) is being actively marketed for sale at a price that is reasonable in relation to its current fair value; and actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. Long-lived assets or disposal groups classified as held for sale are measured at the lower of their carrying amount or fair value less cost to sell. These assets are not depreciated once they meet the criteria to be held for sale.

[Table of Contents](#)

**Exhibit List**

<u>Exhibit No.</u>	<u>Exhibit</u>
4.1	<a href="#"><u>Amending and Restating Agreement, dated October 16, 2020, by and among Lefkada Shipping Corporation, as borrower, Hamburg Commercial Bank AG, as agent, mandated lead arranger and security trustee, and the banks and financial institutions listed therein.</u></a>

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Table of Contents

<u>UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEET AT SEPTEMBER 30, 2020 AND AUDITED CONDENSED CONSOLIDATED BALANCE SHEET AT DECEMBER 31, 2019</u>	F-2
<u>UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS FOR THE THREE AND NINE MONTH PERIODS ENDED SEPTEMBER 30, 2020 AND 2019</u>	F-3
<u>UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS FOR NINE MONTH PERIOD ENDED SEPTEMBER 30, 2020 AND 2019</u>	F-4
<u>UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY FOR THE THREE AND NINE MONTH PERIODS ENDED SEPTEMBER 30, 2020 AND 2019</u>	F-5
<u>NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)</u>	F-6

**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(Expressed in thousands of U.S. Dollars except share data)

	Notes	September 30, 2020 (unaudited)	December 31, 2019
<b>ASSETS</b>			
<b>Current assets</b>			
Cash and cash equivalents	3	\$ 59,538	\$ 43,561
Restricted cash	3	715	490
Accounts receivable, net		13,722	34,235
Due from related parties, short term	8,13	2,426	16,688
Prepaid expenses and other current assets	4	9,981	12,826
Inventories	4	5,419	6,208
Assets held for sale	7	82,577	—
<b>Total current assets</b>		<b>174,378</b>	<b>114,008</b>
Vessels, net	5	1,302,682	1,348,251
Goodwill		1,579	1,579
Other long-term assets	2,11	9,679	5,456
Deferred dry dock and special survey costs, net		46,857	37,133
Investment in affiliates	8	—	6,650
Due from related parties, long-term	8,13	14,658	42,878
<b>Total non-current assets</b>		<b>1,375,455</b>	<b>1,441,947</b>
<b>Total assets</b>		<b>\$ 1,549,833</b>	<b>\$ 1,555,955</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>			
<b>Current liabilities</b>			
Accounts payable		\$ 7,872	\$ 15,355
Accrued expenses	10	25,814	14,337
Due to related parties, short-term	13	—	32,150
Dividends payable	9	4,921	4,711
Deferred revenue		7,723	2,433
Current portion of long-term debt, net of deferred finance costs	11	86,227	172,953
Liabilities associated with assets held for sale	7	37,419	—
<b>Total current liabilities</b>		<b>169,976</b>	<b>241,939</b>
Long-term debt, net of current portion, premium and net of deferred finance costs	11	1,041,956	1,000,164
<b>Total non-current liabilities</b>		<b>1,041,956</b>	<b>1,000,164</b>
<b>Total liabilities</b>		<b>\$ 1,211,932</b>	<b>\$ 1,242,103</b>
<b>Commitments and contingencies</b>			
	14	—	—
<b>Stockholders' equity</b>			
Common stock, \$0.0001 par value; 250,000,000 shares authorized; 16,513,935 and 15,873,391 issued and outstanding as of September 30, 2020 and December 31, 2019, respectively	15	2	2
Additional paid-in capital	15	510,202	521,275
Accumulated deficit		(172,303)	(207,425)
<b>Total stockholders' equity</b>		<b>337,901</b>	<b>313,852</b>
<b>Total liabilities and stockholders' equity</b>		<b>\$ 1,549,833</b>	<b>\$ 1,555,955</b>

See unaudited condensed notes to consolidated financial statements.

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(Expressed in thousands of U.S. dollars- except share and per share data)

	Notes	For the Three Months Ended September 30, 2020 (unaudited)	For the Three Months Ended September 30, 2019 (unaudited)	For the Nine Months Ended September 30, 2020 (unaudited)	For the Nine Months Ended September 30, 2019 (unaudited)
Revenue	2,16	\$ 78,807	\$ 58,965	\$ 288,888	\$ 194,669
Time charter and voyage expenses		(2,559)	(5,377)	(12,091)	(14,340)
Direct vessel expenses		(3,766)	(2,439)	(10,371)	(7,117)
Vessel operating expenses (management fees entirely through related party transactions)	13	(33,969)	(26,837)	(93,642)	(81,224)
General and administrative expenses	13	(4,719)	(3,732)	(14,966)	(15,677)
Depreciation and amortization	5,6	(16,682)	(17,216)	(49,931)	(52,257)
Gain on sale of vessels/ Impairment loss	5,6	—	(39,976)	—	(36,731)
Gain on debt repurchase	11	7,010	—	7,010	—
Interest income	8,13	25	2,384	32	6,840
Interest expense and finance cost	11	(20,441)	(22,849)	(63,964)	(69,474)
Impairment of receivable in affiliated company / Equity in net earnings of affiliated companies	8	—	936	(13,900)	2,670
Other income		—	10	—	1,343
Other expense		(470)	(265)	(1,943)	(787)
<b>Net income/ (loss)</b>		<b>\$ 3,236</b>	<b>\$ (56,396)</b>	<b>\$ 35,122</b>	<b>\$ (72,085)</b>
Dividend declared on restricted shares		(46)	(65)	(139)	(196)
Undistributed loss attributable to Series C participating preferred shares		—	—	—	(13)
<b>Net income/ (loss) attributable to common stockholders, basic</b>	<b>17</b>	<b>\$ 3,190</b>	<b>\$ (56,461)</b>	<b>\$ 34,983</b>	<b>\$ (72,294)</b>
Undistributed loss attributable to Series C participating preferred shares		—	—	—	13
<b>Net income/ (loss) attributable to common stockholders, diluted</b>	<b>17</b>	<b>\$ 3,190</b>	<b>\$ (56,461)</b>	<b>\$ 34,983</b>	<b>\$ (72,281)</b>
Net income/ (loss) per share, basic	17	\$ 0.20	\$ (4.18)	\$ 2.20	\$ (5.38)
Weighted average number of shares, basic		16,104,011	13,510,361	15,903,447	13,446,836
Net income/ (loss) per share, diluted		0.20	(4.18)	2.18	(5.38)
Weighted average number of shares, diluted		16,257,957	13,510,361	16,058,579	13,446,836

See unaudited condensed notes to consolidated financial statements.

**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Expressed in thousands of U.S. dollars)

	<u>Notes</u>	<u>For the Nine Months Ended September 30, 2020 (unaudited)</u>	<u>For the Nine Months Ended September 30, 2019 (unaudited)</u>
<b>Operating Activities</b>			
Net income/ (loss)		\$ 35,122	\$ (72,085)
<b>Adjustments to reconcile net income/ (loss) to net cash provided by operating activities:</b>			
Gain on debt repurchase	11	(7,010)	—
Depreciation and amortization	5,6	49,931	52,257
Amortization and write-off of deferred finance fees and bond premium	11	4,404	3,346
Amortization of dry dock and special survey costs		9,769	7,065
Stock based compensation	15	370	694
Gain on sale of vessels/ Impairment loss		—	36,731
Impairment loss relating to the investment in Navios Europe II	8	13,900	—
Equity in net earnings of affiliated companies, net of dividends received		—	(2,670)
<b>Changes in operating assets and liabilities:</b>			
Decrease in prepaid expenses and other current assets		3,931	1,595
Decrease in inventories		582	—
Decrease in accounts receivable		20,243	11,863
Increase in due from related parties, short-term		(2,426)	(6,402)
Increase in other long term assets		(620)	—
Decrease in due from related parties, long-term		—	2,858
Decrease in accounts payable		(8,026)	(667)
Increase in accrued expenses		11,466	12,037
Payments for dry dock and special survey costs		(30,869)	(6,781)
Decrease in due to related parties, short-term		(20,072)	(17,057)
Increase/ (Decrease) in deferred revenue		5,290	(1,726)
<b>Net cash provided by operating activities</b>		<b>\$ 85,985</b>	<b>\$ 21,058</b>
<b>Investing Activities</b>			
Loans to affiliates	13	—	(2,000)
Container vessel owning companies acquisition/ vessels improvements	5,7	(46,408)	(13,108)
Net cash proceeds from sale of vessel	5	—	46,451
<b>Net cash (used in)/ provided by investing activities</b>		<b>\$ (46,408)</b>	<b>\$ 31,343</b>
<b>Financing Activities</b>			
Loan proceeds, net of deferred finance costs	11,8	132,840	156,588
Loan repayments	11	(144,771)	(144,120)
Dividend paid	9	(14,485)	(8,240)
Acquisition of treasury stock		—	(366)
Net proceeds from equity offering		3,041	—
<b>Net cash (used in)/ provided by financing activities</b>		<b>\$ (23,375)</b>	<b>\$ 3,862</b>
<b>Net increase in cash, cash equivalents and restricted cash</b>		<b>16,202</b>	<b>56,263</b>
<b>Cash, cash equivalents and restricted cash, beginning of period</b>		<b>44,051</b>	<b>46,609</b>
<b>Cash, cash equivalents and restricted cash, end of period</b>		<b>\$ 60,253</b>	<b>\$ 102,872</b>
<b>Supplemental disclosures of cash flow information</b>			
Cash interest paid		\$ 47,920	\$ 52,769
<b>Non-cash investing activities</b>			
Accrued interest on loan to affiliate		\$ —	\$ 2,670
Container vessel owning companies acquisition		\$ 37,658	\$ —
<b>Non-cash financing activities</b>			
Stock based compensation		\$ 370	\$ 694
Deferred finance costs		\$ 638	\$ 375
Other long term assets		\$ 3,602	\$ 5,456

See unaudited condensed notes to consolidated financial statements.

**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY**  
(Expressed in thousands of U.S. dollars, except share data)

	Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated deficit	Total Stockholders' Equity
	Number of Preferred Shares	Amount	Number of Common Shares	Amount			
<b>Balance, December 31, 2019</b>	—	—	15,873,391	\$ 2	\$521,275	\$ (207,425)	\$ 313,852
Stock based compensation (see Note 15)	—	—	—	—	123	—	123
Continuous Offering Program (see Note 15)	—	—	63,545	—	304	—	304
Dividend paid/ declared (see Note 9)	—	—	—	—	(4,755)	—	(4,755)
Net income	—	—	—	—	—	869	869
<b>Balance, March 31, 2020 (unaudited)</b>	—	—	15,936,936	\$ 2	\$516,947	\$ (206,556)	\$ 310,393
Stock based compensation (see Note 15)	—	—	—	—	123	—	123
Continuous Offering Program (see Note 15)	—	—	152,954	—	644	—	644
Dividend paid/ declared (see Note 9)	—	—	—	—	(4,809)	—	(4,809)
Net income	—	—	—	—	—	31,017	31,017
<b>Balance, June 30, 2020 (unaudited)</b>	—	—	16,089,890	\$ 2	\$512,905	\$ (175,539)	\$ 337,368
Stock based compensation (see Note 15)	—	—	—	—	124	—	124
Continuous Offering Program (see Note 15)	—	—	424,045	—	2,094	—	2,094
Dividend paid/ declared (see Note 9)	—	—	—	—	(4,921)	—	(4,921)
Net income	—	—	—	—	—	3,236	3,236
<b>Balance, September 30, 2020 (unaudited)</b>	—	—	16,513,935	\$ 2	\$510,202	\$ (172,303)	\$ 337,901

	Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated deficit	Total Stockholders' Equity
	Number of Preferred Shares	Amount	Number of Common Shares	Amount			
<b>Balance, December 31, 2018</b>	1,000	\$ —	13,280,927	\$ 1	\$522,335	\$ (141,984)	\$ 380,352
Conversion of preferred stock to common (see Note 15)	(1,000)	—	511,733	—	—	—	—
Stock based compensation (see Note 15)	—	—	—	—	229	—	229
Acquisition of treasury stock	—	—	(64,289)	—	(366)	—	(366)
Dividend paid/ declared (see Note 9)	—	—	—	—	(4,121)	—	(4,121)
Net income	—	—	—	—	—	861	861
<b>Balance, March 31, 2019 (unaudited)</b>	—	\$ —	13,728,371	\$ 1	\$518,077	\$ (141,123)	\$ 376,955
Stock based compensation (see Note 15)	—	—	—	—	231	—	231
Dividend paid/ declared (see Note 9)	—	—	—	—	(4,119)	—	(4,119)
Net loss	—	—	—	—	—	(16,550)	(16,550)
<b>Balance, June 30, 2019 (unaudited)</b>	—	\$ —	13,728,371	\$ 1	\$514,189	\$ (157,673)	\$ 356,517
Stock based compensation (see Note 15)	—	—	—	—	234	—	234
Dividend paid/ declared (see Note 9)	—	—	—	—	(4,119)	—	(4,119)
Net loss	—	—	—	—	—	(56,396)	(56,396)
<b>Balance, September 30, 2019 (unaudited)</b>	—	\$ —	13,728,371	\$ 1	\$510,304	\$ (214,069)	\$ 296,236

See unaudited condensed notes to consolidated financial statements.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**NOTE 1: DESCRIPTION OF ORGANIZATION AND BUSINESS OPERATIONS**

Navios Maritime Acquisition Corporation (“Navios Acquisition” or the “Company”) (NYSE: NNA) owns a large fleet of modern crude oil, refined petroleum product and chemical tankers providing world-wide marine transportation services. The Company’s strategy is to charter its vessels to international oil companies, refiners and large vessel operators under long, medium and short-term contracts. The Company is committed to providing quality transportation services and developing and maintaining long-term relationships with its customers. The operations of Navios Acquisition are managed by Navios Tankers Management Inc. (the “Manager”).

Navios Acquisition was incorporated in the Republic of the Marshall Islands on March 14, 2008. On July 1, 2008, Navios Acquisition completed its initial public offering (“IPO”). On May 28, 2010, Navios Acquisition consummated the vessel acquisition which constituted its initial business combination. Following such transaction, Navios Acquisition commenced its operations as an operating company.

On November 22, 2019, an agreement was reached to liquidate Navios Europe I. As a result of the liquidation, which was completed in December 2019 (“Liquidation of Navios Europe I”), Navios Acquisition acquired five vessel owning companies.

In October 2019, Navios Acquisition completed a registered direct offering of 1,875,000 shares of its common stock at \$8.00 per share, raising gross proceeds of \$15,000. Total net proceeds of the above transactions, net of agents’ costs of \$675 and offering costs of \$957, amounted to \$13,368.

On November 29, 2019, Navios Acquisition entered into a Continuous Offering Program Sales Agreement for the issuance and sale from time to time shares of Navios Acquisition’s common stock having an aggregate offering price of up to \$25,000. The sales were being made pursuant to a prospectus supplement as part of a shelf registration statement which was set to expire in December 2019. Navios Acquisition went effective on a new shelf registration statement which was declared effective on December 23, 2019. Accordingly, an updated Continuous Offering Program Sales Agreement (the “Sales Agreement”) was entered into on December 23, 2019. As before, the updated Sales Agreement contains, among other things, customary representations, warranties and covenants by Navios Acquisition and indemnification obligations of the parties thereto as well as certain termination rights for such parties. As of September 30, 2020, since the program commencement Navios Acquisition has issued 910,564 shares of common stock having received net proceeds of \$5,140.

On April 21, 2020, an agreement was reached to liquidate Navios Europe II. As a result of the liquidation, which was completed in June 2020 (“Liquidation of Navios Europe II”), Navios Acquisition acquired seven vessel owning companies. The vessels are containerships and meet the criteria to be accounted for as held for sale.

As of September 30, 2020, Navios Maritime Holdings Inc. (“Navios Holdings”) had 29.5% of the voting power and 29.7% of the economic interest in Navios Acquisition.

As of September 30, 2020, Navios Acquisition had: 16,513,935 shares of common stock outstanding.

**NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**(a) Basis of presentation:** The accompanying interim condensed consolidated financial statements are unaudited, but, in the opinion of management, reflect all adjustments for a fair statement of Navios Acquisition’s unaudited condensed consolidated balance sheets, statement of changes in equity, statements of operations and cash flows for the periods presented. The results of operations for the interim periods are not necessarily indicative of results for the full year. The footnotes are condensed as permitted by the requirements for interim financial statements and accordingly, do not include information and disclosures required under accounting principles generally accepted in the United States of America (“U.S. GAAP”) for complete financial statements. All such adjustments are deemed to be of a normal recurring nature. These interim financial statements should be read in conjunction with the Company’s consolidated financial statements and notes included in Navios Acquisition’s 2019 Annual Report filed on Form 20-F with the Securities and Exchange Commission (“SEC”).

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**(ab) Recent accounting pronouncements**

In March 2020, the FASB issued ASU 2020-04, “Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting”, which provides guidance to alleviate the burden in accounting for reference rate reform by allowing certain expedients and exceptions in applying generally accepted accounting principles to contract modifications, hedging relationships, and other transactions impacted by reference rate reform. The provisions of ASU 2020-04 apply only to those transactions that reference LIBOR or another reference rate expected to be discontinued due to reference rate reform. Adoption of the provisions of ASU 2020-04 is optional and is effective from March 12, 2020 through December 31, 2022. The company is currently evaluating the impact of ASU 2020-04 on its condensed consolidated financial statements.

In August 2018, FASB issued ASU 2018-13, “Fair Value Measurement (Topic 820): Disclosure Framework-Changes to the Disclosure Requirements for Fair Value Measurement”. This update modifies the disclosure requirements on fair value measurements. ASU 2018-13 is effective for fiscal years beginning after December 15, 2019, and earlier adoption is permitted. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In October 2018, FASB issued ASU 2018-17, Consolidation (Topic 810): “Targeted Improvements to Related Party Guidance for Variable Interest Entities” (“ASU 2018-17”). ASU 2018-17 provides that indirect interests held through related parties in common control arrangements should be considered on a proportional basis for determining whether fees paid to decision makers and service providers are variable interests. This is consistent with how indirect interests held through related parties under common control are considered for determining whether a reporting entity must consolidate a Variable Interest Entity (“VIE”). For Public business entities the amendments are effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, Intangibles-Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment. The ASU is effective for periods beginning after December 15, 2019, with an election to adopt early. The ASU requires only a one-step quantitative impairment test, whereby a goodwill impairment loss will be measured as the excess of a reporting unit’s carrying amount over its fair value. It eliminates Step 2 of the current two-step goodwill impairment test, under which a goodwill impairment loss is measured by comparing the implied fair value of a reporting unit’s goodwill with the carrying amount of that goodwill. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

In June 2016, FASB issued ASU 2016-13, “Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments.” This standard requires entities to measure all expected credit losses of financial assets held at a reporting date based on historical experience, current conditions, and reasonable and supportable forecasts in order to record credit losses in a more timely matter. ASU 2016-13 also amends the accounting for credit losses on available-for-sale debt securities and purchased financial assets with credit deterioration. The standard is effective for interim and annual reporting periods beginning after December 15, 2019, although early adoption is permitted for interim and annual periods beginning after December 15, 2018. In November 2018, FASB issued ASU 2018-19 “Codification Improvements to topic 326, Financial Instruments-Credit Losses”. The amendments in this update clarify that operating lease receivables are not within the scope of ASC 326-20 and should instead be accounted for under the new leasing standard, ASC 842. The adoption of this new accounting guidance did not have a material effect on the Company’s consolidated financial statements.

**(b) Principles of consolidation:** The accompanying consolidated financial statements include the accounts of Navios Acquisition, a Marshall Islands corporation, and its majority owned subsidiaries. All significant intercompany balances and transactions have been eliminated in the consolidated statements.

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

Based on internal forecasts and projections that take into account reasonably possible changes in Company’s trading performance, management believes that the Company has adequate financial resources to continue in operation and meet its financial commitments, including but not limited to capital expenditures and debt service obligations, for a period of at least twelve months from the date of issuance of these consolidated financial statements. Accordingly, the Company continues to adopt the going concern basis in preparing its financial statements.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**(c) Equity method investments:** Affiliates are entities over which the Company generally has between 20% and 50% of the voting rights, or over which the Company has significant influence, but it does not exercise control. Investments in these entities are accounted for under the equity method of accounting. Under this method, the Company records an investment in the stock of an affiliate at cost, and adjusts the carrying amount for its share of the earnings or losses of the affiliate subsequent to the date of investment and reports the recognized earnings or losses in income. Dividends received from an affiliate reduce the carrying amount of the investment. The Company recognizes gains and losses in earnings for the issuance of shares by its affiliates, provided that the issuance of such shares qualifies as a sale of such shares. When the Company's share of losses in an affiliate equals or exceeds its interest in the affiliate, the Company does not recognize further losses, unless the Company has incurred obligations or made payments on behalf of the affiliate.

Navios Acquisition evaluates its equity method investments, for other than temporary impairment, on a quarterly basis. Consideration is given to (1) the length of time and the extent to which the fair value has been less than the carrying value, (2) the financial condition and near-term prospects and (3) the intent and ability of the Company to retain its investments for a period of time sufficient to allow for any anticipated recovery in fair value.

**(d) Subsidiaries:** Subsidiaries are those entities in which the Company has an interest of more than one half of the voting rights and/or otherwise has power to govern the financial and operating policies. The acquisition method of accounting is used to account for the acquisition of subsidiaries if deemed to be a business combination. The cost of an acquisition is measured as the fair value of the assets given up, shares issued or liabilities undertaken at the date of acquisition. The excess of the cost of acquisition over the fair value of the net assets acquired and liabilities assumed is recorded as goodwill.

As of September 30, 2020, the entities included in these consolidated financial statements were:

Navios Maritime Acquisition Corporation and Subsidiaries:	Nature	Country of Incorporation	2020	2019
<b>Company Name</b>				
Aegean Sea Maritime Holdings Inc.	Sub-Holding Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Amorgos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Andros Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Antikithira Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Antiparos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Amindra Navigation Co.	Sub-Holding Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Crete Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Folegandros Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Ikaria Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Ios Shipping Corporation	Vessel-Owning Company(8)	Cayman Is.	1/1 – 9/30	1/1 – 9/30
Kithira Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Kos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Mytilene Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Navios Maritime Acquisition Corporation	Holding Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Navios Acquisition Finance (U.S.) Inc.	Co-Issuer	Delaware	1/1 – 9/30	1/1 – 9/30
Rhodes Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Serifos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Shinyo Loyalty Limited	Former Vessel-Owning Company(1)	Hong Kong	1/1 – 9/30	1/1 – 9/30
Shinyo Navigator Limited	Former Vessel-Owning Company(2)	Hong Kong	1/1 – 9/30	1/1 – 9/30
Sifnos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Skiathos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Skopelos Shipping Corporation	Vessel-Owning Company(8)	Cayman Is.	1/1 – 9/30	1/1 – 9/30

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

Syros Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Thera Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Tinos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Oinousses Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Psara Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Antipsara Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Samothrace Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Thasos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Limnos Shipping Corporation	Vessel-Owning Company(8)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Skyros Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Alonnisos Shipping Corporation	Former Vessel-Owning Company(4)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Makronisos Shipping Corporation	Former Vessel-Owning Company(4)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Iraklia Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Paxos Shipping Corporation	Former Vessel-Owning Company(5)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Antipaxos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Donoussa Shipping Corporation	Former Vessel-Owning Company(6)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Schinoussa Shipping Corporation	Former Vessel-Owning Company(7)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Navios Acquisition Europe Finance Inc	Sub-Holding Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Kerkyra Shipping Corporation	Vessel-Owning Company(3)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Lefkada Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Zakynthos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Leros Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Kimolos Shipping Corporation	Former Vessel-Owning Company(13)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Samos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Tilos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Delos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Agistri Shipping Corporation	Operating Subsidiary	Malta	1/1 – 9/30	1/1 – 9/30
Olivia Enterprises Corp.	Vessel-Owning Company(10)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Cyrus Investments Corp.	Vessel-Owning Company(10)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Doxa International Corp.	Vessel-Owning Company(10)	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Tzia Shipping Corp.	Vessel-Owning Company(10)	Marshall Is.	6/4 – 9/30	—
Navios Maritime Midstream Partners GP LLC	Holder Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Navios Maritime Midstream Operating LLC	Sub-Holding Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Navios Maritime Midstream Partners L.P.	Sub-Holding Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Navios Maritime Midstream Partners Finance (US) Inc.	Co-borrower	Delaware	1/1 – 9/30	1/1 – 9/30
Shinyo Kannika Limited	Former Vessel-Owning Company	Hong Kong	1/1 – 9/30	1/1 – 9/30
Shinyo Ocean Limited	Former Vessel-Owning Company(11)	Hong Kong	1/1 – 9/30	1/1 – 9/30
Shinyo Saowalak Limited	Vessel-Owning Company	British Virgin Is.	1/1 – 9/30	1/1 – 9/30
Shinyo Kieran Limited	Vessel-Owning Company	British Virgin Is.	1/1 – 9/30	1/1 – 9/30
Shinyo Dream Limited	Former Vessel-Owning Company(12)	Hong Kong	1/1 – 9/30	1/1 – 9/30
Sikinos Shipping Corporation	Vessel-Owning Company	Marshall Is.	1/1 – 9/30	1/1 – 9/30
Alkmene Shipping Corporation	Vessel-Owning Company(14)	Marshall Is.	1/1 – 9/30	—
Persephone Shipping Corporation	Vessel-Owning Company(14)	Marshall Is.	1/1 – 9/30	—
Rhea Shipping Corporation	Vessel-Owning Company(14)	Marshall Is.	1/1 – 9/30	—
Aphrodite Shipping Corporation	Vessel-Owning Company(14)	Marshall Is.	1/1 – 9/30	—
Dione Shipping Corporation	Vessel-Owning Company(14)	Marshall Is.	1/1 – 9/30	—

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

Bole Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—
Boysenberry Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—
Brandeis Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—
Buff Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—
Cadmium Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—
Celadon Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—
Cerulean Shipping Corporation	Vessel-Owning Company(15)	Marshall Is.	6/29 – 9/30	—

- (1) Former vessel-owner of the Shinyo Splendor which was sold to an unaffiliated third party on May 6, 2014.
- (2) Former vessel-owner of the Shinyo Navigator which was sold to an unaffiliated third party on December 6, 2013.
- (3) Navios Maritime Midstream Partners L.P. (“Navios Midstream”) acquired all of the outstanding shares of capital stock of the vessel-owning subsidiary on March 29, 2018.
- (4) Each company had the rights over a shipbuilding contract of an MR2 product tanker vessel. In February 2015, these shipbuilding contracts were terminated, with no exposure to Navios Acquisition, due to the shipyard’s inability to issue a refund guarantee.
- (5) Former vessel-owner of the Nave Lucida which was sold to an unaffiliated third party on January 27, 2016.
- (6) Former vessel-owner of the Nave Universe which was sold to an unaffiliated third party on October 4, 2016.
- (7) Former vessel-owner of the Nave Constellation which was sold to an unaffiliated third party on November 15, 2016.
- (8) Currently, vessel-operating company under a sale and leaseback transaction.
- (9) The vessel Shinyo Kannika was sold to an unaffiliated third party on March 22, 2018.
- (10) Bareboat chartered-in vessels with purchase option, expected to be delivered in each of the fourth quarter of 2020, the first and the third quarters of 2021 and the second quarter of 2022.
- (11) In March 2019, the Shinyo Ocean, a 2001-built VLCC vessel of 281,395 dwt was involved in a collision incident. The Company maintains insurance coverage for such types of events (subject to applicable deductibles and other customary limitations). In May 10, 2019, Navios Acquisition sold the Shinyo Ocean, a 2001-built VLCC vessel of 281,395 dwt to an unaffiliated third party for a sale price of \$12,525.
- (12) On March 25, 2019, Navios Acquisition sold the C. Dream, a 2000-built VLCC vessel of 298,570 dwt to an unaffiliated third party for a sale price of \$21,750.
- (13) On October 8, 2019, Navios Acquisition sold the Nave Electron, a 2002-built VLCC vessel of 305,178 dwt to an unaffiliated third party for a sale price of \$25,250.
- (14) In December 2019, Navios Acquisition acquired five product tankers, two LR1 product tankers and three MR1 product tankers following the Liquidation of Navios Europe I.
- (15) In June 2020, Navios Acquisition acquired seven vessel owning companies following the Liquidation of Navios Europe II.

**(g) Assets Held for Sale/ Liabilities associated with Assets Held for Sale:** It is the Company’s policy to dispose of vessels and other fixed assets when suitable opportunities occur and not necessarily to keep them until the end of their useful life. The Company classifies assets and groups of assets and liabilities that are intended to be sold (disposal groups) as being held for sale when the following criteria are met: management has committed to a plan to sell the asset or the disposal group; the asset or disposal group is available for immediate sale in its present condition; an active program to locate a buyer and other actions required to complete the plan to sell the asset or disposal group have been initiated; the sale of the asset or disposal group is probable, and transfer of the asset or disposal group is expected to qualify for recognition as a completed sale within one year; the asset or disposal group is being actively marketed for sale at a price that is reasonable in relation to its current fair value; and actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. Long-lived assets or disposal groups classified as held for sale are measured at the lower of their carrying amount or fair value less cost to sell. These assets are not depreciated once they meet the criteria to be held for sale.

**(f) Revenue and Expense Recognition:**

**Revenue Recognition:** On January 1, 2018, the Company adopted the provisions of ASC 606, *Revenue from Contracts with Customers* (ASC 606). The guidance provides a unified model to determine how revenue is recognized. In doing so, the Company makes judgments including identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price, and allocating the transaction price to each performance obligation. Revenues are recognized to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In determining the appropriate amount of revenue to be recognized as it fulfills its obligations under its agreements, the Company performs the following steps: (i) identification of the promised goods or services in the

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

contract; (ii) determination of whether the promised goods or services are performance obligations, including whether they are distinct in the context of the contract; (iii) measurement of the transaction price, including the constraint on variable consideration; (iv) allocation of the transaction price to the performance obligations based on estimated selling prices; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation.

In February 2016, the FASB issued ASU 2016-02, “Leases (Topic 842)” (“ASU 2016-02”). ASU 2016-02 will apply to both types of leases – capital (or finance) leases and operating leases. According to the new Accounting Standard, (a) lessees will be required to recognize assets and liabilities on the balance sheet for the rights and obligations created by all leases with terms of more than 12 months and (b) previous accounting standards for lessors will be updated to align certain requirements with the updates to lessee accounting standards and the revenue recognition accounting standards. ASU 2016 – 02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted. In July 2018, the FASB issued ASU 2018-10, Codification Improvements to Topic 842 Leases (“ASU 2018-10”). The amendments in ASU 2018-10 affect narrow aspects of the guidance issued in the amendments in ASU 2016-02. For entities that early adopted Topic 842, the amendments are effective upon issuance of this Update, and the transition requirements are the same as those in Topic 842. For entities that have not adopted Topic 842, the effective date and transition requirements will be the same as the effective date and transition requirements in Topic 842. In addition in July 2018, the FASB issued ASU 2018-11, Targeted Improvements to Topic 842 Leases (“ASU 2018-11”). The improvements in ASU 2018-11 provide for (a) an optional new transition method for adoption that results in initial recognition of a cumulative effect adjustment to retained earnings in the year of adoption and (b) a practical expedient for lessors, under certain circumstances, to combine the lease and non-lease components of revenues for presentation purposes.

The Company has elected to early adopt the requirements of ASU 2016-02 effective January 1, 2018, using the modified retrospective method which is consistent, with the approach the Company has elected under the new revenue standard, and elected to apply the additional optional transition method along with the following practical expedients: (i) a package of practical expedients which does not require the Company to reassess: (1) whether any expired or existing contracts are or contain leases; (2) lease classification for any expired or existing leases; and (3) whether initial direct costs for any expired or existing leases would qualify for capitalization under ASC 842; (ii) to account for non-lease components (primarily crew and maintenance services) of time charters as a single lease component as the timing and pattern of transfer of the non-lease components and associated lease component are the same, the lease components, if accounted for separately, would be classified as an operating lease, and such non-lease components are not predominant components of the combined component. The Company has determined to recognize lease revenue as a combined single lease component for all time charters (operating leases) as the related lease component and non-lease component will have the same timing and pattern of the revenue recognition of the combined single lease component. The performance obligations in a time charter contract are satisfied over term of the contract beginning when the vessel is delivered to the charterer until it is redelivered back to the Company. As a result of adoption, there was no cumulative impact to the Company’s retained earnings at January 1, 2018.

The Company’s contract revenues from time chartering and pooling arrangements are governed by ASU 2016-02 “Leases”, which the Company early adopted on January 1, 2018. Upon adoption of ASC 606 and ASC 842, the timing and recognition of earnings from the pool arrangements and time charter contracts to which the Company is party did not change from previous practice. The Company has determined to recognize lease revenue as a combined single lease component for all time charters (operating leases) as the related lease component and non-lease component will have the same timing and pattern of the revenue recognition of the combined single lease component. The performance obligations in a time charter contract are satisfied over term of the contract beginning when the vessel is delivered to the charterer until it is redelivered back to the Company. As a result of the adoption of these standards, there was no effect on the Company’s opening retained earnings, consolidated balance sheets and consolidated statements of income.

In December 2018, FASB issued ASU 2018-20, Leases (Topic 842), “Narrow-Scope Improvements for Lessors”: to clarify guidance for lessors on sales taxes and other similar taxes collected from lessees, certain lessor costs and recognition of variable payments for contracts with lease and non-lease components. The Company has early adopted the standard effective January 1, 2018 and is using that date as the date of initial application. The adoption of this guidance had no impact on the Company’s disclosures to the consolidated financial statements.

*Revenue from time chartering*

Revenues from time chartering of vessels are accounted for as operating leases and are thus recognized on a straight-line basis as the average revenue over the rental periods of such charter agreements, as service is performed. A time charter involves placing a vessel at the charterers’ disposal for a period of time during which the charterer uses the vessel in return for the payment of a specified daily hire rate. Under time charters, operating costs such as for crew, maintenance and insurance are typically paid by the owner of the vessel. Revenues from time chartering of vessels amounted to \$69,418 and \$38,785 for the three month periods ended September 30, 2020 and 2019, respectively. For the nine month periods ended September 30, 2020 and 2019, revenues from time chartering of vessels amounted to \$198,583 and \$129,505, respectively. The majority of revenue from time chartering is usually collected in advance.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

#### *Pooling arrangements*

For vessels operating in pooling arrangements, the Company earns a portion of total revenues generated by the pool, net of expenses incurred by the pool. The amount allocated to each pool participant vessel, including the Company's vessels, is determined in accordance with an agreed-upon formula, which are determined by the margins awarded to each vessel in the pool based on the vessel's age, design and other performance characteristics. Revenue under pooling arrangements is accounted for as variable rate operating leases on the accrual basis and is recognized in the period in which the variability is resolved. The Company recognizes net pool revenue on a monthly and quarterly basis, when the vessel has participated in a pool during the period and the amount of pool revenue can be estimated reliably based on the pool report. The allocation of such net revenue may be subject to future adjustments by the pool however, such changes are not expected to be material. Revenue for vessels operating in pooling arrangements amounted to \$7,891 and \$13,898 for the three month periods ended September 30, 2020 and 2019, respectively. For the nine month periods ended September 30, 2020 and 2019, revenue operating in pooling arrangements amounted to \$47,249 and \$46,494, respectively. The majority of revenue from pooling arrangements is usually collected through the month they are incurred.

#### *Revenue from voyage contracts*

The Company's revenues earned under voyage contracts (revenues for the transportation of cargo) were previously recognized ratably over the estimated relative transit time of each voyage. A voyage was deemed to commence when a vessel was available for loading and was deemed to end upon the completion of the discharge of the current cargo. Under a voyage charter, a vessel is provided for the transportation of specific goods between specific ports in return for payment of an agreed upon freight per ton of cargo. Upon adoption of ASC 606, the Company recognizes revenue ratably from port of loading to when the charterer's cargo is discharged as well as defer costs that meet the definition of "costs to fulfill a contract" and relate directly to the contract. Revenues earned under voyage contracts amounted to \$0 and \$6,479 for the three month periods ended September 30, 2020 and 2019, respectively. For the nine month periods ended September 30, 2020 and 2019, revenues under voyage contracts amounted to \$9,030 and \$16,157, respectively. Capitalized costs as of September 30, 2020 and December 31, 2019 related to costs to fulfill the contract amounted to \$0 and \$103, respectively, and are included under caption "Prepaid expenses and other current assets". Accounts receivable, net, as of September 30, 2020 that related to voyage contracts was \$8,592 (December 31, 2019: \$12,219). The majority of revenue from voyage contracts is usually collected after the discharging takes place.

#### *Revenue from profit sharing*

Profit-sharing revenues are calculated at an agreed percentage of the excess of the charterer's average daily income (calculated on a quarterly or half-yearly basis) over an agreed amount and accounted for on an accrual basis based on provisional amounts and for those contracts that provisional accruals cannot be made due to the nature of the profit share elements, these are accounted for on the actual cash settlement. Profit sharing for the three month periods ended September 30, 2020 and 2019 amounted to \$2,180 and \$(197), respectively. For the nine month periods ended September 30, 2020 and 2019, profit sharing revenues amounted to \$34,024 and \$2,513, respectively.

Revenues are recorded net of address commissions. Address commissions represent a discount provided directly to the charterers based on a fixed percentage of the agreed upon charter or freight rate. Since address commissions represent a discount (sales incentive) on services rendered by the Company and no identifiable benefit is received in exchange for the consideration provided to the charterer, these commissions are presented as a reduction of revenue.

#### *Options to extend or terminate a lease*

The Company's vessels have the following options to extent or renew their charters:

<b>Vessel</b>	<b>Option</b>
Nave Sextans	Charterer's option to extend the charter for one year at \$18,750 net per day.
Nave Pulsar	Charterer's option to extend the charter for six months at \$15,553 net per day plus ice-transit premium.
Nave Rigel	Charterer has the option to charter the vessel for an optional year at a rate of \$17,063 net per day.
Nave Equinox	Charterer has the option to charter the vessel for an optional year at a rate of \$16,294 net per day.
Nave Alderamin	Charterer has the option to charter the vessel for an optional year at a rate of \$14,438 net per day.
Nave Orion	Charterer has the option to charter the vessel for an optional year at a rate of \$14,438 net per day.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

Nave Estella	Charterer has the option to charter the vessel for an optional year at a rate of \$14,630 net per day.
Nave Titan	Charterer's option to extend the charter for up to four months at \$14,072 net per day.
Nave Atria	Charterer's option to extend the charter for up to six months at \$14,072 net per day.
Nave Aquila	Charterer's option to extend the charter for up to four months at \$12,838 net per day.
Nave Velocity	Charterer's option to extend the charter for six months at \$13,331 net per day
Nave Jupiter	Charterer's option to extend the charter for up to four months at \$15,306 net per day.
Nave Dorado	Charterer's option to extend the charter for up to ten months: a) up to three months at \$7,653 net per day; b) up to four months at \$9,875 net per day; and c) up to three months at \$11,850 net per day.
Vita N	Charterer has the option to charter the vessel for four to six months at a rate of \$8,663 net per day.
Nave Luminosity	Charterer has the option to charter the vessel for an optional year at a rate of \$18,022 net per day.
Baghdad	Charterer's option to extend the bareboat charter for five years at \$29,751 net per day.
TBN 2	Charterer's option to extend the bareboat charter for five years at \$29,751 net per day.

**NOTE 3: CASH AND CASH EQUIVALENTS AND RESTRICTED CASH**

Cash and cash equivalents consisted of the following:

	<u>September 30, 2020</u>	<u>December 31, 2019</u>
Cash on hand and at banks	\$ 49,508	\$ 43,561
Short-term deposits	10,030	—
Restricted cash	715	490
<b>Total cash, cash equivalents and restricted cash</b>	<b>\$ 60,253</b>	<b>\$ 44,051</b>

Cash deposits and cash equivalents in excess of amounts covered by government-provided insurance are exposed to loss in the event of non-performance by financial institutions. The Company does maintain cash deposits and equivalents in excess of government-provided insurance limits. The Company also minimizes exposure to credit risk by dealing with a diversified group of major financial institutions.

Restricted cash includes amounts held in retention accounts in order to service debt and interest payments, as required by certain of Navios Acquisition's credit facilities.

**NOTE 4: INVENTORIES, PREPAID EXPENSES AND OTHER CURRENT ASSETS**

Inventories, prepaid expenses and other current assets consisted of the following:

	<u>September 30, 2020</u>	<u>December 31, 2019</u>
Inventories	\$ 5,419	\$ 6,208
Advances for working capital purposes	5,350	7,250
Insurance claims	3,695	4,785
Voyage charters deferred contract costs and other	936	791
<b>Total inventories, prepaid expenses and other current assets</b>	<b>\$ 15,400</b>	<b>\$ 19,034</b>

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**NOTE 5: VESSELS, NET**

Vessels	Cost	Accumulated Depreciation	Net Book Value
<b>Balance at December 31, 2018</b>	<b>\$1,687,274</b>	<b>\$ (303,669)</b>	<b>\$1,383,605</b>
Additions/ (Depreciation)	102,637	(63,935)	38,702
Disposals	(77,922)	11,153	(66,769)
Impairment loss	(7,287)	—	(7,287)
<b>Balance at December 31, 2019</b>	<b>\$1,704,702</b>	<b>\$ (356,451)</b>	<b>\$1,348,251</b>
Additions/ (Depreciation)	4,362	(49,931)	(45,569)
<b>Balance at September 30, 2020</b>	<b>\$1,709,064</b>	<b>\$ (406,382)</b>	<b>\$1,302,682</b>

**Additions of vessels****2020**

As of September 30, 2020, certain extraordinary fees and costs related to vessels' regulatory requirements, including ballast water treatment system installation and exhaust gas cleaning system installation, amounted to \$4,362 (see Note 13 — Transactions with related parties).

**2019**

As of December 31, 2019, certain extraordinary fees and costs related to vessels' regulatory requirements, including ballast water treatment system installation and exhaust gas cleaning system installation, amounted to \$18,207 (see Note 13 — Transactions with related parties).

During the quarter ended December 31, 2019, Navios Acquisition acquired five product tankers, two LR1 product tankers and three MR1 product tankers for an acquisition cost of approximately \$84,430 in total, following the Liquidation of Navios Europe I, through bank financing of \$32,500 and \$33,210 receivables (Please refer to Note 8 – Investments in Affiliates).

For each of the vessels purchased from Navios Europe I, the acquisition of all vessels was effected through the acquisition of all of the capital stock of the respective vessel-owning companies, which held the ownership and other contractual rights and obligations related to each of the acquired vessels, including the respective charter-out contracts. Management accounted for each acquisition as an asset acquisition under ASC 805. At the transaction date, the purchase price approximated the fair value of the assets acquired, which was determined based on a combination of methodologies including discounted cash flow analyses and independent valuation analyses.

**Disposals of vessels****2019**

On March 25, 2019, Navios Acquisition sold the C. Dream, a 2000-built VLCC vessel of 298,570 dwt to an unaffiliated third party for a sale price of \$21,750. The gain on sale of the vessel amounted to \$651, which is included in "Gain on sale of vessels".

On May 10, 2019, following a collision incident, Navios Acquisition sold the Shinyo Ocean, a 2001-built VLCC vessel of 281,395 dwt to an unaffiliated third party for a sale price of \$12,525.

On October 8, 2019, Navios Acquisition sold the Nave Electron, a 2002-built VLCC vessel of 305,178 dwt to an unaffiliated third party for a sale price of \$25,250.

**Impairment loss****2019**

During the year ended December 31, 2019 and as a result of the impairment review performed, it was determined that the carrying amount of one tanker was not recoverable and, therefore, an impairment loss of \$7,287 was recognized.

**NOTE 6: INTANGIBLE ASSETS OTHER THAN GOODWILL**

On December 13, 2018, Navios Acquisition acquired, as part of the Merger, at fair value, the intangible assets of Navios Midstream, consisting of favorable lease terms.

Intangible assets as of September 30, 2020 and December 31, 2019 were \$0.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
 (Expressed in thousands of U.S. Dollars except share and per share data)

On September 25, 2019, the U.S. Department of Treasury’s Office of Foreign Assets Control added, amongst others, COSCO Shipping Tanker (Dalian) Co., Ltd. (“COSCO Dalian”) to the Specially Designated Nationals and Blocked Persons list after being determined by the State Department to meet the criteria for the imposition of sanctions under Executive Order 13846. The Company had two VLCCs chartered to COSCO Dalian, the Nave Constellation (ex. Shinyo Saowalak) and the Nave Universe (ex. Shinyo Kieran), through June 18, 2025 and June 8, 2026, respectively, each at a net rate of \$48,153 per day, with profit sharing above \$54,388. Subsequent to September 30, 2019 both charter contracts have been terminated.

COSCO Dalian was removed from the Specially Designated Nationals and Blocked Persons list on January 31, 2020.

Amortization expense of favorable lease terms for the three and nine month periods ended September 30, 2020 and 2019 is presented in the following table:

	<u>Three Month Period Ended</u>		<u>Nine Month Period Ended</u>	
	<u>September 30,</u> <u>2020</u>	<u>September 30,</u> <u>2019</u>	<u>September 30,</u> <u>2020</u>	<u>September 30,</u> <u>2019</u>
Favorable lease terms charter-out	\$ —	\$ (1,319)	\$ —	\$ (3,957)
<b>Total</b>	<b>\$ —</b>	<b>\$ (1,319)</b>	<b>\$ —</b>	<b>\$ (3,957)</b>

**NOTE 7: ASSETS HELD FOR SALE / LIABILITIES ASSOCIATED WITH ASSETS HELD FOR SALE**

Following the Liquidation of Navios Europe II (Note 8) on June 29, 2020, Navios Acquisition acquired seven vessel owning companies. For each of the vessels purchased from Navios Europe II, the acquisition of all vessels was effected through the acquisition of all of the capital stock of the respective vessel-owning companies, which held the ownership and other contractual rights and obligations related to each of the acquired vessels, including the respective charter-out contracts. Management accounted for each acquisition as an asset acquisition under ASC 805. At the transaction date, the purchase price approximated the fair value of the assets acquired.

Upon acquisition of the vessel owning companies, the Company assessed that all the held for sale criteria were met for their assets, mainly consisting of the vessels owned and reviewed the carrying amount in connection with their fair market value less any costs to sell. The review indicated that such carrying amounts were not in excess of the fair value less any costs to sell and therefore, no loss was recorded for the six month period ended on June 30, 2020. On the transaction date the fair value of the vessels was determined based on a combination of methodologies including discounted cash flow analyses and independent valuation analyses. In addition, as of September 30, 2020 the container vessels have been re-measured to their fair value less cost to sell without having changes in their values leading to no impairment charge being recognized in the accompanying consolidated statement of income. On the re-measurement date the fair value of the vessels was determined based on independent valuation analyses.

Furthermore, liabilities associated with the assets held for sale are separately presented under “Liabilities associated with assets held for sale” in the accompanying condensed consolidated balance sheet. The major class of assets held for sale consist of the carrying value of the vessels amounting to \$79,124. The major class of liabilities associated with assets held for sale, consist of their respective debt with a carrying amount of \$36,700. Please refer to Note 11 “Borrowings”.

**NOTE 8: INVESTMENT IN AFFILIATES**

***Navios Europe I***

On October 9, 2013, Navios Holdings, Navios Acquisition and Navios Maritime Partners L.P. (“Navios Partners”) established Navios Europe I and had economic interests of 47.5%, 47.5% and 5.0%, respectively. On December 18, 2013, Navios Europe I acquired ten vessels for aggregate consideration consisting of (i) cash which was funded with the proceeds of senior loan facility (the “Senior Loan I”) and loans aggregating \$10,000 from Navios Holdings, Navios Acquisition and Navios Partners (collectively, the “Navios Term Loans I”) and (ii) the assumption of a junior participating loan facility (the “Junior Loan I”). In addition to the Navios Term Loans I, Navios Holdings, Navios Acquisition and Navios Partners agreed to make available to Navios Europe I revolving loans up to \$24,100 to fund working capital requirements (collectively, the “Navios Revolving Loans I”). In December 2018, the availability under the Revolving Loans I was increased by \$30,000. Effective November 2014 and through the Liquidation completed in December 2019, Navios Holdings, Navios Acquisition and Navios Partners had a voting interest of 50%, 50% and 0%, respectively.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

On an ongoing basis, Navios Europe I was required to distribute cash flows (after payment of operating expenses, amounts due pursuant to the terms of the Senior Loan I and repayments of the Navios Revolving Loans I) according to a defined waterfall calculation.

Following the Liquidation of Navios Europe I, Navios Acquisition acquired five vessel owning companies for an acquisition cost of approximately \$84,627 in total.

As of September 30, 2020 and December 31, 2019 and subsequent to the Liquidation of Navios Europe I, the Company had no exposure.

For the three month period ended September 30, 2019 income recognized in "Equity in net earnings of affiliated companies" was \$311. For the nine month period ended September 30, 2019 income recognized in "Equity in net earnings of affiliated companies" was \$895.

***Navios Europe II***

On February 18, 2015, Navios Holdings, Navios Acquisition and Navios Partners established Navios Europe II Inc. and had in such entity economic interests of 47.5%, 47.5% and 5.0%, respectively, and voting interests of 50.0%, 50.0% and 0%, respectively. From June 8, 2015 through December 31, 2015, Navios Europe II acquired fourteen vessels for: (i) cash consideration of \$145,550 (which was funded with the proceeds of \$131,550 of senior loan facilities (the "Senior Loans II") and loans aggregating \$14,000 from Navios Holdings, Navios Acquisition and Navios Partners (collectively, the "Navios Term Loans II"); and (ii) the assumption of a junior participating loan facility (the "Junior Loan II") with a face amount of \$182,150 and fair value of \$99,147. In addition to the Navios Term Loans II, Navios Holdings, Navios Acquisition and Navios Partners agreed to make available to Navios Europe II revolving loans up to \$57,500 to fund working capital requirements (collectively, the "Navios Revolving Loans II"). On April 21, 2020, Navios Europe II agreed with the lender to fully release the liabilities under the junior participating loan facility for \$5,000.

On an ongoing basis, Navios Europe II was required to distribute cash flows (after payment of operating expenses, amounts due pursuant to the terms of the Senior Loans and repayments of the Navios Revolving Loans II) according to a defined waterfall calculation.

As of September 30, 2020, and subsequent to the Liquidation of Navios Europe II, the Company had no exposure. As of December 31, 2019, the estimated maximum potential loss by Navios Acquisition in Navios Europe II was \$51,558, which represented the Company's carrying value of the investment of \$6,650, the Company's balance of the Navios Revolving Loans II including accrued interest on the Navios Term Loans II of \$28,220, which was included under "Due from related parties, long-term", and the accrued interest income on the Navios Revolving Loans II in the amount of \$16,688, which is included under "Due from related parties, short-term". Refer to Note 13 for the terms of the Navios Revolving Loans II.

The decline in the fair value of the investment was considered as other-than-temporary and, therefore, an aggregate loss of \$13,900 was recognized as of March 31, 2020 and included in the accompanying condensed consolidated statements of income for the nine month period ended September 30, 2020, as "Impairment of receivable in affiliated company/ Equity in net earnings of affiliated companies." The fair value of the Company's investment was determined based on the liquidation value of Navios Europe II, determined on the individual fair values assigned to the assets and liabilities of Navios Europe II.

For the three month periods ended September 30, 2020 and 2019, income recognized in "Equity in net earnings of affiliated companies" was \$0 and \$625, respectively. For the nine month periods ended September 30, 2020 and 2019, income/loss recognized in "Impairment of receivable in affiliated company / Equity in net earnings of affiliated companies" was \$13,900 and \$1,775, respectively.

**NOTE 9: DIVIDENDS PAYABLE**

On January 22, 2020, the Board of Directors declared a quarterly cash dividend in respect of the fourth quarter of 2019 of \$0.30 per share of common stock which was paid on April 7, 2020 to stockholders of record as of March 5, 2020.

On April 29, 2020, the Board of Directors declared a quarterly cash dividend in respect of the first quarter of 2020 of \$0.30 per share of common stock which was paid on July 9, 2020 to stockholders of record as of June 3, 2020.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

On July 28, 2020, the Board of Directors declared a quarterly cash dividend in respect of the second quarter of 2020 of \$0.30 per share of common stock which was paid on October 8, 2020 to stockholders of record as of September 4, 2020.

The declaration and payment of any further dividends remain subject to the discretion of the Board of Directors and will depend on, among other things, Navios Acquisition's cash requirements as measured by market opportunities and restrictions under its credit agreements and other debt obligations.

**NOTE 10: ACCRUED EXPENSES**

Accrued expenses as of September 30, 2020 and December 31, 2019 consisted of the following:

	September 30, 2020	December 31, 2019
Accrued voyage expenses	\$ 2,934	\$ 2,643
Accrued loan interest	22,108	10,468
Accrued legal and professional fees	772	1,226
<b>Total accrued expenses</b>	<b>\$ 25,814</b>	<b>\$ 14,337</b>

**NOTE 11: BORROWINGS**

	September 30, 2020	December 31, 2019
Eurobank Ergasias S.A. \$52,000	—	28,758
DVB Bank S.E. and Credit Agricole Corporate and Investment Bank	37,109	39,453
Ship Mortgage Notes \$670,000	639,000	658,000
Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB	17,582	39,173
BNP Paribas \$44,000	26,000	28,000
HSH \$24,000	16,563	18,280
HCOB \$31,800	29,262	31,800
Deutsche Bank AG Filiale Deutschlandgeschäft	—	32,500
Eurobank S.A. \$20,800	20,000	—
<b>Total credit facilities</b>	<b>785,516</b>	<b>875,964</b>
Sale and Leaseback Agreements—\$71,500	56,604	62,563
Sale and Leaseback Agreements—\$103,155	90,921	97,723
Sale and Leaseback Agreements—\$15,000	12,813	14,219
Sale and Leaseback Agreements—\$47,220	41,771	45,858
Sale and Leaseback Agreements—\$90,811	82,331	90,811
Sale and Leaseback Agreements—\$72,053	70,261	—
<b>Total borrowings</b>	<b>1,140,217</b>	<b>1,187,138</b>
Less: Deferred finance costs, net	(12,432)	(14,638)
Add: bond premium	398	617
Less: current portion of credit facilities, net of deferred finance costs	(47,459)	(141,214)
Less: current portion of Sale and Leaseback Agreements, net of deferred finance costs	(38,768)	(31,739)
<b>Total long-term borrowings, net of current portion, bond premium and deferred finance costs</b>	<b>\$ 1,041,956</b>	<b>\$ 1,000,164</b>

**Long-Term Debt Obligations and Credit Arrangements**

**Ship Mortgage Notes:**

*8 1/8% First Priority Ship Mortgages:* On November 13, 2013, the Company and its wholly owned subsidiary, Navios Acquisition Finance (US) Inc. ("Navios Acquisition Finance" and together with the Company, the "2021 Co-Issuers") issued \$610,000 in first priority ship mortgage notes (the "Existing Notes") due on November 15, 2021 at a fixed rate of 8.125%.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

On March 31, 2014, the Company completed a sale of \$60,000 of its first priority ship mortgage notes due in 2021 (the “Additional Notes,” and together with the Existing Notes, the “2021 Notes”). The terms of the Additional Notes are identical to the Existing Notes and were issued at 103.25% plus accrued interest from November 13, 2013.

The 2021 Notes are fully and unconditionally guaranteed on a joint and several basis by all of Navios Acquisition’s subsidiaries with the exception of Navios Acquisition Finance (a co-issuer of the 2021 Notes) and the exception of Navios Midstream subsidiaries.

The 2021 Co-Issuers currently have the option to redeem the 2021 Notes in whole or in part, at a fixed price of 106.094% of the principal amount, which price declined ratably until it reached par in 2019, plus accrued and unpaid interest, if any.

In addition, upon the occurrence of certain change of control events, the holders of the 2021 Notes will have the right to require the 2021 Co-Issuers to repurchase some or all of the 2021 Notes at 101% of their face amount, plus accrued and unpaid interest to the repurchase date.

The 2021 Notes contain covenants which, among other things, limit the incurrence of additional indebtedness, issuance of certain preferred stock, the payment of dividends, redemption or repurchase of capital stock or making restricted payments and investments, creation of certain liens, transfer or sale of assets, entering in transactions with affiliates, merging or consolidating or selling all or substantially all of the 2021 Co-Issuers’ properties and assets and creation or designation of restricted subsidiaries.

Following the acquisition of the Star N and the Hector N MR1 product tankers from Navios Europe I, the vessels were offered as collateral under its ship mortgage notes, in substitution of an amount of \$25,405 that was held as cash collateral from the sale proceeds of the Nave Electron.

In the fourth quarter of 2019, Navios Acquisition repurchased \$12,000 of its ship mortgage notes for a cash consideration of \$9,950 resulting in a gain on bond repurchase of \$1,940 net of deferred fees written-off.

In the third quarter of 2020, Navios Acquisition repurchased \$19,000 of its ship mortgage notes for a cash consideration of \$11,898 resulting in a gain on bond repurchase of \$7,010 net of deferred fees written-off.

The 2021 Co-Issuers were in compliance with the covenants as of September 30, 2020.

The Existing Notes and the Additional Notes are treated as a single class for all purposes under the indenture including, without limitation, waivers, amendments, redemptions and other offers to purchase and the Additional Notes rank evenly with the Existing Notes. The Additional Notes and the Existing Notes have different CUSIP numbers.

### **Guarantees**

The Company’s 2021 Notes are fully and unconditionally guaranteed on a joint and several basis by all of the Company’s subsidiaries with the exception of Navios Acquisition Finance (a co-issuer of the 2021 Notes) and the exception of Navios Midstream subsidiaries. The Company’s 2021 Notes are unregistered. The guarantees of the Company’s subsidiaries that own mortgaged vessels are senior secured guarantees and the guarantees of Company’s subsidiaries that do not own mortgaged vessels are senior unsecured guarantees. All subsidiaries, including Navios Acquisition Finance and Navios Midstream subsidiaries are 100% owned. Navios Acquisition does not have any independent assets or operations.

### **Credit Facilities**

As of September 30, 2020, the Company had secured credit facilities with various commercial banks with a total outstanding balance of \$146,516.

On December 6, 2010, Navios Acquisition entered into a loan agreement with Eurobank Ergasias S.A. of up to \$52,000 out of which \$46,200 has been drawn (divided into two tranches of \$23,100 each) to partially finance the acquisition costs of two LR1 product tanker vessels. Each tranche of the facility was repayable in 32 equal quarterly installments of \$306 each with a final balloon payment of \$13,308, to be repaid on the last repayment date. The maturity date of the loan was in the third and fourth quarter of 2020. The repayment of each tranche started three months after the delivery date of the respective vessel. It bore interest at a rate of LIBOR plus 300 bps. The loan also required compliance with certain financial covenants. The outstanding balance under the facility of \$27,534 was fully prepaid in June 2020. Following the prepayment, an amount of \$50 was written-off in the consolidated statement of operations.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

In November 2015, Navios Acquisition, entered into a term loan facility of up to \$125,000 (divided into five tranches) with Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB for the: (i) financing of the purchase price of the Nave Spherical; and (ii) the refinancing of the existing facility with Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB, dated July 18, 2014. Four of the five tranches of the facility are repayable in 20 quarterly installments of between approximately \$435 and \$1,896, each with a final balloon repayment to be made on the last repayment date. The fifth tranche is repayable in 16 quarterly installments of between approximately \$709 and \$803, each. The maturity date of the loan is in the fourth quarter of 2020. The credit facility bears interest at LIBOR plus 295 bps per annum. On March 23, 2018, Navios Acquisition prepaid \$26,770, being the respective tranche of the Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB facility that was drawn to finance the Nave Equinox and the Nave Pyxis, which substituted the Nave Galactic as collateral vessels under the 8 1/8% 2021 Notes. Following the prepayment, an amount of \$297 was written-off in the consolidated statement of operations. On June 18, 2020, Navios Acquisition prepaid \$16,272, being the respective tranche of the Deutsche Bank AG Filiale Deutschlandgeschäft and Skandinaviska Enskilda Banken AB facility that was drawn to finance the Nave Sextans. Following the prepayment, an amount of \$26 was written-off in the consolidated statement of operations. As of September 30, 2020, the outstanding balance under this facility was \$17,582. In October 2020, Navios Acquisition extended the maturity date of the loan to February 2021.

In October 2019, Navios Acquisition entered into a loan agreement with Hamburg Commercial Bank AG of up to \$31,800 in order to refinance one VLCC. The facility is repayable in 4 quarterly installments of \$846 each with a final balloon payment of \$28,416 repayable on the last repayment date. The facility matures in October 2020 and bears interest at LIBOR plus 280 bps per annum. As of September 30, 2020, \$29,262 was outstanding under this facility. In October 2020, Navios Acquisition extended the maturity date of the loan to October 2024. The remaining balance of the facility is repayable in 16 quarterly installments of \$846 each with a final balloon payment of \$14,880 repayable on the last repayment date.

In December 2019, Navios Acquisition entered into a loan agreement with Deutsche Bank AG Filiale Deutschlandgeschäft of up to \$32,500 in order to finance one MR1 and two LR1s acquired from Navios Europe I. The facility was repayable in one single repayment on the last repayment date. The facility matured in June 2020 and bore interest at LIBOR plus 400 bps per annum. In the second quarter of 2020, Navios Acquisition fully repaid the amount of \$32,500.

In June 2020, Navios Acquisition entered into a loan agreement with Eurobank S.A. of \$20,800 in order to refinance two LR1s. The facility is repayable in 16 quarterly installments of \$800 each with a final balloon payment of \$8,000 repayable on the last repayment date. The facility matures in June 2024 and bears interest at LIBOR plus 300 bps per annum. As of September 30, 2020, an amount of \$20,000 was outstanding under this facility.

In June 2020, Navios Acquisition entered into a loan agreement with Hamburg Commercial Bank AG of \$41,700 in order to acquire seven containerships. The facility is repayable in 4 quarterly installments with a final balloon payment of \$21,700 repayable on the last repayment date. The facility matures in May 2021 and bears interest at LIBOR plus 375 bps per annum and top up fee ranging from 225 bps to 425 bps per annum. As of September 30, 2020, an amount of \$36,700 was outstanding under this facility and is presented under “Liabilities associated with assets held for sale”. (Please refer to Note 7)

Amounts drawn under the facilities are secured by first preferred mortgages on Navios Acquisition’s vessels and other collateral and are guaranteed by each vessel-owning subsidiary. The credit facilities contain a number of restrictive covenants that prohibit or limit Navios Acquisition from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions; changing the flag, class, management or ownership of Navios Acquisition’s vessels; changing the commercial and technical management of Navios Acquisition’s vessels; selling Navios Acquisition’s vessels; and subordinating the obligations under each credit facility to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the Management Agreement. The credit facilities also require Navios Acquisition to comply with the ISM Code and ISPS Code and to maintain valid safety management certificates and documents of compliance at all times.

As of September 30, 2020, no amount was available to be drawn from the Company’s facilities.

#### **Sale and Leaseback Agreements**

As of September 30, 2020, the Company had sale and leaseback agreements with various unrelated third parties with a total outstanding balance of \$354,701.

As of September 30, 2020 and December 31, 2019, the deposits under the sale and leaseback agreements were \$9,058 and \$5,456, respectively, and are presented under “Other long term assets” in the condensed consolidated balance sheets.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

In June 2020, Navios Acquisition entered into sale and leaseback agreements with unrelated third parties for \$72,053 in order to refinance one MR1, one MR2 and two LR1s. Navios Acquisition has a purchase obligation to acquire the vessels at the end of the lease term and under ASC 842-40, the transaction was determined to be a failed sale. The agreements will be repaid through periods ranging from four to seven years in consecutive quarterly installments of \$1,791 each, with a repurchase obligation of up to \$26,963 in total. The sale and leaseback arrangements bear interest at LIBOR plus a margin ranging from 390 bps to 410 bps per annum, depending on vessel financed. As of September 30, 2020, the outstanding balance under the agreements was \$70,261.

The maturity table below reflects the principal payments of all notes, credit facilities and the Financing arrangements outstanding as of September 30, 2020 for the next five years and thereafter are based on the repayment schedule of the respective financing arrangements (as described above) and the outstanding amount due under the 2021 Notes.

	<u>September 30,</u> <u>2020</u>
<b>Long-Term Debt Obligations:</b>	
<b>12 month period ending</b>	
September 30, 2021	88,677
September 30, 2022	742,391
September 30, 2023	63,865
September 30, 2024	87,924
September 30, 2025	41,622
September 30, 2026 and thereafter	115,738
<b>Total</b>	<b>\$ 1,140,217</b>

The financing arrangements include, among other things, compliance with loan to value ratios and certain financial covenants: (i) minimum liquidity at the higher of \$40,000 or \$1,000 per vessel; (ii) minimum net worth ranging from \$50,000 to \$135,000; and (iii) total liabilities divided by total assets, adjusted for market values to be generally lower than 75% or 80% and for certain facilities, as amended for a specific period of time until December 31, 2019 to be ranging from a maximum of 80% to 85%. It is an event of default under the financing arrangements if such covenants are not complied with, including the loan to value ratios for which the Company may provide sufficient additional security or prepay part of the facility, to prevent such an event.

As of September 30, 2020, the Company was in compliance with its covenants.

#### **NOTE 12: FAIR VALUE OF FINANCIAL INSTRUMENTS**

##### **Fair Value of Financial Instruments**

**The following methods and assumptions were used to estimate the fair value of each class of financial instruments:**

**Cash and cash equivalents:** The carrying amounts reported in the consolidated balance sheets for interest bearing deposits approximate their fair value because of the short maturity of these investments.

**Restricted Cash:** The carrying amounts reported in the consolidated balance sheets for interest bearing deposits approximate their fair value because of the short maturity of these investments.

**Accounts receivable, net:** Carrying amounts are considered to approximate fair value due to the short-term nature of these accounts receivables and no significant changes in interest rates. All amounts that are assumed to be uncollectible are written-off and/or reserved.

**Accounts payable:** The carrying amount of accounts payable reported in the balance sheet approximates its fair value due to the short-term nature of these accounts payable and no significant changes in interest rates.

**Due from related parties, long-term:** The carrying amount of due from related parties, long-term reported in the balance sheet approximates its fair value.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**Other long-term debt, net of deferred finance costs:** As a result of the adoption of ASU 2015-03, the book value has been adjusted to reflect the net presentation of deferred financing costs. The outstanding balance of the floating rate loans continues to approximate its fair value, excluding the effect of any deferred finance costs.

**Ship Mortgage Notes and premiums:** The fair value of the 2021 Notes, which has a fixed rate, was determined based on quoted market prices, as indicated in the table below.

	September 30, 2020		December 31, 2019	
	Book Value	Fair Value	Book Value	Fair Value
Cash and cash equivalents	\$ 59,538	\$ 59,538	\$ 43,561	\$ 43,561
Restricted cash	\$ 715	\$ 715	\$ 490	\$ 490
Accounts receivable	\$ 13,722	\$ 13,722	\$ 34,235	\$ 34,235
Accounts payable	\$ 7,872	\$ 7,872	\$ 15,355	\$ 15,355
Ship mortgage notes and premium	\$ 636,390	\$ 439,261	\$ 653,614	\$ 527,005
Other long-term debt, net of deferred finance costs	\$ 491,793	\$ 501,217	\$ 519,503	\$ 529,138
Due from related parties, long-term	\$ 14,658	\$ 14,658	\$ 42,878	\$ 42,878

**Fair Value Measurements**

The estimated fair value of the financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, is as follows:

Level I: Inputs are unadjusted, quoted prices for identical assets or liabilities in active markets that we have the ability to access. Valuation of these items does not entail a significant amount of judgment.

Level II: Inputs other than quoted prices included in Level I that are observable for the asset or liability through corroboration with market data at the measurement date.

Level III: Inputs that are unobservable. The Company did not use any Level III inputs as of September 30, 2020 and December 31, 2019.

	Fair Value Measurements at September 30, 2020 Using			
	Total	Level I	Level II	Level III
Cash and cash equivalents	\$ 59,538	\$ 59,538	\$ —	\$ —
Restricted cash	\$ 715	\$ 715	\$ —	\$ —
Accounts receivable	\$ 13,722	\$ 13,722	\$ —	\$ —
Accounts payable	\$ 7,872	\$ 7,872	\$ —	\$ —
Ship mortgage notes and premium	\$ 439,261	\$ 439,261	\$ —	\$ —
Other long-term debt(1)	\$ 501,217	\$ —	\$ 501,217	\$ —
Due from related parties, long-term(2)	\$ 14,658	\$ —	\$ 14,658	\$ —

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

	Fair Value Measurements at December 31, 2019 Using			
	Total	Level I	Level II	Level III
Cash and cash equivalents	\$ 43,561	\$ 43,561	\$ —	\$ —
Restricted cash	\$ 490	\$ 490	\$ —	\$ —
Accounts receivable	\$ 34,235	\$ 34,235	\$ —	\$ —
Accounts payable	\$ 15,355	\$ 15,355	\$ —	\$ —
Ship mortgage notes and premium	\$ 527,005	\$ 527,005	\$ —	\$ —
Other long-term debt <sup>(1)</sup>	\$ 529,138	\$ —	\$ 529,138	\$ —
Due from related parties, long-term <sup>(2)</sup>	\$ 42,878	\$ —	\$ 42,878	\$ —

- (1) The fair value of the Company's other long-term debt is estimated based on currently available debt with similar contract terms, interest rate and remaining maturities as well as taking into account the Company's creditworthiness.
- (2) The fair value of the Company's long term amounts due from related parties is estimated based on currently available debt with similar contract terms, interest rate and remaining maturities as well as taking into account the counterparty's creditworthiness.

**NOTE 13: TRANSACTIONS WITH RELATED PARTIES**

**Vessel operating expenses (management fees):** Pursuant to the management agreement with the Manager (the "Management Agreement") dated May 28, 2010 and as amended in May 2012, May 2014, May 2016 and May 2018, the Manager provided commercial and technical management services to Navios Acquisition's vessels for a fixed daily fee of: (a) \$6.5 per MR2 product tanker and chemical tanker vessel; (b) \$7.15 per LR1 product tanker vessel; and (c) the current daily fee of \$9.5 per VLCC, through May 2020.

Following the Merger with Navios Midstream, completed on December 13, 2018, the Management Agreement also covers vessels acquired in the Merger.

In August 2019, Navios Acquisition extended the duration of its existing Management Agreement with the Manager until January 1, 2025, to be automatically renewed for another five years. In addition fixed vessel operating expenses are fixed for two years commencing from January 1, 2020 at: (a) \$6.8 per day per MR2 product tanker and chemical tanker vessel; (b) \$7.23 per day per LR1 product tanker vessel; and (c) \$9.7 per day per VLCC. The agreement also provides for a technical and commercial management fee of \$0.05 per day per vessel and an annual increase of 3% for the remaining period unless agreed otherwise and provides for payment of a termination fee, equal to the fees charged for the full calendar year preceding the termination date, by Navios Acquisition in the event the Management Agreement is terminated on or before December 31, 2024.

Following the Liquidation of Navios Europe I in December 2019, Navios Acquisition acquired three MR1 product tankers and two LR1 product tankers. As per the Management Agreement as amended in December 2019, vessel operating expenses are fixed for two years commencing from January 1, 2020 at: (a) \$6.8 per day per MR1 product tanker; and (b) \$7.23 per day per LR1 product tanker vessel. The agreement also provides for a technical and commercial management fee of \$0.05 per day per vessel and an annual increase of 3% after January 1, 2022 for the remaining period unless agreed otherwise.

Following the Liquidation of Navios Europe II, Navios Acquisition acquired seven containers on June 29, 2020. As per the amendment to the Management Agreement dated June 26, 2020, the vessel operating expenses are fixed at: (a) \$5.3 per day per Container vessel of 1,500 TEU up to 1,999 TEU; and (b) \$6.1 per day per Container vessel of 2,000 TEU up to 3,450 TEU.

Drydocking expenses are reimbursed at cost for all vessels.

For the nine month periods ended September 30, 2020 and 2019 certain extraordinary fees and costs related to regulatory requirements, including ballast water treatment system installation and exhaust gas cleaning system installation and under Company's Management Agreement amounted to \$4,406 and \$13,108, respectively, and are presented under "Container vessel owning companies acquisition / vessels improvements" in the condensed Consolidated Statements of Cash Flows. (Please refer to Note 5)

Total fixed vessel operating expenses for the three month periods ended September 30, 2020 and 2019 amounted to \$33,969 and \$26,837, respectively. Total fixed vessel operating expenses for the nine month periods ended September 30, 2020 and 2019 amounted to \$93,642 and \$81,224, respectively.

**General and administrative expenses:** On May 28, 2010, Navios Acquisition entered into an Administrative Services Agreement with the Manager, pursuant to which the Manager provides certain administrative management services to Navios Acquisition which include: bookkeeping, audit and accounting services, legal and insurance services, administrative and clerical services, banking and financial services, advisory services, client and investor relations and other services. The Manager is reimbursed for reasonable costs and expenses incurred in connection with the provision of these services. In May 2014, Navios Acquisition extended the duration of its existing Administrative Services Agreement with the Manager, until May 2020.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

Following the Merger with Navios Midstream, completed on December 13, 2018, the Administrative Services Agreement covered the vessels acquired.

In August 2019, Navios Acquisition extended the duration of its existing Administrative Services Agreement with the Manager until January 1, 2025, to be automatically renewed for another five years. The agreement also provides for payment of a termination fee, equal to the fees charged for the full calendar year preceding the termination date, by Navios Acquisition in the event the Administrative Services Agreement is terminated on or before December 31, 2024.

Following the Liquidation of Navios Europe I in December 2019, Navios Acquisition acquired three MR1 product tankers and two LR1 product tankers. The Administrative Services Agreement also covers the vessels acquired.

Following the Liquidation of Navios Europe II, Navios Acquisition acquired seven containers on June 29, 2020. The Administrative Services Agreement also covers the vessels acquired.

For each of the three month periods ended September 30, 2020 and 2019 the expense arising from administrative services rendered by the Manager amounted to \$3,519 and \$2,760, respectively. For each of the nine month periods ended September 30, 2020 and 2019 the expense arising from administrative services rendered by the Manager amounted to \$9,506 and \$8,386, respectively.

**Balance due from/ (to) related parties:** Balance due from related parties (both short and long-term) as of September 30, 2020, was \$17,084 (December 31, 2019: \$14,658) and balance due to related parties as of September 30, 2020 was \$0 (December 31, 2019: \$32,150). The balances mainly consisted of administrative expenses, costs related to regulatory requirements including ballast water treatment system, special survey and dry docking expenses, as well as operating expenses and working capital deposits, in accordance with the Management Agreement. The amount of \$1,845 related to seven containerships acquired after the liquidation of Navios Europe II is included under “Assets held for sale” in the condensed consolidated balance sheets.

**Navios Midstream Merger Agreement:** On December 13, 2018, Navios Acquisition completed the Merger contemplated by the Merger Agreement, dated as of October 7, 2018, by and among Navios Acquisition, its direct wholly-owned subsidiary Merger Sub, Navios Midstream and NAP General Partner. Pursuant to the Merger Agreement, Merger Sub merged with and into Navios Midstream, with Navios Midstream surviving as a wholly-owned subsidiary of Navios Acquisition.

#### **Omnibus Agreements**

**Acquisition Omnibus Agreement:** Navios Acquisition entered into an omnibus agreement (the “Acquisition Omnibus Agreement”) with Navios Holdings and Navios Partners in connection with the closing of Navios Acquisition’s initial vessel acquisition, pursuant to which, among other things, Navios Holdings and Navios Partners agreed not to acquire, charter-in or own liquid shipment vessels, except for container vessels and vessels that are primarily employed in operations in South America without the consent of an independent committee of Navios Acquisition. In addition, Navios Acquisition, under the Acquisition Omnibus Agreement, agreed to cause its subsidiaries not to acquire, own, operate or charter-in drybulk carriers under specific exceptions. Under the Acquisition Omnibus Agreement, Navios Acquisition and its subsidiaries grant to Navios Holdings and Navios Partners a right of first offer on any proposed sale, transfer or other disposition of any of its drybulk carriers and related charters owned or acquired by Navios Acquisition. Likewise, Navios Holdings and Navios Partners agreed to grant a similar right of first offer to Navios Acquisition for any liquid shipment vessels they might own. These rights of first offer will not apply to a: (a) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the existing terms of any charter or other agreement with a counterparty; or (b) merger with or into, or sale of substantially all of the assets to, an unaffiliated third party.

**Midstream Omnibus Agreement:** Navios Acquisition entered into an omnibus agreement (the “Midstream Omnibus Agreement”), with Navios Midstream, Navios Holdings and Navios Partners in connection with the Navios Midstream IPO, pursuant to which Navios Acquisition, Navios Midstream, Navios Holdings, Navios Partners and their controlled affiliates generally have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, liquefied petroleum gas (“LPG”) tankers or chemical tankers under time charters of five or more years without the consent of the Navios Midstream General Partner. The Midstream Omnibus Agreement contains significant exceptions that have allowed Navios Acquisition, Navios Holdings, Navios Partners or any of their controlled affiliates to compete with Navios Midstream under specified circumstances.

Under the Midstream Omnibus Agreement, Navios Midstream and its subsidiaries have granted to Navios Acquisition a right of first offer on any proposed sale, transfer or other disposition of any of its VLCCs or any crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers and related charters owned or acquired by Navios Midstream. Likewise, Navios Acquisition have agreed (and will cause its subsidiaries to agree) to grant a similar right of first offer to Navios Midstream for any of the VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under charter for five or more years it might own. These rights of first offer do not apply to a: (a) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the terms of any charter or other agreement with a charter party, or (b) merger with or into, or sale of substantially all of the assets to, an unaffiliated third-party.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**Navios Containers Omnibus Agreement:** In connection with the Navios Maritime Containers Inc. (“Navios Containers”) private placement and listing on the Norwegian over-the-counter market effective June 8, 2017, Navios Acquisition entered into an omnibus agreement with Navios Containers, Navios Midstream, Navios Holdings and Navios Partners, pursuant to which Navios Acquisition, Navios Holdings, Navios Partners and Navios Midstream have granted to Navios Containers a right of first refusal over any container vessels to be sold or acquired in the future. The omnibus agreement contains significant exceptions that will allow Navios Acquisition, Navios Holdings, Navios Partners and Navios Midstream to compete with Navios Containers under specified circumstances.

**Navios Midstream General Partner Option Agreement with Navios Holdings:** Navios Acquisition entered into an option agreement, dated November 18, 2014, with Navios Holdings under which Navios Acquisition grants Navios Holdings the option to acquire any or all of the outstanding membership interests in Navios Midstream General Partner and all of the incentive distribution rights in Navios Midstream representing the right to receive an increasing percentage of the quarterly distributions when certain conditions are met. The option shall expire on November 18, 2024. Any such exercise shall relate to not less than twenty-five percent of the option interest and the purchase price for the acquisition of all or part of the option interest shall be an amount equal to its fair market value.

**Balance due from Navios Europe II:** Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe II revolving loans up to \$43,500 to fund working capital requirements. In March 2017, the availability under the Navios Revolving Loans II was increased by \$14,000. See Note 8 for the Investment in Navios Europe II.

Following the Liquidation of Navios Europe II, the balance due from Navios Europe II as of September 30, 2020 was \$0. The balance due from Navios Europe II as of December 31, 2019 was \$44,908 which included the Navios Revolving Loans II of \$20,662, the non-current amount of \$7,558 related to the accrued interest income earned under the Navios Term Loans II under the caption “Due from related parties, long-term” and the accrued interest income earned under the Navios Revolving Loans II of \$16,688 under the caption “Due from related parties, short-term.”

#### **NOTE 14: COMMITMENTS AND CONTINGENCIES**

In September 2018, Navios Acquisition agreed to a 12-year bareboat charter-in agreement with de-escalating purchase options for two newbuild Japanese VLCCs each delivering in the fourth quarter of 2020 and the first quarter of 2021. In the first quarter of 2019, Navios Acquisition exercised its option for a third Japanese VLCC newbuilding under a 12 year bareboat chartered-in agreement with de-escalating purchase options. The vessel is expected to be delivered in the second quarter of 2021. In the second quarter of 2020, Navios Acquisition exercised its option for a fourth Japanese newbuild VLCC under a twelve year bareboat charter agreement with de-escalating purchase options and expected delivery in the second quarter of 2022.

The future minimum commitments as of September 30, 2020 of Navios Acquisition under its charter-in agreement for vessels delivery are as follows:

	<u>Amount</u>
<b>Lease Obligations (Time Charters) for vessels to be delivered:</b>	
<b>Year</b>	
September 30, 2021	\$ 15,297
September 30, 2022	29,266
September 30, 2023	33,434
September 30, 2024	33,526
September 30, 2025 and thereafter	289,960
<b>Total</b>	<b>\$401,483</b>

The Company is involved in various disputes and arbitration proceedings arising in the ordinary course of business. Provisions have been recognized in the financial statements for all such proceedings where the Company believes that a liability may be probable, and for which the amounts are reasonably estimable, based upon facts known at the date of the financial statements were prepared. In the opinion of the management, the ultimate disposition of these matters individually and in aggregate will not materially affect the Company’s financial position, results of operations or liquidity.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

**NOTE 15: COMMON STOCK**

**Common Stock and Puttable Common Stock**

In February 2018, the Board of Directors of Navios Acquisition authorized a stock repurchase program for up to \$25.0 million of Navios Acquisition's common stock, for two years. Stock repurchases were made from time to time for cash in open market transactions at prevailing market prices or in privately negotiated transactions. The timing and amount of repurchases under the program were determined by management based upon market conditions and other factors. Repurchases were made pursuant to a program adopted under Rule 10b5-1 under the Securities Exchange Act of 1934, as amended. The program did not require any minimum repurchase or any specific number or amount of shares of common stock and was suspended or reinstated at any time in Navios Acquisition's discretion and without notice. Repurchases were subject to restrictions under Navios Acquisition's credit facilities and indenture. The program expired in February 2020. Upon the expiration, the Company had repurchased and cancelled 735,251 shares of common stock, at a total cost of approximately \$7,493.

**Equity Offering**

In October 2019, Navios Acquisition completed a registered direct offering of 1,875,000 shares of its common stock at \$8.00 per share, raising gross proceeds of \$15,000. Total net proceeds of the above transactions, net of agents' costs of \$675 and offering costs of \$957, amounted to \$13,368.

**Continuous Offering Program**

On November 29, 2019, as further updated on December 23, 2019 to provide for Navios Acquisition's replacement of its expiring universal shelf, Navios Acquisition entered into a Continuous Offering Program Sales Agreement, pursuant to which Navios Acquisition may issue and sell from time to time through the sales agent shares of common stock having an aggregate offering price of up to \$25,000. The sales were being made pursuant to a prospectus supplement as part of a shelf registration statement which was set to expire in December 2019. Navios Acquisition went effective on a new shelf registration statement which was declared effective on December 23, 2019. Accordingly, an updated Continuous Offering Program Sales Agreement (the "Sales Agreement") was entered into on December 23, 2019. As before, the Sales Agreement contains, among other things, customary representations, warranties and covenants by Navios Acquisition and indemnification obligations of the parties thereto as well as certain termination rights for such parties. As of September 30, 2020, since the commencement of the program, Navios Acquisition has issued 910,564 shares of common stock and received net proceeds of \$5,140.

As of September 30, 2020, the Company was authorized to issue 250,000,000 shares of \$0.0001 par value common stock of which 16,513,935 were issued and outstanding.

**Stock based compensation**

During the fiscal year 2019 and the nine month period ended September 30, 2020, the Company did not authorize and issue any restricted shares of common stock to its directors and officers.

**2018**

In December 2018, Navios Acquisition authorized and issued in the aggregate 129,269 restricted shares of common stock to its directors and officers. These awards of restricted common stock are based on service conditions only and vest over four years.

The holders of restricted stock are entitled to dividends paid on the same schedule as paid to the stockholders of the company. The fair value of restricted stock is determined by reference to the quoted stock price on the date of grant of \$5.36 per share (or total fair value of \$693).

Compensation expense is recognized based on a graded expense model over the vesting period.

The effect of compensation expense arising from the stock-based arrangement described above was \$47 and \$91 for the three months periods ended September 30, 2020 and 2019, respectively, and it is reflected in general and administrative expenses on the statement of operations. The recognized compensation expense for the year is presented as adjustment to reconcile net income to net cash provided by operating activities on the statements of cash flows. For the nine month period ended September 30, 2020 and 2019, the effect of compensation expense arising from the stock-based arrangement described above amounted to \$140 and \$270, respectively.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Expressed in thousands of U.S. Dollars except share and per share data)

There were no restricted stock or stock options exercised, forfeited or expired, that were issued in 2018, during the nine month period ended September 30, 2020.

As of September 30, 2020 and December 31, 2019, there remained 95,452 and 96,952 restricted shares outstanding, respectively, that were issued in 2018, that had not yet vested.

The estimated compensation cost relating to service conditions of non-vested restricted stock, not yet recognized was \$185 as of September 30, 2020 and is expected to be recognized over the weighted average time to vest of 2.2 years.

**2017**

In December 2017, Navios Acquisition authorized and issued in the aggregate 118,328 restricted shares of common stock to its directors and officers. These awards of restricted common stock are based on service conditions only and vest over four years.

The holders of restricted stock are entitled to dividends paid on the same schedule as paid to the stockholders of the Company. The fair value of restricted stock is determined by reference to the quoted stock price on the date of grant of \$17.7 per share (or total fair value of \$2,094).

Compensation expense is recognized based on a graded expense model over the vesting period.

The effect of compensation expense arising from the stock-based arrangement described above was \$77 and \$143 for the three month period ended September 30, 2020 and 2019, respectively, and it is reflected in general and administrative expenses on the statement of operations. The recognized compensation expense for the year is presented as adjustment to reconcile net income to net cash provided by operating activities on the statements of cash flows. For the nine month period ended September 30, 2020 and 2019, the effect of compensation expense arising from the stock-based arrangement described above amounted to \$229 and \$424, respectively.

There were no restricted stock or stock options exercised, forfeited or expired, that were issued in 2017, during the nine month period ended September 30, 2020.

As of September 30, 2020 and December 31, 2019, there remained 58,496 and 59,162 restricted shares outstanding, respectively, that were issued in 2017 that had not yet vested.

The estimated compensation cost relating to service conditions of non-vested restricted stock, not yet recognized was \$192 as of September 30, 2020 and is expected to be recognized over the weighted average time to vest of 1.2 years.

**NOTE 16: SEGMENT INFORMATION**

Navios Acquisition reports financial information and evaluates its operations by charter revenues. Navios Acquisition does not use discrete financial information to evaluate operating results for each type of charter. As a result, management reviews operating results solely by revenue per day and operating results of the fleet and thus Navios Acquisition has determined that it operates under one reportable segment.

The following table sets out operating revenue by geographic region for Navios Acquisition's reportable segment. Revenue is allocated on the basis of the geographic region in which the customer is located. Tanker vessels operate worldwide. Revenues from specific geographic regions which contribute over 10% of total revenue are disclosed separately.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
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**Revenue by Geographic Region**

Vessels operate on a worldwide basis and are not restricted to specific locations. Accordingly, it is not possible to allocate the assets of these operations to specific countries.

	Three Month Period ended September 30, 2020 (unaudited)	Three Month Period ended September 30, 2019 (unaudited)	Nine Month Period ended September 30, 2020 (unaudited)	Nine Month Period ended September 30, 2019 (unaudited)
Asia	\$ 53,142	\$ 45,150	\$ 214,407	\$ 146,934
Europe	16,586	5,715	50,144	14,863
United States	9,079	8,100	24,337	32,872
<b>Total</b>	<b>\$ 78,807</b>	<b>\$ 58,965</b>	<b>\$ 288,888</b>	<b>\$ 194,669</b>

**NOTE 17: EARNINGS/ (LOSS) PER COMMON SHARE**

Earnings/ (loss) per share is calculated by dividing net income attributable to common stockholders by the weighted average number of shares of common stock of Navios Acquisition outstanding during the period.

	For the Three Months Ended September 30, 2020	For the Three Months Ended September 30, 2019	For the Nine Months Ended September 30, 2020	For the Nine Months Ended September 30, 2019
<b>Numerator:</b>				
Net income/ (loss)	\$ 3,236	\$ (56,396)	\$ 35,122	\$ (72,085)
Less:				
Dividend declared on restricted shares	(46)	(65)	(139)	(196)
Undistributed loss attributable to Series C participating preferred shares	—	—	—	(13)
Net income/ (loss) attributable to common stockholders, basic	<u>\$ 3,190</u>	<u>\$ (56,461)</u>	<u>\$ 34,983</u>	<u>\$ (72,294)</u>
Plus:				
Undistributed income attributable to Series C participating preferred shares	—	—	—	13
Net income/ (loss) attributable to common stockholders, diluted	<u>\$ 3,190</u>	<u>\$ (56,461)</u>	<u>\$ 34,983</u>	<u>\$ (72,281)</u>
<b>Denominator:</b>				
Denominator for basic net income/ (loss) per share — weighted average shares	16,104,011	13,510,361	15,903,447	13,446,836
Series C participating preferred shares	—	—	—	—
Denominator for diluted net income/ (loss) per share — adjusted weighted average shares	<u>16,257,957</u>	<u>13,510,361</u>	<u>16,058,579</u>	<u>13,446,836</u>
Net income/ (loss) per share, basic	<u>\$ 0.20</u>	<u>\$ (4.18)</u>	<u>\$ 2.20</u>	<u>\$ (5.38)</u>
Net income/ (loss) per share, diluted	<u>\$ 0.20</u>	<u>\$ (4.18)</u>	<u>\$ 2.18</u>	<u>\$ (5.38)</u>

**NOTE 18: INCOME TAXES**

Marshall Islands, Cayman Islands, British Virgin Islands, and Hong Kong, do not impose a tax on international shipping income. Under the laws of these countries, the countries of incorporation of the Company and its subsidiaries and /or vessels' registration, the companies are subject to registration and tonnage taxes which have been included in the daily management fee.

In accordance with the currently applicable Greek law, foreign flagged vessels that are managed by Greek or foreign ship management companies having established an office in Greece are subject to duties towards the Greek state which are calculated on the basis of the relevant vessels' tonnage. The payment of said duties exhausts the tax liability of the foreign ship owning company and the relevant manager against any tax, duty, charge or contribution payable on income from the exploitation of the foreign flagged vessel. In case that tonnage tax and/or similar taxes/duties are paid to the vessel's flag state, these are deducted from the amount of the duty to be paid in Greece.

**NAVIOS MARITIME ACQUISITION CORPORATION**  
**UNAUDITED CONDENSED NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
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The amount included in Navios Acquisition's statements of operations related to the Greek Tonnage tax for the nine months ended September 30, 2020, and 2019 was \$601 and \$639, respectively, and for the three months ended September 30, 2020 and 2019, it was \$224 and \$240, respectively.

Pursuant to Section 883 of the Internal Revenue Code of the United States (the "Code"), U.S. source income from the international operation of ships is generally exempt from U.S. income tax if the company operating the ships meets certain incorporation and ownership requirements. Among other things, in order to qualify for this exemption, the company operating the ships must be incorporated in a country, which grants an equivalent exemption from income taxes to U.S. corporations. All the Navios Acquisition's ship-operating subsidiaries satisfy these initial criteria. In addition, these companies must meet an ownership test. Subject to proposed regulations becoming finalized in their current form, the management of Navios Acquisition believes by virtue of a special rule applicable to situations where the ship operating companies are beneficially owned by a publicly traded company like Navios Acquisition, the second criterion can also be satisfied based on the trading volume and ownership of the Company's shares, but no assurance can be given that this will remain so in the future.

**NOTE 19: SUBSEQUENT EVENTS**

The Board of Directors declared a quarterly cash dividend in respect of the third quarter of 2020 of \$0.05 per share of common stock which will be paid on February 10, 2021 to stockholders of record as of January 12, 2021. The declaration and payment of any further dividends remain subject to the discretion of the Board of Directors and will depend on, among other things, Navios Acquisition's cash requirements as measured by market opportunities and restrictions under its credit agreements and other debt obligations and such other factors as the Board of Directors may deem advisable.

Subsequent to September 30, 2020, Navios Acquisition repurchased \$36,400 of its ship mortgage notes for a cash consideration of \$27,518.

On November 29, 2019, Navios Acquisition entered into a Continuous Offering Program Sales Agreement, pursuant to which Navios Acquisition may issue and sell from time to time through the sales agent shares of common stock having an aggregate offering price of up to \$25,000. Subsequent to September 30, 2020, Navios Acquisition has issued 45,546 shares of common stock and received net proceeds of \$193.

On October 28, 2020, the Baghdad, a newbuilding VLCC of 313,433 dwt under bareboat lease, was delivered from a Japanese shipyard.

**SIGNATURES**

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

NAVIOS MARITIME ACQUISITION CORPORATION.

By: /s/ Angeliki Frangou  
Angeliki Frangou  
Chief Executive Officer  
Date: December 4, 2020

Dated 16 October 2020

**LEFKADA SHIPPING CORPORATION**

as Borrower

**THE BANKS AND FINANCIAL INSTITUTIONS**

**listed in Schedule 1**

as Lenders

and

**HAMBURG COMMERCIAL BANK AG**

as Agent, Mandated Lead Arranger and Security Trustee

**AMENDING AND RESTATING AGREEMENT**

relating to  
the financing of  
m.v. "NAVE BUENA SUERTE"

WATSON FARLEY  
&  
WILLIAMS

## Index

Clause	Page
1 Definitions and Interpretation	1
2 Agreement of the Creditor Parties	3
3 Conditions Precedent	3
4 Representations	3
5 Amendment and Restatement of Loan Agreement and other Finance Documents	4
6 Further Assurance	4
7 Term-Out Fee	6
8 Costs and Expenses	6
9 Notices	6
10 Counterparts	6
11 Governing Law	6
12 Enforcement	6
 <b>Schedules</b>	
Schedule 1 The Lenders	8
Schedule 2 Effective Date Certificate	9
Schedule 3 Conditions Precedent	10
 <b>Execution</b>	
Execution Pages	12
 <b>Appendices</b>	
Appendix Part A Form of Amended and Restated Loan Agreement marked to indicate amendments to the Loan Agreement	
Appendix Part B Form of clean copy Amended and Restated Loan Agreement	

THIS AGREEMENT is made on 16 October 2020

## PARTIES

- (1) **LEFKADA SHIPPING CORPORATION**, a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, The Marshall Islands MH 96960 as borrower (the “**Borrower**”)
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1 (*The Lenders*) as lenders (the “**Lenders**”)
- (3) **HAMBURG COMMERCIAL BANK AG** as agent (the “**Agent**”), as mandated lead arranger (the “**Mandated Lead Arranger**”) and as security trustee (the “**Security Trustee**”)

## BACKGROUND

- (A) By the Loan Agreement, the Lenders made available to the Borrower a facility of (originally) up to \$31,800,000 of which \$29,262,000 is outstanding at the date of this Agreement.
- (B) This Agreement sets out the terms and conditions on which the Lenders and the other Creditor Parties agree, with effect on and from the Effective Date, at the request of the Borrower, to the amendments set out in clause 2.1 below, including, without limitation, the extension of the maturity of an amount of up to the lesser of (A) US\$28,416,000 and (B) 65 per cent. of the Market Value of the Ship, and to the consequential amendment of the Loan Agreement and the other Finance Documents in connection with those matters.

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Agreement:

“**Amended and Restated Loan Agreement**” means the Loan Agreement as amended and restated by this Agreement in the form set out in the Appendix.

“**Charter**” means in respect of the Ship the time charter party dated 17 October 2019 (as amended and supplemented by Addendum No. 1 dated 17 January 2020 and Addendum No. 2 dated 20 January 2020 and as may be further amended and supplemented from time to time) and made between the Borrower as owner and CHINA SHIPPING DEVELOPMENT (HONG KONG) WYTEX LIMITED as charterer.

“**Charter Assignment**” means, in relation to the Charter, a Charterparty Assignment under the Loan Agreement in the Agreed Form.

“**Corporate Guarantee**” means a guarantee of the obligations of the Borrower under the Loan Agreement and the other Finance Documents to which the Borrower is a party, in the Agreed Form.

“**Corporate Guarantor**” means Navios Maritime Acquisition Corporation, a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960.

“**Effective Date**” means the date on which the conditions precedent in Clause 3 (*Conditions Precedent*) are satisfied as confirmed by the Effective Date Certificate.

“**Effective Date Certificate**” means a certificate executed by the Agent in the form set out in Schedule 2.

“**Loan Agreement**” means the loan agreement dated 8 October 2019 and made between (i) the Borrower, (ii) the Lenders, (iii) the Agent, (iv) the Mandated Lead Arranger and (v) the Security Trustee.

“**Obligor**” means the Borrower, the Corporate Guarantor, the Shareholder or any of the other Security Parties and, in the plural, means all of them.

“**Second Deed of Covenant**” means the second priority deed of covenant collateral to the Second Mortgage.

“**Second Mortgage**” means the second preferred, or as the case may be, priority ship mortgage on the Ship in the Agreed Form.

“**Shareholder**” means Aegean Sea Maritime Holdings Inc., a corporation incorporated and existing under the laws of the Republic of the Marshall Islands, whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands MH96960.

“**Shares Security Deed**” means, in respect of all the issued shares in the Borrower, a pledge of such shares executed or to be executed by the Shareholder in favour of the Security Trustee in the Agreed Form.

## **1.2 Defined expressions**

Defined expressions in the Loan Agreement and the other Finance Documents shall have the same meanings when used in this Agreement unless the context otherwise requires or unless otherwise defined in this Agreement.

## **1.3 Application of construction and interpretation provisions of Loan Agreement**

Clauses 1.2 (*construction of certain terms*) to 1.6 (*Headings*) of the Loan Agreement applies to this Agreement as if it were expressly incorporated in it with any necessary modifications.

## **1.4 Designation as a Finance Document**

The Borrower and the Agent designate this Agreement as a Finance Document.

## **1.5 Third party rights**

Unless provided to the contrary in a Finance Document, a person who is not a party to this Agreement has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Agreement.

## **2 AGREEMENT OF THE CREDITOR PARTIES**

### **2.1 Agreement of the Lenders**

The Lenders agree, subject to and upon the terms and conditions of this Agreement, to *inter alia*, amend the repayment schedule set out in clause 8.1 of the Loan Agreement.

### **2.2 Agreement of the Creditor Parties**

The Creditor Parties agree, subject to and upon the terms and conditions of this Agreement, to the consequential amendment of the Loan Agreement and the other Finance Documents in connection with the matters referred to in Clause 2.1 (*Agreement of the Lenders*).

### **2.3 Effective Date**

The agreement of the Lenders and the other Creditor Parties contained in Clause 2.1 (*Agreement of the Lenders*) and Clause 2.2 (*Agreement of the Creditor Parties*) shall have effect on and from the Effective Date.

## **3 CONDITIONS PRECEDENT**

The agreement of the Lenders and the other Creditor Parties contained in Clause 2.1 (*Agreement of the Lenders*) and Clause 2.2 (*Agreement of the Creditor Parties*) is subject to:

- (a) no Event of Default continuing on the date of this Agreement and the Effective Date or resulting from the occurrence of the Effective Date;
- (b) the representations and warranties to be made by each Obligor in accordance with the relevant Finance Document to which it is a party being true on the date of this Agreement and the Effective Date;
- (c) no event described in paragraphs (a) to (b) of clause 8.8 (*mandatory prepayment*) of the Loan Agreement having occurred on the date of this Agreement or the Effective Date; and
- (d) the Agent having received all of the documents and other evidence listed in Schedule 3 (*Conditions Precedent*) in form and substance reasonably satisfactory to the Facility Agent on or before 19 October 2020 or such later date as the Agent may agree with the Borrower.

## **4 REPRESENTATIONS**

### **4.1 Loan Agreement representations**

The Borrower makes the representations and warranties set out in clause 10 (*representations and warranties*) of the Loan Agreement, as amended and restated by this Agreement and updated with appropriate modifications to refer to this Agreement by reference to the circumstances then existing on the date of this Agreement and on the Effective Date.

### **4.2 Finance Document representations**

Each Obligor makes the representations and warranties set out in the Finance Documents (other than the Loan Agreement) to which it is a party, as amended and restated by this Agreement and updated with appropriate modifications to refer to this Agreement by reference to the circumstances then existing on the date of this Agreement and on the Effective Date.

## **5 AMENDMENT AND RESTATEMENT OF LOAN AGREEMENT AND OTHER FINANCE DOCUMENTS**

### **5.1 Specific amendments to the Loan Agreement**

With effect on and from the Effective Date the Loan Agreement shall be, and shall be deemed by this Agreement to be, amended and restated in the form of the Amended and Restated Loan Agreement and, as so amended and restated, the Loan Agreement shall continue to be binding on each of the parties to it in accordance with its terms as so amended and restated.

### **5.2 Amendments to Finance Documents**

With effect on and from the Effective Date each of the Finance Documents other than the Loan Agreement shall be, and shall be deemed by this Agreement to be, amended as follows:

- (a) the definition of, and references throughout each of the Finance Documents to, the Loan Agreement and any of the other Finance Documents shall be construed as if the same referred to the Loan Agreement and those Finance Documents as amended and restated by this Agreement; and
- (b) by construing references throughout each of the Finance Documents to “this Agreement”, “this Deed” and other like expressions as if the same referred to such Finance Documents as amended and supplemented by this Agreement.

### **5.3 Finance Documents to remain in full force and effect**

The Finance Documents shall remain in full force and effect:

- (a) in the case of the Loan Agreement as amended and restated pursuant to Clause 5.1 (*Specific amendments to the Loan Agreement*); and
- (b) in the case of the Finance Documents other than the Loan Agreement as amended and supplemented by the amendments to such Finance Documents contained or referred to in Clause 5.2 (*Amendments to Finance Documents*),  
subject to such further or consequential modifications as may be necessary to give full effect to the terms of this Agreement.

## **6 FURTHER ASSURANCE**

### **6.1 Further assurance**

- (a) The Borrower shall and shall procure that each Obligor shall promptly, and in any event within the time period specified by the Agent do all such acts (including procuring or arranging any registration, notarisation or authentication or the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, notices, instructions, acknowledgements, proxies and powers of attorney), as the Agent may specify (and in such form as the Agent may require in favour of the Agent or its nominee(s)) to implement the terms and provisions of this Agreement.

- (b) The Borrower shall and shall procure that each Obligor shall promptly, and in any event within the time period specified by the Security Trustee do all such acts (including procuring or arranging any registration, notarisation or authentication or the giving of any notice) or execute or procure execution of all such documents (including assignments, transfers, mortgages, charges, notices, instructions, acknowledgments, proxies and powers of attorney), as the Security Trustee may specify (and in such form as the Security Trustee may require in favour of the Security Trustee or its nominee(s)):
- (i) to create, perfect, vest in favour of the Security Trustee or protect the priority of the Security Interest or any right or any kind created or intended to be created under or evidenced by the Finance Documents as amended and restated and/or supplemented by this Agreement (which may include the execution of a mortgage, charge, assignment or other Security Interest over all or any of the assets which are, or are intended to be, the subject of the Security Interest created by a Finance Document) or for the exercise of any rights, powers and remedies of the Security Trustee, any Receiver or the Creditor Parties provided by or pursuant to the Finance Documents as amended and restated and/or supplemented by this Agreement or by law;
  - (ii) to facilitate or expedite the realisation and/or sale of, the transfer of title to or the grant of, any interest in or right relating to the assets which are, or are intended to be, the subject of the Security Interest created by a Finance Document or to exercise any power specified in any Finance Document as amended and restated and/or supplemented by this Agreement in respect of which the Security Interest has become enforceable; and/or
  - (iii) to enable or assist the Security Trustee to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any item of the Trust Property.
- (c) The Borrower shall and shall procure that each Obligor shall, take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interest conferred or intended to be conferred on the Security Trustee or the Creditor Parties by or pursuant to the Finance Documents as amended and restated and/or supplemented by this Agreement.

## **6.2 Additional corporate action**

At the same time as an Obligor delivers to the Agent or Security Trustee any document executed under this Clause 6 (*Further Assurance*), the Borrower shall and shall procure that each Obligor shall deliver to the Agent or Security Trustee as applicable a certificate signed by an officer of that Obligor which shall:

- (a) set out the text of a resolution of that Obligor's directors specifically authorising the execution of the document specified by the Agent or the Security Trustee as applicable; and
- (b) state that either the resolution was duly passed at a meeting of the directors validly convened and held, throughout which a quorum of directors entitled to vote on the resolution was present, or that the resolution has been signed by all the directors of officers and is valid under that Obligor's articles of incorporation or other constitutional documents.

**7 TERM-OUT FEE**

The Borrower shall pay to the Agent a non-refundable term-out fee in the amount of \$227,328 (representing 0.80 per cent. of the outstanding Loan on the Effective Date) which shall be due and payable to the Agent no later than 19 October 2020. The Borrower hereby authorises the Agent to debit the Earnings Account with number 1200064014 without further notice in order to settle the amount due and payable under this Clause 7.

**8 COSTS AND EXPENSES**

Clause 20.3 (*costs of variation, amendments, enforcement etc.*) of the Loan Agreement, as amended and restated by this Agreement, applies to this Agreement as if it were expressly incorporated in it with any necessary modifications.

**9 NOTICES**

Clause 28 (*notices*) of the Loan Agreement, as amended and restated by this Agreement, applies to this Agreement as if it were expressly incorporated in it with any necessary modifications.

**10 COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

**11 GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

**12 ENFORCEMENT**

**12.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”).
- (b) The Borrower accepts that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Borrower will not argue to the contrary.
- (c) This Clause 12.1 (*Jurisdiction*) is for the benefit of the Creditor Parties only. As a result, no Creditor Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Creditor Parties may take concurrent proceedings in any number of jurisdictions.

**12.2 Service of process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Borrower:
  - (i) irrevocably appoints Hill Dickinson LLP at their office for the time being, presently at The Broadgate Tower, 20 Primrose Street, London EC2A 2EW, England as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and

- 
- (ii) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.
  - (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower must immediately (and in any event within 7 days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

**BORROWER**

**SIGNED by Georgios Panagakis**  
duly authorised  
for and on behalf of  
**LEFKADA SHIPPING CORPORATION**  
in the presence of:

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)  
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)  
)



Witness' signature:  
Witness' name:  
Witness' address:

)  
)  
)



**AIKATERINA DIMITRIOU**  
**WATSON FARLEY & WILLIAMS**  
348 SYNGROU AVENUE  
176 74 KALLITHEA  
ATHENS - GREECE

**LENDERS**

**SIGNED by MARIA ELENi KOSYFA**  
duly authorised  
for and on behalf of  
**HAMBURG COMMERCIAL BANK AG**  
in the presence of:

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)



Witness' signature:  
Witness' name:  
Witness' address:

)  
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)



**AIKATERINA DIMITRIOU**  
**WATSON FARLEY & WILLIAMS**  
348 SYNGROU AVENUE  
176 74 KALLITHEA  
ATHENS - GREECE

**AGENT**

**SIGNED by MARIA ELENi KOSYFA**  
duly authorised  
for and on behalf of  
**HAMBURG COMMERCIAL BANK AG**  
in the presence of:

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)  
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Witness' signature:  
Witness' name:  
Witness' address:

)  
)  
)



**AIKATERINA DIMITRIOU**  
**WATSON FARLEY & WILLIAMS**  
348 SYNGROU AVENUE  
176 74 KALLITHEA  
ATHENS - GREECE

**MANDATED LEAD ARRANGER**  
**SIGNED by MARIA ELENI KOSSYFA**  
duly authorised  
for and on behalf of  
**HAMBURG COMMERCIAL BANK AG**  
in the presence of:

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Witness' signature:  
Witness' name:  
Witness' address:

)  
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)

  
**AIKATERINA DIMITRIOU**  
**WATSON FARLEY & WILLIAMS**  
348 SYNGROU AVENUE  
176 74 KALLITHEA  
ATHENS - GREECE

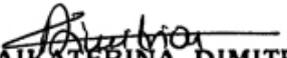
**SECURITY TRUSTEE**  
**SIGNED by MARIA ELENI KOSSYFA**  
duly authorised  
for and on behalf of  
**HAMBURG COMMERCIAL BANK AG**  
in the presence of:

)  
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)



Witness' signature:  
Witness' name:  
Witness' address:

)  
)  
)

  
**AIKATERINA DIMITRIOU**  
**WATSON FARLEY & WILLIAMS**  
348 SYNGROU AVENUE  
176 74 KALLITHEA  
ATHENS - GREECE

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**Appendix**

**Dated 8 October 2019**

**as amended and restated  
on 16 October 2020**

**LEFKADA SHIPPING CORPORATION**

as Borrower

and

**THE BANKS AND FINANCIAL INSTITUTIONS**

as Lenders

and

**HAMBURG COMMERCIAL BANK AG**

as Agent, Mandated Lead Arranger and Security Trustee

**LOAN AGREEMENT**

relating to

a senior secured post-delivery term loan facility of (originally) up to US\$31,800,000  
to provide finance secured on one 2011-built very large crude carrier

WATSON FARLEY  
&  
WILLIAMS

## Index

Clause	Page
1 Interpretation	3
2 Facility	22
3 Position of the Lenders	22
4 Drawdown	23
5 Interest	24
6 Interest Periods	26
7 Default Interest	27
8 Repayment and Prepayment	28
9 Conditions Precedent	30
10 Representations and Warranties	31
11 General Undertakings	35
12 Corporate Undertakings	40
13 Insurance	41
14 Ship Covenants	48
15 Security Cover	54
16 Payments and Calculations	56
17 Application of Receipts	58
18 Application of Earnings	59
19 Events of Default	61
20 Fees and Expenses	67
21 Indemnities	68
22 No Set-Off or Tax Deduction	71
23 Illegality, etc.	74
24 Increased Costs	74
25 Set-Off	76
26 Transfers and Changes in Lending Offices	77
27 Variations and Waivers	82
28 Notices	85
29 Supplemental	87
30 Law and Jurisdiction	88
<b>Schedules</b>	
Schedule 1 Lenders and Commitments	89
Schedule 2 Drawdown Notice	90
Schedule 3 Condition Precedent Documents	91
Part A	91
Part B	93
Schedule 4 Mandatory Cost Formula	95
Schedule 5 Transfer Certificate	97
Schedule 6 Power of Attorney	101
Schedule 7 Form of Compliance Certificate	102
Schedule 8 Additional Provisions	103
<b>Execution</b>	
Execution Pages	104

## PARTIES

- (1) **LEFKADA SHIPPING CORPORATION**, a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands MH96960, as **Borrower**;
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1, as **Lenders**;
- (3) **HAMBURG COMMERCIAL BANK AG** acting through its office at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany, as **Agent**;
- (4) **HAMBURG COMMERCIAL BANK AG** acting through its office at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany, as **Mandated Lead Arranger**; and
- (5) **HAMBURG COMMERCIAL BANK AG** acting through its office at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany, as **Security Trustee**.

## BACKGROUND

- (A) By a loan agreement dated 8 October 2019 (the “**Original Loan Agreement**”), the Lenders have agreed to make available to the Borrower a senior secured post-delivery term loan facility in one advance in an amount of (originally) up to the lesser of (A) US\$31,800,000 and (B) 60 per cent. of the Initial Market Value of the Ship (as defined below) to partly finance the Market Value of the Ship, in respect of which the principal amount outstanding under the term facility on the Effective Date is \$28,416,000.
- (B) By the Amending and Restating Agreement, the Lenders and the Borrower agreed to certain amendments to this Agreement and the other Finance Documents.
- (C) This Agreement sets out the terms and conditions of the Original Loan Agreement as amended and restated by the Amending and Restating Agreement.

## OPERATIVE PROVISIONS

### 1 INTERPRETATION

#### 1.1 Definitions

Subject to Clause 1.5, in this Agreement:

“**Account**” means each of the Earnings Account, the Minimum Liquidity Account and the Retention Account and, in the plural, means all of them.

“**Account Bank**” means Hamburg Commercial Bank AG, acting in such capacity through its office at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany, or any successor;

“**Account Pledge**” means, in relation to each Account, a pledge agreement creating security in respect of that Account in the Agreed Form and, in the plural, means all of them;

“**Additional Minimum Liquidity**” has the meaning given in Schedule 8;

“**Affected Lender**” has the meaning given in Clause 5.7;

“**Agency and Trust Agreement**” means the agency and trust agreement executed or to be executed between the Borrower and the Creditor Parties in the Agreed Form;

“**Agent**” means Hamburg Commercial Bank AG, acting in such capacity through its office at Gerhart-Hauptmann-Platz 50, D-20095 Hamburg, Germany, or any successor of it appointed under clause 5 of the Agency and Trust Agreement;

“**Agreed Form**” means in relation to any document, that document in the form approved in writing by the Agent (acting on the instructions of the Majority Lenders) or as otherwise approved in accordance with any other approval procedure specified in any relevant provisions of any Finance Document;

“**Amending and Restating Agreement**” means the amending and restating agreement dated 16 October 2020 and made between, amongst others, the Borrower, the Lenders, the Agent, the Mandated Lead Arranger and the Security Trustee;

“**Applicable Lender**” has the meaning given in Clause 5.2;

“**Approved Broker**” means each of Arrow Valuations Ltd, Barry Rogliano Salles, H. Clarkson & Co. Ltd., Fearnleys, Maersk Brokers K/S, SSY Valuations Services Ltd. and Howe Robinson & Co Ltd London and, in the plural, means all of them;

“**Approved Flag**” means the Hong Kong flag, the Liberian flag or such other flag as the Agent may approve (with the authorisation of the Majority Lenders) as the flag on which the Ship is or, as the case may be, shall be registered;

“**Approved Flag State**” means Hong Kong, Liberia or any other country in which the Agent may approve (with the authorisation of the Majority Lenders) that the Ship is or, as the case may be, shall be registered;

“**Approved Manager**” means Navios Tankers Management Inc., a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands MH96960 or any other company which is a subsidiary or affiliate of Navios Maritime Holdings Inc. or of Angeliki Frangou or any other company which the Agent (acting on the instructions of the Majority Lenders) may approve from time to time as the commercial and/or technical manager of the Ship;

“**Approved Manager’s Undertaking**” means, in relation to the Ship, a letter of undertaking including (*inter alia*) an assignment of the Approved Manager’s rights, title and interest in the Insurances of the Ship executed or to be executed by the Approved Manager in favour of the Security Trustee in the Agreed Form agreeing certain matters in relation to the Approved Manager serving as manager and subordinating its rights against the Ship and the Borrower to the rights of the Creditor Parties under the Finance Documents and, in the plural, means all of them;

“**Assignable Charter**” means any time charterparty, consecutive voyage charter or contract of affreightment in respect of the Ship having a duration (or capable of exceeding a duration) equal or more than 12 months and any guarantee of the obligations of the charterer under such charter or any bareboat charter in respect of the Ship and any guarantee of the obligations of the charterer under such bareboat charter, entered or to be entered into by the Borrower and a charterer or, as the context may require, bareboat charterer and, in the plural, means all of them;

**“Availability Period”** means the period commencing on the date of this Agreement and ending on:

- (a) 30 October 2019 (or such later date as the Agent may, with the authorisation of the Lenders, agree with the Borrower); or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated;

**“Balloon Instalment”** has the meaning given in Clause 8.1;

**“Basel III”** means, together:

- (a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (b) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement—Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (c) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”;

**“Borrower”** means Lefkada Shipping Corporation, a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands MH96960;

**“Break Costs”** has the meaning given in Clause 21.2;

**“Business Day”** means a day (other than a Saturday or Sunday) on which banks are open for general business:

- (a) in Hamburg, Piraeus, Athens and London regarding the fixing of any interest rate which is required to be determined under this Agreement or any Finance Document;
- (b) in Hamburg, Piraeus and New York in respect of any payment which is required to be made under a Finance Document; and
- (c) in Hamburg, Athens and Piraeus regarding any other action to be taken under this Agreement or any other Finance Document;

**“Cancellation Notice”** has the meaning given in Clause 8.6;

**“Change of Control”** means, in relation to:

- (a) the Borrower, a change in:
- (i) the beneficial ownership of any of the shares in the Borrower; or
  - (ii) the legal ownership of any of those shares; or
- (b) the Corporate Guarantor, a change which results in Mrs Angeliki Frangou either directly or indirectly (through entities owned and controlled by her or trusts or foundations of which she is the beneficiary) and/or Navios Maritime Holdings Inc. or any of its affiliates being the ultimate beneficial owner of, or having ultimate control of the voting rights attaching to, less than 20 per cent. of all the issued shares or units as the case may be in the Corporate Guarantor;

“**Charterparty Assignment**” means an assignment of the rights of the Borrower under any Assignable Charter and any guarantee of such Assignable Charter executed or to be executed by the Borrower in favour of the Security Trustee in the Agreed Form and, in the plural, means all of them;

“**Code**” means the US Internal Revenue Code of 1986;

“**Commitment**” means, in relation to a Lender, the amount set opposite its name in Schedule 1, or, as the case may require, the amount specified in the relevant Transfer Certificate, as that amount may be reduced, cancelled or terminated in accordance with this Agreement (and “**Total Commitments**” means the aggregate of the Commitments of all the Lenders);

“**Compliance Certificate**” means a certificate in the form set out in Schedule 7 and in Schedule 1 of the Corporate Guarantee (or in any other form which the Agent approves or requires) to be provided at the times and in the manner set out in Clause 11.20;

“**Contractual Currency**” has the meaning given in Clause 21.6;

“**Contribution**” means, in relation to a Lender, the part of the Loan which is owing to that Lender;

“**Corporate Guarantee**” means a guarantee of the obligations of the Borrower under this Agreement and the other Finance Documents to which each Borrower is a party, in the Agreed Form;

“**Corporate Guarantor**” means Navios Maritime Acquisition Corporation, a corporation incorporated in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960;

“**Correction Rate**” means, at any relevant time in relation to an Applicable Lender, the amount (expressed as a rate per annum) by which that Lender’s Cost of Funding exceeds LIBOR;

“**Cost of Funding**” means, in relation to a Lender, the rate per annum determined by that Lender to be the rate at which deposits in Dollars are offered to that Lender by leading banks in the Relevant Interbank Market at that Lender’s request at or about the Specified Time on the Quotation Date for an Interest Period and for a period equal to that Interest Period and for delivery on the first Business Day of it, or, if that Lender uses other ways to fund deposits in Dollars, such rate as determined by that Lender to be the Lender’s cost of funding deposits in Dollars for that Interest Period, such determination being conclusive and binding in the absence of manifest error;

“**Creditor Party**” means the Agent, the Security Trustee, the Mandated Lead Arranger or any Lender, whether as at the date of this Agreement or at any later time and, in the plural, means all of them;

“**Deed of Covenant**” means the deed of covenant collateral to the Mortgage;

“**Disruption Event**” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Loan (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other, Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted;

“**Dollars**” and “**\$**” means the lawful currency for the time being of the United States of America;

“**Drawdown Date**” means the date requested by the Borrower for the Loan to be borrowed, or (as the context requires) the date on which the Loan is actually borrowed;

“**Drawdown Notice**” means the notice in the form set out in Schedule 2 (or in any other form which the Agent approves or reasonably requires);

“**Earnings**” means all moneys whatsoever which are now, or later become, payable (actually or contingently) to the Borrower or the Security Trustee and which arise out of the use or operation of the Ship, including (but not limited to):

- (a) except to the extent that they fall within paragraph (b);
  - (i) all freight, hire and passage moneys;
  - (ii) compensation payable to the Borrower or the Security Trustee in the event of requisition of the Ship for hire;
  - (iii) remuneration for salvage and towage services;
  - (iv) demurrage and detention moneys;
  - (v) damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of the Ship; and

- (vi) all moneys which are at any time payable under any Insurances in respect of loss of hire; and
- (b) if and whenever the Ship is employed on terms whereby any moneys falling within paragraphs (a)(i) to (vi) are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Ship;

“**Earnings Account**” means an account in the name of the Borrower with the Account Bank designated “Lefkada Shipping Corporation - Earnings Account”, or any other account (with that or another office of the Account Bank) which replaces such account and is designated by the Agent as that Earnings Account for the purposes of this Agreement;

“**Effective Date**” means the date on which the Agent confirms in writing to the Borrower that the conditions precedent listed in clause 3 of the Amending and Restating Agreement have been satisfied.

“**Environmental Claim**” means:

- (a) any claim by any governmental, judicial or regulatory authority which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law; or
- (b) any claim by any other person which relates to an Environmental Incident or to an alleged Environmental Incident,

and “**claim**” means a claim for damages, compensation, fines, penalties or any other payment of any kind whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset;

“**Environmental Incident**” means:

- (a) any release of Environmentally Sensitive Material from the Ship; or
- (b) any incident in which Environmentally Sensitive Material is released from a vessel other than the Ship and which involves a collision between the Ship and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Ship is actually or potentially liable to be arrested, attached, detained or injuncted and/or the Ship and/or the Borrower and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or
- (c) any other incident in which Environmentally Sensitive Material is released otherwise than from the Ship and in connection with which the Ship is actually or potentially liable to be arrested and/or where the Borrower and/or any operator or manager of the Ship is at fault or allegedly at fault or otherwise liable to any legal or administrative action;

“**Environmental Law**” means any law, regulation, convention and agreement relating to pollution or protection of the environment, to the carriage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material;

**“Environmentally Sensitive Material”** means oil, oil products and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous;

**“Event of Default”** means any of the events or circumstances described in Clause 19.1;

**“FATCA”** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

**“FATCA Deduction”** means a deduction or withholding from a payment under a Finance Document required by FATCA;

**“FATCA Exempt Party”** means a Party that is entitled to receive payments free from any FATCA Deduction;

**“Final Repayment Date”** means 18 October 2024;

**“Finance Documents”** means together:

- (a) this Agreement;
- (b) the Agency and Trust Agreement;
- (c) the Account Pledges;
- (d) the Corporate Guarantee;
- (e) the Shares Security Deed;
- (f) the Mortgage;
- (g) the Second Mortgage;
- (h) the Deed of Covenant;
- (i) the Second Deed of Covenant;
- (j) the General Assignment;
- (k) any Charterparty Assignment;
- (l) the Approved Manager’s Undertaking; and

- (m) any other document (whether creating a Security Interest or not) which is executed at any time by the Borrower, the Corporate Guarantor, the Approved Manager or any other person as security for, or to establish any form of subordination or priorities arrangement in relation to, any amount payable to the Lenders under this Agreement or any of the other documents referred to in this definition and, in the singular, means any of them;

“**Financial Indebtedness**” means, in relation to a person (the “**debtor**”), any actual or contingent 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 financial lease, a deferred purchase consideration arrangement (in each case, other than in respect of assets or services obtained on normal commercial terms in the ordinary course of business) 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, exchange 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 receivables sold or discounted (other than any receivables to the extent that they are sold on a non-recourse basis); or
- (g) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within (a) to (f) if the references to the debtor referred to the other person;

“**Financial Year**” means, in relation to the Corporate Guarantor and the Group, each period of one year commencing on 1 January in respect of which consolidated accounts are or ought to be prepared;

“**General Assignment**” means a general assignment of (*inter alia*) the Earnings, the Insurances and any Requisition Compensation relative to the Ship in the Agreed Form;

“**Group**” means the Corporate Guarantor and all subsidiaries directly or indirectly owned by the Corporate Guarantor, including, but not limited to, the Shareholder and the Borrower and “**member of the Group**” shall be construed accordingly;

“**IACS**” means the International Association of Classification Societies;

“**Indenture**” means the indenture dated as of 13 November 2013, as amended and supplemented by six supplemental indentures dated as of 8 January 2014, 20 February 2014, 31 March 2014, 28 May 2014, 4 December 2014, 17 October 2015, 7 March 2019, 12 March 2019 and 20 March 2019, respectively each entered into by the Corporate Guarantor and Navios Acquisition Finance (US) Inc. in respect of the 8.125% First Priority Ship Mortgage Notes due 2021;

**“Indenture Guarantee”** means a guarantee executed, or as the case may be, to be executed by the Borrower as security for the obligations and liability of the Corporate Guarantor under the Indenture;

**“Initial Market Value”** means the Market Value thereof calculated in accordance with the valuation(s) relative thereto referred to in paragraph 4 of Schedule 3, Part B;

**“Instalment”** has the meaning given in Clause 8.1;

**“Insurances”** means:

- (a) all policies and contracts of insurance (including, without limitation, any loss of hire insurance) and any reinsurance, policies or contracts, including entries of the Ship in any protection and indemnity or war risks association, effected in respect of the Ship, its Earnings or otherwise in relation to it whether before, on or after the date of this Agreement; and
- (b) all rights (including, without limitation, any and all rights or claims which the Borrower may have under or in connection with any cut-through clause relative to any reinsurance contract relating to the aforesaid policies or contracts of insurance) and other assets relating to, or derived from, any of the foregoing, including any rights to a return of a premium and any rights in respect of any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement;

**“Interest Period”** means a period determined in accordance with Clause 6;

**“Interpolated Screen Rate”** means, in relation to an Interest Period, the rate which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than that Interest Period; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds that Interest Period,

each as of the Specified Time on the Quotation Date for that Interest Period;

**“ISM Code”** means the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organisation as the same may be amended or supplemented from time to time (and the terms **“safety management system”**, **“Safety Management Certificate”** and **“Document of Compliance”** have the same meanings as are given to them in the ISM Code);

**“ISPS Code”** means the International Ship and Port Facility Security Code as adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time;

“**ISSC**” means a valid and current International Ship Security Certificate issued under the ISPS Code;

“**Lender**” means, subject to Clause 26.6, a bank or financial institution listed in Schedule 1 and acting through its branch indicated in Schedule 1 (or through another branch notified to the Agent under Clause 26.16) or its transferee, successor or assign;

“**LIBOR**” means, for an Interest Period:

- (a) the rate per annum equal to the offered quotation for deposits in Dollars for a period equal to, or as near as possible equal to, the relevant Interest Period which appears on the Screen Rate; or
- (b) (if no Screen Rate is available for that Interest Period), the applicable Interpolated Screen Rate for that Interest Period; or
- (c) if no Screen Rate is available and it is not possible to calculate an Interpolated Screen Rate for that Interest Period, the rate per annum determined by the Agent to be the arithmetic mean (rounded upwards, if necessary, to the nearest fifth decimal point) of the rate(s) per annum notified to the Agent by each, or if there is only one Reference Bank, that Reference Bank as the rate at which deposits in Dollars are offered to that Reference Bank by leading banks in the Relevant Interbank Market at that Reference Bank’s request,

at or about the Specified Time on the Quotation Date for that Interest Period for a period equal to that Interest Period and for delivery on the first Business Day of it and, if any such rate is below zero, LIBOR will be deemed to be zero;

“**Loan**” means the principal amount for the time being outstanding under this Agreement being \$28,416,000 on the Effective Date;

“**LSW 1189**” means the London Standard Wording for marine insurances which incorporates the German Direct Mortgage Clause;

“**Major Casualty**” means any casualty to the Ship in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$500,000 or the equivalent in any other currency;

“**Majority Lenders**” means:

- (a) before the Loan is made, Lenders whose Commitments total 66 2/3 per cent. of the Total Commitments; and
- (b) after the Loan is made, Lenders whose Contributions total 66 2/3 per cent. of the Loan;

“**Mandated Lead Arranger**” means Hamburg Commercial Bank AG, acting in such capacity through its office at Gerhart-Hauptmann-Platz 50, D-20095 Hamburg, Germany, or any successor;

“**Mandatory Cost**” means the percentage rate per annum calculated by the Agent in accordance with Schedule 4;

**“Margin”** means:

- (a) 3.90 per cent. per annum; or
- (b) in the event that the Indenture has a Standard & Poor’s rating of at least BB+ or a comparable rating by any other rating agency acceptable to the Agent (acting on the instructions of the Majority Lenders), 3.25 per cent. per annum.

**“Market Value”** means the market value of the Ship determined in accordance with Clause 15.3;

**“Material Adverse Change”** means any event or series of events which, in the opinion of the Majority Lenders, is likely to have a Material Adverse Effect;

**“Material Adverse Effect”** means, in the reasonable opinion of the Majority Lenders, a material adverse effect on:

- (a) the business, property, assets, liabilities, operations or condition (financial or otherwise) of the Borrower and/or any Security Party taken as a whole;
- (b) the ability of the Borrower, the Approved Manager and/or any Security Party to (i) comply with or perform any of its obligations or (ii) discharge any of its liabilities, under any Finance Document as they fall due; or
- (c) the validity, legality or enforceability of any Finance Document;

**“Maximum Loan Amount”** means an amount up to the lesser of (i) \$31,800,000 and (ii) 60 per cent. of the Initial Market Value of the Ship;

**“Minimum Liquidity”** has the meaning given in Schedule 8;

**“Minimum Liquidity Account”** means an account in the name of the Borrower with the Account Bank designated “Lefkada Shipping Corporation – Minimum Liquidity Account”, or any other account (with that or another office of the Account Bank) which replaces such account and is designated by the Agent as the Minimum Liquidity Account for the purposes of this Agreement;

**“Mortgage”** means the first preferred or, as the case may be, priority ship mortgage on the Ship in the Agreed Form;

**“Negotiation Period”** has the meaning given in Clause 5.10;

**“Notifying Lender”** has the meaning given in Clause 21.2, Clause 23.1 or Clause 24.1 as the context requires;

**“Participating Member State”** means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union;

**“Party”** means a party to a Finance Document;

**“Payment Currency”** has the meaning given in Clause 21.6;

**“Permitted Security Interests”** means:

- (a) Security Interests created by the Finance Documents;
- (b) liens for unpaid master's and crew's wages in accordance with usual maritime practice;
- (c) liens for salvage;
- (d) liens arising by operation of law for not more than one month's prepaid hire under any charter in relation to the Ship not prohibited by this Agreement;
- (e) liens for master's disbursements incurred in the ordinary course of trading and any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of the Ship, provided such liens do not secure amounts more than 30 days overdue (unless the overdue amount is being contested by the Borrower in good faith by appropriate steps) and subject, in the case of liens for repair or maintenance, to in paragraph (d) of Clause 14.14;
- (f) any Security Interest created in favour of a plaintiff or defendant in any proceedings or arbitration as security for costs and expenses while the Borrower is actively prosecuting or defending such proceedings or arbitration in good faith; and
- (g) Security Interests arising by operation of law in respect of taxes which are not overdue for payment or in respect of taxes being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made.

**"Pertinent Document"** means:

- (a) any Finance Document;
- (b) any policy or contract of insurance contemplated by or referred to in Clause 13 or any other provision of this Agreement or another Finance Document;
- (c) any other document contemplated by or referred to in any Finance Document; and
- (d) any document which has been or is at any time sent by or to a Servicing Bank in contemplation of or in connection with any Finance Document or any policy, contract or document falling within paragraphs (b) or (c);

**"Pertinent Jurisdiction"** in relation to a company, means:

- (a) England and Wales;
- (b) the country under the laws of which the company is incorporated or formed;
- (c) a country in which the company has the centre of its main interests or which the company's central management and control is or has recently been exercised;
- (d) a country in which the overall net income of the company is subject to corporation tax, income tax or any similar tax;
- (e) a country in which assets of the company (other than securities issued by, or loans to, related companies) having a substantial value are situated, in which the company maintains a branch or permanent place of business, or in which a Security Interest created by the company must or should be registered in order to ensure its validity or priority; and

- (f) a country the courts of which have jurisdiction to make a winding up, administration or similar order in relation to the company, whether as a main or territorial or ancillary proceedings, or which would have such jurisdiction if their assistance were requested by the courts of a country referred to in paragraphs (b) or (c);

“**Potential Event of Default**” means an event or circumstance which, with the giving of any notice, the lapse of time, a reasonable determination of the Majority Lenders and/or the satisfaction of any other condition, would constitute an Event of Default;

“**Prepayment Date**” has the meaning given in Clause 15.2;

“**Prepayment Notice**” has the meaning given in paragraph (b) of Clause 8.5;

“**Quotation Date**” means, in relation to any Interest Period (or any other period for which an interest rate is to be determined under any provision of a Finance Document), the day on which quotations would ordinarily be given by leading banks in the Relevant Interbank Market for deposits in the currency in relation to which such rate is to be determined for delivery on the first day of that Interest Period or other period;

“**Reference Banks**” means, subject to Clause 26.19, together, the Hamburg branch of Hamburg Commercial Bank AG, the head office of any other bank which is a Lender at the relevant time (unless such Lender has advised the Agent in writing that it does not wish to be a Reference Bank) and any of their respective successors;

“**Relevant Interbank Market**” means the London interbank market;

“**Relevant Nominating Body**” means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board;

“**Relevant Person**” has the meaning given in Clause 19.9;

“**Replacement Benchmark**” means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
- (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
  - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Benchmark” will be the replacement under paragraph (ii) above;

- (b) in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to that Screen Rate; or

(c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to a Screen Rate;

“**Repayment Date**” means a date on which a repayment is required to be made under Clause 8;

“**Requisition Compensation**” includes all compensation or other moneys payable by reason of any act or event such as is referred to in paragraph (b) of the definition of “**Total Loss**”;

“**Retention Account**” means an account in the name of the Borrower with the Account Bank designated “Lefkada Shipping Corporation—Retention Account”, or any other account (with that or another office of the Account Bank) which replaces this account and is designated by the Agent as the Retention Account for the purposes of this Agreement;

“**Screen Rate**” means the London interbank offered rate administered by the ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for Dollars for the relevant period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower;

“**Screen Rate Replacement Event**” means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders and the Borrower, materially changed;
- (b)
  - (i)
    - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
    - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or

- (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (v) in the opinion of the Majority Lenders and the Borrower, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement;

“**Second Deed of Covenant**” means the second priority deed of covenant collateral to the Second Mortgage;

“**Second Mortgage**” means the second preferred, or as the case may be, priority ship mortgage on the Ship in the Agreed Form;

“**Secured Liabilities**” means all liabilities which the Borrower, the Security Parties or any of them have, at the date of this Agreement or at any later time or times, under or in connection with any Finance Document or any judgment relating to any Finance Document; and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country;

“**Security Cover Ratio**” means, at any relevant time, the aggregate of (i) the Market Value of the Ship, (ii) the net realisable value of any additional security provided at that time under Clause 15 and (iii) any balance on the Minimum Liquidity Account pertaining to the Additional Minimum Liquidity, at that time expressed as a percentage of the Loan;

“**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; and
- (b) the rights of a plaintiff under an action *in rem*;

“**Security Party**” means the Corporate Guarantor, the Shareholder and any other person (except a Creditor Party or the Approved Manager) who, as a surety or mortgagor, as a party to any subordination or priorities arrangement, or in any similar capacity, executes a document falling within the final paragraph of the definition of “**Finance Documents**”;

“**Security Period**” means the period commencing on the date of this Agreement and ending on the date on which the Agent notifies the Borrower, the Security Parties and the other Creditor Parties that:

- (a) all amounts which have become due for payment by the Borrower, the Approved Manager or any Security Party under the Finance Documents have been paid;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) neither the Borrower, the Approved Manager nor any Security Party has any future or contingent liability under Clauses 20, 21 or 22 or any other provision of this Agreement or another Finance Document; and

- (d) the Agent, the Mandated Lead Arranger, the Security Trustee and the Majority Lenders do not consider that there is a significant risk that any payment or transaction under a Finance Document would be set aside, or would have to be reversed or adjusted, in any present or possible future bankruptcy of the Borrower, the Approved Manager or a Security Party or in any present or possible future proceeding relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created by a Finance Document;

“**Security Trustee**” means Hamburg Commercial Bank AG, acting in such capacity through its office at Gerhart-Hauptmann-Platz 50, D-20095, Hamburg, Germany, or any successor of it appointed under clause 5 of the Agency and Trust Agreement;

“**Servicing Bank**” means the Agent or the Security Trustee;

“**Shareholder**” means Aegean Sea Maritime Holdings Inc., a corporation incorporated and existing under the laws of the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, the Marshall Islands MH96960;

“**Shares Security Deed**” means, in respect of all the issued shares in the Borrower, a pledge of such shares executed or to be executed by the Shareholder in favour of the Security Trustee in the Agreed Form;

“**Ship**” shall have the meaning given to this term in Schedule 8;

“**Specified Time**” means 11.00 a.m. London time;

“**Total Loss**” means:

- (a) actual, constructive, compromised, agreed or arranged total loss of the Ship;
- (b) any expropriation, confiscation, requisition or acquisition of the Ship, whether for full or part consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority unless it is within one month from the date of such occurrence redelivered to the full control of the Borrower excluding a requisition for hire for a fixed period not exceeding 90 days without any right to an extension;
- (c) any condemnation of the Ship by any tribunal or by any person or person claiming to be a tribunal; and
- (d) any arrest, capture, seizure, confiscation or detention of the Ship (including any hijacking or theft) unless it is within the Relevant Period redelivered to the full control of the Borrower;

“**Relevant Period**” means:

- (i) in the case of any arrest, capture, seizure, confiscation or detention of the Ship (including any hijacking or theft), other than piracy, within 90 days; and
- (ii) in the case of piracy, if the relevant underwriters confirm to the Agent in writing prior to the end of the 90-day period referred to in (i) above that the Ship is subject to an approved piracy insurance cover, the earlier of 270 days after the date on which the Ship is captured by pirates and the date on which the piracy insurance cover expires;

“**Total Loss Date**” means:

- (a) in the case of an actual loss of the Ship, the date on which it occurred or, if that is unknown, the date when the Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of the Ship, the earlier of:
  - (i) 30 days after the date on which a notice of abandonment is given to the insurers; and
  - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower with the Ship’s insurers in which the insurers agree to treat the Ship as a total loss; and
- (c) in the case of any other type of total loss, on the date (or the most likely date) on which it appears to the Agent that the event constituting the total loss occurred;

“**Transfer Certificate**” has the meaning given in Clause 26.2;

“**Trust Property**” has the meaning given in clause 3.1 of the Agency and Trust Agreement;

“**Underlying Documents**” means any Assignable Charters and, in the singular, means any of them;

“**US**” means the United States of America;

“**US GAAP**” means generally accepted accounting principles as from time to time in effect in the US; and

“**US Tax Obligor**” means:

- (a) the Borrower which is resident for tax purposes in the US; or
- (b) the Borrower or a Security Party some or all whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

## 1.2 Construction of certain terms

In this Agreement:

“**administration notice**” means a notice appointing an administrator, a notice of intended appointment and any other notice which is required by law (generally or in the case concerned) to be filed with the court or given to a person prior to, or in connection with, the appointment of an administrator;

“**approved**” means, for the purposes of Clause 13, approved in writing by the Agent at its discretion;

“**asset**” includes every kind of property, asset, interest or right, including any present, future or contingent right to any revenues or other payment;

“**company**” includes any partnership, joint venture and unincorporated association;

“**consent**” includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration, notarisation and legalisation;

“**contingent liability**” means a liability which is not certain to arise and/or the amount of which remains unascertained;

“**document**” includes a deed; also a letter or fax;

“**excess risks**” means the proportion of claims for general average, salvage and salvage charges not recoverable under the hull and machinery policies in respect of the Ship in consequence of its insured value being less than the value at which the Ship is assessed for the purpose of such claims;

“**expense**” means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable value added or other tax;

“**gross negligence**” means a form of negligence which is distinct from ordinary negligence, in which the due diligence and care which are generally to be exercised have been disregarded to a particularly high degree, in which the plainest deliberations have not been made and that which should be most obvious to everybody has not been followed;

“**law**” includes any order or decree, any form of delegated legislation, any treaty or international convention and any regulation or resolution of the Council of the European Union, the European Commission, the United Nations or its Security Council;

“**legal or administrative action**” means any legal proceeding or arbitration and any administrative or regulatory action or investigation;

“**liability**” includes every kind of debt or liability (present or future, certain or contingent), whether incurred as principal or surety or otherwise;

“**months**” shall be construed in accordance with Clause 1.3;

“**obligatory insurances**” means all insurances effected, or which the Borrower is obliged to effect in respect of the Ship, under Clause 13 or any other provision of this Agreement or another Finance Document;

“**parent company**” has the meaning given in Clause 1.4;

“**person**” includes any individual, any partnership, any company; any state, political sub-division of a state and local or municipal authority; and any international organisation;

“**policy**” in relation to any insurance, includes a slip, cover note, certificate of entry or other document evidencing the contract of insurance or its terms;

“**protection and indemnity risks**” means the usual risks covered by a protection and indemnity association managed in London, including pollution risks and the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of clause 1 of the Institute Time Clauses (Hulls) (1/10/82) or clause 8 of the Institute Time Clauses (Hulls) (1/11/1995) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision;

“**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency (monetary or otherwise), department, central bank, regulatory, self-regulatory or other authority or organisation;

“**subsidiary**” has the meaning given in Clause 1.4;

“**successor**” includes any person who is entitled (by assignment, novation, merger or otherwise) to any person’s rights under this Agreement or any other Finance Document (or any interest in those rights) or who, as administrator, liquidator or otherwise, is entitled to exercise those rights; and in particular references to a successor include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation of it or any other person;

“**tax**” includes any present or future tax, duty, impost, levy or charge of any kind which is imposed by any state, any political sub-division of a state or any local or municipal authority (including any such imposed in connection with exchange controls), and any connected penalty, interest or fine; and

“**war risks**” includes the risk of mines and all risks excluded by clause 29 of the International Hull Clauses (1/11/02 or 1/11/03), clause 24 of the Institute Time Clauses (Hulls)(1/11/95) or clause 23 of the Institute Time Clauses (Hulls) (1/10/83).

### 1.3 Meaning of “month”

A period of one or more “**months**” ends on the day in the relevant calendar month numerically corresponding to the day of the calendar month on which the period started (“**the numerically corresponding day**”), but:

- (a) on the Business Day following the numerically corresponding day if the numerically corresponding day is not a Business Day or, if there is no later Business Day in the same calendar month, on the Business Day preceding the numerically corresponding day; or
- (b) on the last Business Day in the relevant calendar month, if the period started on the last Business Day in a calendar month or if the last calendar month of the period has no numerically corresponding day,

and “**month**” and “**monthly**” shall be construed accordingly.

### 1.4 Meaning of “subsidiary”

A company (S) is a subsidiary of another company (P) if a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P and any company of which S is a subsidiary is a parent company of S.

## **1.5 General Interpretation**

In this Agreement:

- (a) references to, or to a provision of, a Finance Document or any other document are references to it as amended or supplemented, whether before the date of this Agreement or otherwise;
- (b) references to, or to a provision of, any law include any amendment, extension, re-enactment or replacement, whether made before the date of this Agreement or otherwise;
- (c) words denoting the singular number shall include the plural and vice versa; and
- (d) Clauses 1.1 to 1.5 apply unless the contrary intention appears.

## **1.6 Headings**

In interpreting a Finance Document or any provision of a Finance Document, all clause, sub-clause and other headings in that and any other Finance Document shall be entirely disregarded.

## **2 FACILITY**

### **2.1 Amount of facility**

Subject to the other provisions of this Agreement, the Lenders shall make available to the Borrower a senior secured term loan facility of up to the lesser of (A) \$31,800,000 and (B) 60 per cent. of the Initial Market Value of the Ship, in one advance, for the purpose stated in the preamble to this Agreement (for the avoidance of doubt, on the date of the Amending and Restating Agreement there is no further Commitment available by the Lenders as the Borrower has drawn the available amount).

### **2.2 Lenders' participations in Loan**

Subject to the other provisions of this Agreement, each Lender shall participate in the Loan in the proportion which, as at the Drawdown Date, its Commitment bears to the Total Commitments.

### **2.3 Purpose of Loan**

The Borrower undertakes with each Creditor Party to use the Loan only for the purpose stated in the preamble to this Agreement.

## **3 POSITION OF THE LENDERS**

### **3.1 Interests several**

The rights of the Lenders under this Agreement are several.

### **3.2 Individual right of action**

Each Lender shall be entitled to sue for any amount which has become due and payable by the Borrower to it under this Agreement without joining the Agent, the Security Trustee or any other Lender as additional parties in the proceedings.

### **3.3 Proceedings requiring Majority Lender consent**

Except as provided in Clause 3.2, no Lender may commence proceedings against the Borrower, the Approved Manager or any Security Party in connection with a Finance Document without the prior consent of the Majority Lenders.

### **3.4 Obligations several**

The obligations of the Lenders under this Agreement are several; and a failure of a Lender to perform its obligations under this Agreement shall not result in:

- (a) the obligations of the other Lenders being increased; nor
- (b) the Borrower, the Approved Manager, any Security Party or any other Lender being discharged (in whole or in part) from its obligations under any Finance Document;

and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement.

## **4 DRAWDOWN**

### **4.1 Request for the Loan**

Subject to the following conditions, the Borrower may request the Loan to be borrowed by ensuring that the Agent receives the completed Drawdown Notice not later than 11.00 a.m. (Hamburg time) three Business Days prior to the relevant Drawdown Date.

### **4.2 Availability**

The conditions referred to in Clause 4.1 are that:

- (a) the Drawdown Date has to be a Business Day during the Availability Period;
- (b) the Loan shall not exceed the Maximum Loan Amount;
- (c) any undrawn portion of the Total Commitments in respect of the Loan, upon the determination of the Initial Market Value of the Ship, shall be automatically cancelled as at the Drawdown Date; and
- (d) the amount of the Loan shall not exceed the Total Commitments.

### **4.3 Notification to Lenders of receipt of the Drawdown Notice**

The Agent shall promptly notify the Lenders that it has received the Drawdown Notice and shall inform each Lender of:

- (a) the amount of the Loan and the Drawdown Date;
- (b) the amount of that Lender's participation in the Loan; and
- (c) the duration of the first Interest Period in respect of the Loan.

#### **4.4 Drawdown Notice irrevocable**

The Drawdown Notice must be signed by a duly authorised signatory of the Borrower; and once served, the Drawdown Notice cannot be revoked without the prior consent of the Agent, acting on the authority of the Lenders.

#### **4.5 Lenders to make available Contributions**

Subject to the provisions of this Agreement, each Lender shall, on and with value on the Drawdown Date, make available to the Agent for the account of the Borrower the amount due from that Lender on the Drawdown Date under Clause 2.2.

#### **4.6 Disbursement of Loan**

Subject to the provisions of this Agreement, the Agent shall on the Drawdown Date pay to the Borrower the amounts which the Agent receives from the Lenders under Clause 4.5 and that payment to the Borrower shall be made:

- (a) to the account which the Borrower specifies in the Drawdown Notice; and
- (b) in like funds as the Agent received the payments from the Lenders.

The payment by the Agent under this Clause 4.6 shall constitute the making of the Loan and the Borrower shall at that time become indebted, as principal and direct obligor, to each Lender in an amount equal to that Lender's participation in the Loan.

### **5 INTEREST**

#### **5.1 Payment of normal interest**

Subject to the provisions of this Agreement, interest on the Loan in respect of each Interest Period shall be paid by the Borrower on the last day of that Interest Period.

#### **5.2 Normal rate of interest**

Subject to the provisions of this Agreement, the rate of interest on the Loan in respect of an Interest Period shall be the aggregate of (i) the applicable Margin, (ii) the Mandatory Cost (if any), (iii) LIBOR for that Interest Period and (iv) if a Lender (the "**Applicable Lender**") notifies the Agent at least 5 Business Days before the start of that Interest Period that its Cost of Funding exceeds LIBOR (including the amount of such excess) on the Quotation Date for that Interest Period, additionally in respect of that Applicable Lender's Contribution in the Loan, the Correction Rate applicable to the Applicable Lender for that Interest Period.

#### **5.3 Payment of accrued interest**

In the case of an Interest Period of longer than three months (subject to the prior agreement of the Agent in accordance with paragraph (b) of Clause 6.2), accrued interest shall be paid every three months during that Interest Period and on the last day of that Interest Period.

#### **5.4 Notification of Interest Periods and rates of normal interest**

The Agent shall notify the Borrower and each Lender of:

- (a) each rate of interest; and

- (b) the duration of each Interest Period,  
as soon as reasonably practicable after each is determined.

#### **5.5 Obligation of Reference Banks to quote**

A Reference Bank which is a Lender shall use all reasonable efforts to supply the quotation required of it for the purposes of fixing a rate of interest under this Agreement unless that Reference Bank ceases to be a Lender pursuant to Clause 26.19.

#### **5.6 Absence of quotations by Reference Banks**

If any Reference Bank fails to supply a quotation, the Agent shall determine the relevant LIBOR on the basis of the quotations supplied by the other Reference Bank(s) but if two or more of the Reference Banks fail (or, if at any time there is only one Reference Bank, that Reference Bank fails) to provide a quotation, the relevant rate of interest shall be set in accordance with the following provisions of this Clause 5.

#### **5.7 Market disruption**

The following provisions of this Clause 5 apply if:

- (a) no rate is quoted on the Screen Rate, it is not possible to calculate an Interpolated Screen Rate for that Interest Period and two or more of the Reference Banks do not (or, if at any time there is only one Reference Bank, that Reference Bank does not), before 1.00 p.m. (London time) on the Quotation Date for an Interest Period, provide a quotation to the Agent in order to fix LIBOR; or
- (b) at least three Business Days before the start of an Interest Period, the Agent is notified by a Lender (the “**Affected Lender**”) that for any reason it is unable to obtain Dollars in the Relevant Interbank Market in order to fund its Contribution (or any part of it) during the Interest Period.

#### **5.8 Notification of market disruption**

The Agent shall promptly notify the Borrower and each of the Lenders stating the circumstances falling within Clause 5.7 which have caused its notice to be given.

#### **5.9 Suspension of drawdown**

If the Agent’s notice under Clause 5.8 is served before the Loan is borrowed:

- (a) In a case falling within paragraph (a) of Clause 5.7, the Lender’s obligation to make the Loan available; and
- (b) In a case falling within paragraph (b) of Clause 5.7, the Affected Lender’s obligation to participate in the Loan,  
shall be suspended while the circumstances referred to in the Agent’s notice continue.

#### **5.10 Negotiation of alternative rate of interest**

- (a) If the Agent’s notice under Clause 5.8 is served after the Loan is borrowed, the Borrower, the Agent, the Lenders (subject to Clause 27.5) or (as the case may be) the Affected Lender shall use reasonable endeavours to agree, within 30 days after the date on which the Agent serves its notice under Clause 5.8 (the “**Negotiation Period**”), an alternative interest rate or (as the case may be) an alternative basis for the Lenders or (as the case may be) the Affected Lender to fund or continue to fund their or its Contribution during the Interest Period concerned.

- (b) During the Negotiation Period the Agent shall, with the agreement of each Lender or (as the case may be) the Affected Lender, set an interest period and interest rate representing the Cost of Funding of the Lenders or (as the case may be) the Affected Lender in Dollars, in each case as determined by the relevant Lender, or in any available currency of their or its Contribution plus the applicable Margin and the Mandatory Cost (if any).

**5.11 Application of agreed alternative rate of interest**

Any alternative interest rate or an alternative basis which is agreed during the Negotiation Period shall take effect in accordance with the terms agreed.

**5.12 Alternative rate of interest in absence of agreement**

If an alternative interest rate or alternative basis is not agreed within the Negotiation Period, and the relevant circumstances are continuing at the end of the Negotiation Period, then the procedure provided for in paragraph (b) of Clause 5.10 shall be repeated at the end of the interest period set by the Agent pursuant to that Clause.

**5.13 Notice of prepayment**

If the Borrower does not agree with an interest rate set by the Agent under Clause 5.12, the Borrower may give the Agent not less than 5 Business Days' notice of their intention to prepay the Loan at the end of the interest period set by the Agent.

**5.14 Prepayment; termination of Commitments**

A notice under Clause 5.13 shall be irrevocable; the Agent shall promptly notify the Lenders or (as the case may require) the Affected Lender of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Agent serves that notice, the Total Commitments or (as the case may require) the Commitment of the Affected Lender shall be cancelled; and
- (b) on the last Business Day of the interest period set by the Agent, the Borrower shall prepay (without premium or penalty) the Loan or, as the case may be, the Affected Lender's Contribution, together with accrued interest thereon at the applicable rate plus the applicable Margin and the Mandatory Cost (if any).

**5.15 Application of prepayment**

The provisions of Clause 8 shall apply in relation to the prepayment.

**6 INTEREST PERIODS**

**6.1 Commencement of Interest Periods**

The first Interest Period shall commence on the Drawdown Date and each subsequent Interest Period shall commence on the expiry of the preceding Interest Period.

## **6.2 Duration of normal Interest Periods**

Subject to Clauses 6.3 and 6.4, each Interest Period shall be:

- (a) 3 or 6 months; or
- (b) such other period (as proposed by the Borrower to the Agent not later than 11:00 a.m. (Hamburg time) 5 Business Days before the commencement of the Interest Period) as the Agent may, with the authorisation of the Majority Lenders, agree with the Borrower (failing which the Interest Period shall be three months).

## **6.3 Duration of Interest Periods for Instalments**

In respect of an amount due to be repaid under Clause 8 on a particular Repayment Date, an Interest Period to which that Repayment Date relates shall end on that Repayment Date.

## **6.4 Non-availability of matching deposits for Interest Period selected**

If, after the Borrower has proposed and the Lenders have agreed an Interest Period longer than three months, any Lender notifies the Agent by 11.00 a.m. (Hamburg time) on the third Business Day before the commencement of the Interest Period that it is not satisfied that deposits in Dollars for a period equal to the Interest Period will be available to it in the Relevant Interbank Market when the Interest Period commences, the Interest Period shall be of three months.

## **7 DEFAULT INTEREST**

### **7.1 Payment of default interest on overdue amounts**

The Borrower shall pay interest in accordance with the following provisions of this Clause 7 on any amount payable by the Borrower under any Finance Document which the Agent, the Security Trustee or the other designated payee does not receive on or before the relevant date, that is:

- (a) the date on which the Finance Documents provide that such amount is due for payment; or
- (b) if a Finance Document provides that such amount is payable on demand, the date on which the demand is served; or
- (c) if such amount has become immediately due and payable under Clause 19.4, the date on which it became immediately due and payable.

### **7.2 Default rate of interest**

Interest shall accrue on an overdue amount from (and including) the relevant date until the date of actual payment (as well after as before judgment) at the rate per annum determined by the Agent to be 4 per cent. above:

- (a) in the case of an overdue amount of principal, the higher of the rates set out at paragraph (a) and (b) of Clause 7.3; or
- (b) in the case of any other overdue amount, the rate set out at paragraph (b) of Clause 7.3.

### **7.3 Calculation of default rate of interest**

The rates referred to in Clause 7.2 are:

- (a) the rate applicable to the overdue principal amount immediately prior to the relevant date (but only for any unexpired part of any then current Interest Period applicable to it);
- (b) the aggregate of the applicable Margin, any Correction Rate and the Mandatory Cost (if any) plus, in respect of successive periods of any duration (including at call) up to three months which the Agent may select from time to time:
  - (i) LIBOR; or
  - (ii) if the Agent (after consultation with the Reference Banks) determines that Dollar deposits for any such period are not being made available to any Reference Bank by leading banks in the Relevant Interbank Market in the ordinary course of business, a rate from time to time determined by the Agent by reference to the cost of funds to the Reference Banks from such other sources as the Agent (after consultation with the Reference Banks) may from time to time determine.

### **7.4 Notification of interest periods and default rates**

The Agent shall promptly notify the Lenders and the Borrower of each interest rate determined by the Agent under Clause 7.3 and of each period selected by the Agent for the purposes of paragraph (b) of Clause 7.3; but this shall not be taken to imply that the Borrower is liable to pay such interest only with effect from the date of the Agent's notification.

### **7.5 Payment of accrued default interest**

Subject to the other provisions of this Agreement, any interest due under this Clause shall be paid on the last day of the period by reference to which it was determined; and the payment shall be made to the Agent for the account of the Creditor Party to which the overdue amount is due.

### **7.6 Compounding of default interest**

Any such interest which is not paid at the end of the period by reference to which it was determined shall be compounded every 6 months and shall be payable on demand.

## **8 REPAYMENT AND PREPAYMENT**

### **8.1 Amount of Instalments**

The Borrower (a) have repaid such amount of principal of the Loan so that as at the Effective Date the remaining outstanding amount of the Loan is \$28,416,000 and (b) shall repay such outstanding amount by (i) 16 equal consecutive quarterly instalments, each in the amount of \$846,000 (each an "**Instalment**" and, together, the "**Instalments**") and (ii) a balloon instalment in the amount of \$14,880,000 (the "**Balloon Instalment**").

## **8.2 Repayment Dates**

The first Instalment shall be repaid on 18 January 2021, each subsequent Instalment shall be repaid at three-monthly intervals thereafter and the last Instalment, shall be repaid together with the Balloon Instalment, on the Final Repayment Date.

## **8.3 Final Repayment Date**

On the Final Repayment Date, the Borrower shall additionally pay to the Agent for the account of the Creditor Parties all other sums then accrued or owing under any Finance Document.

## **8.4 Voluntary prepayment**

Subject to the following conditions, the Borrower may prepay the whole or any part of the Loan on the last day of an Interest Period or on such other date agreed between the Borrower and the Agent.

## **8.5 Conditions for voluntary prepayment**

The conditions referred to in Clause 8.4 are that:

- (a) a partial prepayment shall be \$500,000 or a higher integral multiple thereof (or such other amount acceptable to the Agent in its sole discretion);
- (b) the Agent has received from the Borrower at least 3 Business Days' prior irrevocable written notice (each, a "**Prepayment Notice**") specifying the amount to be prepaid and the date on which the prepayment is to be made;
- (c) the Borrower has provided evidence satisfactory to the Agent that any consent required by the Borrower or any Security Party in connection with the prepayment has been obtained and remains in force, and that any regulation relevant to this Agreement which affects the Borrower or any Security Party has been complied with; and
- (d) the Borrower is in compliance with Clause 8.10 on or prior to the date of prepayment.

## **8.6 Optional facility cancellation**

The Borrower shall be entitled, upon giving to the Agent not less than 5 Business Days' prior written notice, to cancel, in whole or in part, and, if in part, by an aggregate amount not less than \$500,000 or a higher multiple thereof (or such other amount acceptable to the Agent in its sole discretion), the undrawn balance of the Total Commitments (the "**Cancellation Notice**") which notice shall be irrevocable. Upon such cancellation taking effect on expiry of a Cancellation Notice the several obligations of the Lenders to make their respective Commitments available in relation to the portion of the Total Commitments to which such Cancellation Notice relates shall terminate.

## **8.7 Cancellation Notice or Prepayment Notice**

The Agent shall notify the Lenders promptly upon receiving a Cancellation Notice or Prepayment Notice, and shall provide, in the case of a Prepayment Notice, any Lender which so requests with a copy of any document delivered by the Borrower under paragraph (c) of Clause 8.5.

## **8.8 Mandatory prepayment**

The Borrower shall be obliged to prepay the Loan if the Ship:

- (a) is sold, on or before the date on which the sale is completed by delivery of the Ship to the buyer; or
- (b) becomes a Total Loss, on the earlier of the date falling 90 days after the Total Loss Date and the date of receipt by the Security Trustee of the proceeds of insurance relating to such Total Loss.

## **8.9 Effect of Prepayment Notice and Cancellation Notice**

Neither a Prepayment Notice nor a Cancellation Notice may be withdrawn or amended without the consent of the Agent, given with the authorisation of the Majority Lenders, and:

- (a) in the case of a Prepayment Notice, the amount specified in that Prepayment Notice shall become due and payable by the Borrower on the date for prepayment specified in that Prepayment Notice; and
- (b) in the case of a Cancellation Notice, the amount cancelled shall be permanently cancelled and may not be borrowed.

## **8.10 Amounts payable on prepayment**

A prepayment shall be made together with accrued interest (and any other amount payable under Clause 21 or otherwise) in respect of the amount prepaid and, if the prepayment is not made on the last day of an Interest Period, together with any sums payable under Clause 21.2 but without premium or penalty.

## **8.11 Application of partial prepayment or cancellation**

Each partial prepayment:

- (a) if made pursuant to Clauses 8.4, shall be applied in order of maturity against the Instalments and the Balloon Instalment; and
- (b) if made pursuant to Clauses 5.13, 15.2, 19.2, 23.3 or 24.6, shall be applied pro rata against the Instalments and the Balloon Instalment.

## **8.12 No reborrowing**

No amount prepaid or cancelled may be (re)borrowed.

## **9 CONDITIONS PRECEDENT**

### **9.1 Documents, fees and no default**

Each Lender's obligation to contribute to the Loan is subject to the following conditions precedent:

- (a) that, on or before the date of this Agreement, the Agent receives the documents described in Part A of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;

- (b) that, on or before the Drawdown Date but prior to the borrowing of the Loan, the Agent receives;
  - (i) the documents and conditions described in Part B of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;
  - (ii) payment in full of the structuring fee payable pursuant to paragraph (a) of Clause 20.1 and of any commitment fee payable pursuant to paragraph (b) of Clause 20.1; and
  - (iii) payment of any expenses payable pursuant to Clause 20.2 which are due and payable on the Drawdown Date,
  - (iv) save for any documents and conditions that the Agent agrees, in its absolute sole discretion, at the Borrower's request to receive after any repositioning of funds but before the release of the Loan;
- (c) that both at the date of the Drawdown Notice and at the Drawdown Date:
  - (i) no Event of Default or Potential Event of Default has occurred or would result from the borrowing of the Loan;
  - (ii) the representations and warranties in Clause 10 and those of the Borrower, the Approved Manager or any Security Party which are set out in the other Finance Documents would be true and not misleading if repeated on each of those dates with reference to the circumstances then existing;
  - (iii) none of the circumstances contemplated by Clause 5.7 has occurred and is continuing; and
  - (iv) there has been no Material Adverse Change; and
- (d) that, if the Security Cover Ratio were applied immediately following the borrowing of the Loan, the Borrower would not be obliged to provide additional security or prepay part of the Loan under that Clause; and
- (e) that the Agent has received, and found to be acceptable to it, any further opinions, consents, agreements and documents in connection with the Finance Documents which the Agent may, with the authorisation of the Majority Lenders, request by notice to the Borrower prior to the Drawdown Date.

## **9.2 Waiver of conditions precedent**

If the Majority Lenders, at their discretion, permit the Loan to be borrowed before certain of the conditions referred to in Clause 9.1 are satisfied, the Borrower shall ensure that those conditions are satisfied within 5 Business Days after the Drawdown Date (or such longer period as the Agent may, with the authorisation of the Majority Lenders, specify).

## **10 REPRESENTATIONS AND WARRANTIES**

### **10.1 General**

The Borrower represents and warrants to each Creditor Party as follows.

## **10.2 Status**

The Borrower is duly incorporated, validly existing and in good standing under the laws of the Republic of the Marshall Islands.

## **10.3 Share capital and ownership**

The Borrower has an authorised share capital of 500 registered shares with par value of \$1 each, all of which shares have been issued and fully paid, and the legal title and beneficial ownership of all those shares is held, free of any Security Interest or other claim, by the Shareholder.

## **10.4 Corporate power**

The Borrower has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it:

- (a) to execute the Underlying Documents to which it is a party and to maintain the Ship in its ownership under the applicable Approved Flag;
- (b) to execute the Finance Documents to which the Borrower is a party; and
- (c) to borrow under this Agreement and to make all the payments contemplated by, and to comply with, those Finance Documents to which the Borrower is a party.

## **10.5 Consents in force**

All the consents referred to in Clause 10.4 remain in force and nothing has occurred which makes any of them liable to revocation.

## **10.6 Legal validity; effective Security Interests**

The Finance Documents to which the Borrower is a party, does now or, as the case may be, will, upon execution and delivery (and, where applicable, registration as provided for in the Finance Documents):

- (a) constitute the Borrower's legal, valid and binding obligations enforceable against the Borrower in accordance with their respective terms (having the requisite corporate benefit which is legally and economically sufficient); and
- (b) create legal, valid and binding Security Interests (having the priority specified in the relevant Finance Document) enforceable in accordance with their respective terms over all the assets to which they, by their terms, relate, subject to any relevant insolvency laws affecting creditors' rights generally.

## **10.7 No third party Security Interests**

Without limiting the generality of Clause 10.6, at the time of the execution and delivery of each Finance Document to which the Borrower is a party:

- (a) the Borrower will have the right to create all the Security Interests which that Finance Document purports to create; and

- (b) no third party will have any Security Interest (except for Permitted Security Interests) or any other interest, right or claim over, in or in relation to any asset to which any such Security Interest, by its terms, relates.

**10.8 No conflicts**

The execution by the Borrower, the Approved Manager and each other Security Party of each Finance Document and each Underlying Document to which it is a party, and the borrowing by the Borrower of the Loan (or any part thereof), and its compliance with each Finance Document and each Underlying Document to which it is a party:

- (a) will not involve or lead to a contravention of:
  - (i) any law or regulation; or
  - (ii) the constitutional documents of the Borrower, the Approved Manager or other Security Party; or
  - (iii) any contractual or other obligation or restriction which is binding on the Borrower, the Approved Manager or other Security Party or any of its assets, and
- (b) will not have a Material Adverse Effect; and
- (c) is for the corporate benefit of the Borrower or each other Security Party.

**10.9 No withholding taxes**

All payments which the Borrower is liable to make under the Finance Documents to which it is a party may be made without deduction or withholding for or on account of any tax payable under any law of any Pertinent Jurisdiction.

**10.10 No default**

No Event of Default or Potential Event of Default has occurred.

**10.11 Information**

All information which has been provided in writing by or on behalf of the Borrower, the Approved Manager or any Security Party to any Creditor Party in connection with any Finance Document satisfied the requirements of Clause 11.5; all audited and unaudited accounts and financial statements which have been so provided satisfied the requirements of Clause 11.7 and are true, correct and not misleading and present fairly and accurately the financial position of the Borrower, the Corporate Guarantor or the Group (as the case may be); and there has been no change in the financial position or state of affairs of the Borrower, the Corporate Guarantor or the Group (or any member thereof) from that disclosed in the latest of those accounts which is likely to have a Material Adverse Effect.

**10.12 No litigation**

No legal or administrative action involving the Borrower, the Approved Manager or any Security Party (including action relating to any alleged or actual breach of the ISM Code or the ISPS Code) has been commenced or taken or, to the Borrower's knowledge, is likely to be commenced or taken which would, in either case, be likely to have a Material Adverse Effect.

### **10.13 Validity and completeness of Underlying Documents**

Each Underlying Document constitutes valid, binding and enforceable obligations of the parties thereto in accordance with its terms and:

- (a) each of the copies of that Underlying Document delivered to the Agent before the date of this Agreement is a true and complete copy; and
- (b) no amendments or additions to that Underlying Document have been agreed nor has any party which is the party to that Underlying Document, waived any of their respective rights thereunder.

### **10.14 Compliance with certain undertakings**

At the date of this Agreement, the Borrower is in compliance with Clauses 11.2, 11.4, 11.9, 11.13, 13, 14.3 and 14.10 and none of the events listed in paragraph (g) of Clause 19.1 has occurred in respect of either the Borrower or any Security Party.

### **10.15 Taxes paid**

The Borrower has paid all taxes applicable to, or imposed on or in relation to the Borrower, its business or the Ship.

### **10.16 ISM Code and ISPS Code compliance**

All requirements of the ISM Code and the ISPS Code as they relate to the Borrower, the Approved Manager and the Ship have been complied with.

### **10.17 No Money laundering**

The Borrower:

- (a) will not, and will procure that neither the Approved Manager nor any Security Party, to the extent applicable, will, in connection with this Agreement or any of the other Finance Documents, contravene or permit any subsidiary to contravene, any law, official requirement or other regulatory measure or procedure implemented to combat "money laundering" (as defined in Article 1 of the Directive 2015/849/EC of the European Parliament and of the Council of the European Communities) and comparable United States Federal and state laws. The Borrower shall further submit any documents and declarations on request, if such documents or declarations are required by any Creditor Party to comply with its domestic money laundering and/or legal identification requirements; and
- (b) confirms that it is the beneficiary within the meaning of the German Anti Money Laundering Act (Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten (Geldwäschegesetz)), acting for its own account and not for or on behalf of any other person for each part of the Loan made or to be made available to it under this Agreement. That is to say, it acts for its own account and not for or on behalf of anyone else.

The Borrower will promptly inform the Agent by written notice, if it is not or ceases to be the beneficiary and will provide in writing the name and address of the beneficiary.

The Agent shall promptly notify the Lenders of any written notice it receives under this Clause 10.17.

#### **10.18 No immunity**

Neither the Borrower nor any of its assets is entitled to immunity on grounds of sovereignty or otherwise from any legal action or proceeding (including, without limitation, suit, attachment prior to judgement, execution or other enforcement).

#### **10.19 Choice of law**

The choice of the laws of England to govern this Agreement and those other Finance Documents which are expressed to be governed by the laws of England, the laws of Germany to govern the Account Pledges and the laws of the applicable Approved Flag State to govern the Mortgage and the Second Mortgage, constitutes a valid choice of law and the submission by the Borrower or, as the case may be, the relevant Security Parties thereunder to the non-exclusive jurisdiction of the Courts of England and, in the case of the Account Pledges, Germany or, in the case of the Mortgage and the Second Mortgage, the applicable Approved Flag State is a valid submission and does not contravene the laws of England or, in the case of the Account Pledges, Germany or, in the case of the Mortgage and the Second Mortgage, the applicable Approved Flag State or the laws of any other Pertinent Jurisdiction, will be applied by the courts of any Pertinent Jurisdiction if this Agreement or those other Finance Documents or any claim thereunder comes under their jurisdiction upon proof of the relevant provisions of the laws of England or, in the case of the Account Pledges, Germany or, in the case of the Mortgage and the Second Mortgage, the applicable Approved Flag State.

#### **10.20 Pari passu ranking**

The obligations of the Borrower and each Security Party (save for the Shareholder) under the Finance Documents to which it is a party are direct, general and unconditional obligations and rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except for obligations mandatorily preferred by law applying to companies generally.

#### **10.21 Repetition**

The representations and warranties in this Clause 10 shall be deemed to be repeated by the Borrower:

- (a) on the date of service of the Drawdown Notice;
- (b) on the Drawdown Date; and
- (c) with the exception of Clauses 10.9 and 10.14, on the first day of each Interest Period and on the date of any Compliance Certificate issued pursuant to Clause 11.20,  
as if made with reference to the facts and circumstances existing on each such day.

### **11 GENERAL UNDERTAKINGS**

#### **11.1 General**

The Borrower undertakes with each Creditor Party to comply with the following provisions of this Clause 11 at all times during the Security Period except as the Agent, acting with the authorisation of the Majority Lenders, may otherwise permit in writing.

## **11.2 Title and negative pledge**

The Borrower will:

- (a) hold the legal title to, and own the entire beneficial interest in its Ship, her Insurances and Earnings, free from all Security Interests and other interests and rights of every kind, except for those created by the Finance Documents and the effect of assignments contained in the Finance Documents and except for Permitted Security Interests; and
- (b) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future.

## **11.3 No disposal of assets**

Subject to Clause 8.8, the Borrower will not transfer, lease or otherwise dispose of:

- (a) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (b) any debt payable to it or any other right (present, future or contingent right) to receive a payment, including any right to damages or compensation,

but paragraph (a) does not apply to any charter of the Ship.

## **11.4 No other liabilities or obligations to be incurred**

The Borrower will not enter into any other investments, any sale and leaseback agreements, or any off-balance sheet transaction not incur any other liability or obligation (including, without limitation, any Financial Indebtedness or any obligations under a guarantee) except:

- (a) liabilities and obligations under the Finance Documents and the Underlying Documents to which it is or, as the case may be, will be a party and under the relevant Indenture Guarantee; and
- (b) liabilities or obligations reasonably incurred in the normal course of its business of trading, operating and chartering, maintaining and repairing the Ship.

## **11.5 Information provided to be accurate**

All financial and other information, including but not limited to factual information, exhibits and reports, which is provided in writing by or on behalf of the Borrower under or in connection with any Finance Document will be true, correct and not misleading and will not omit any material fact or consideration.

## **11.6 Provision of financial statements**

The Borrower will send or procure that there are sent to the Agent:

- (a) as soon as possible, but in no event later than 180 days after the end of each Financial Year of the Corporate Guarantor, the consolidated audited annual financial statements of the Corporate Guarantor for that Financial Year (commencing, in each case, with the financial statements for the Financial Year ending on 31 December 2019);

- (b) as soon as possible, but in no event later than 90 days after the end of the 6-month period ending on 30 June in each Financial Year of the Corporate Guarantor, the consolidated semi-annual unaudited financial statements of the Corporate Guarantor, in each case, for that 6-month period (commencing with the financial statements for the 6-month period ending on 30 June 2020), duly certified as to their correctness by an officer of the Corporate Guarantor; and
- (c) promptly after each request by the Agent, such further financial or other information in respect of the Borrower, the Ship, the Corporate Guarantor, the other Security Parties and the Group (including, without limitation, any information regarding any sale and purchase agreements, investment brochures, shipbuilding contracts and charter agreements) as may be requested by the Agent.

#### **11.7 Form of financial statements**

All accounts delivered under Clause 11.6 will:

- (a) be prepared in accordance with all applicable laws and US GAAP and, in the case of any audited financial statements, be certified by an independent and reputable auditor having requisite experience selected and appointed by the relevant Security Party;
- (b) fairly represent the financial condition of the Borrower, the Corporate Guarantor and the Group at the date of those accounts and of their profit for the period to which those accounts relate; and
- (c) fully disclose or provide for all significant liabilities of the Borrower, the Corporate Guarantor and the Group and each of its/their subsidiaries.

#### **11.8 Shareholder and creditor notices**

The Borrower will send the Agent copies of any relevant press releases and, promptly upon its request, copies of all communications which are despatched to the Borrower's shareholders or creditors or any class of them.

#### **11.9 Consents**

The Borrower will maintain in force and promptly obtain or renew, and will promptly send certified copies to the Agent of, all consents required:

- (a) for the Borrower to perform its obligations under any Finance Document or any Underlying Document to which it is a party;
- (b) for the validity or enforceability of any Finance Document or any Underlying Document to which it is a party;
- (c) for the Borrower to continue to own and operate the Ship,

and the Borrower will comply with the terms of all such consents.

#### **11.10 Maintenance of Security Interests**

The Borrower will:

- (a) at its own cost, do all that it reasonably can to ensure that any Finance Document validly creates the obligations and the Security Interests which it purports to create; and

- (b) without limiting the generality of paragraph (a), at its own cost, promptly register, file, record or enrol any Finance Document with any court or authority in all Pertinent Jurisdictions, pay any stamp, registration or similar tax in all Pertinent Jurisdictions in respect of any Finance Document, give any notice or take any other step which, in the opinion of the Majority Lenders, is or has become necessary or desirable for any Finance Document to be valid, enforceable or admissible in evidence or to ensure or protect the priority of any Security Interest which it creates.

**11.11 Notification of litigation**

The Borrower will provide the Agent with details of any legal or administrative action involving the Borrower, the Ship, the Earnings or the Insurances, any Security Party or the Approved Manager, as soon as such action is instituted or it becomes apparent to the Borrower that it is likely to be instituted, unless it is clear that the legal or administrative action cannot be considered material in the context of any Finance Document, and the Borrower shall procure that all reasonable measures are taken to defend any such legal or administrative action.

**11.12 No amendment to Underlying Documents**

The Borrower will not waive or fail to enforce, the Underlying Documents to which it is a party or any of its provisions and shall promptly notify the Agent of any amendment or supplement to any Underlying Document.

**11.13 Principal place of business**

The Borrower will maintain its place of business, and keep its corporate documents and records, at the address stated in paragraph (a) of Clause 28.2; 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 the United Kingdom or the United States.

**11.14 Confirmation of no default**

The Borrower will, within two Business Days after service by the Agent of a written request, serve on the Agent a notice which is signed by an officer of the Borrower and which:

- (a) states that no Event of Default or Potential Event of Default has occurred; or
- (b) states that no Event of Default or Potential Event of Default has occurred, except for a specified event or matter, of which all material details are given.

The Agent may serve requests under this Clause 11.14 from time to time but only if asked to do so by a Lender or Lenders having Contributions exceeding 10 per cent. of the Loan or (if the Loan has not been borrowed) Commitments exceeding 10 per cent. of the Total Commitments; and this Clause 11.14 does not affect the Borrower's obligations under Clause 11.15.

**11.15 Notification of default**

The Borrower will notify the Agent as soon as the Borrower becomes aware of:

- (a) the occurrence of an Event of Default or a Potential Event of Default; or

- (b) any matter which indicates that an Event of Default or a Potential Event of Default may have occurred, and will keep the Agent fully up-to-date with all developments.

**11.16 Provision of further information**

The Borrower will, as soon as practicable after receiving the request, provide the Agent with any additional financial or other information relating:

- (a) to the Borrower, the Ship, the Earnings or the Insurances; or
- (b) to any other matter relevant to, or to any provision of, a Finance Document, which may be requested by the Agent, the Security Trustee or any Lender at any time.

**11.17 Provision of copies and translation of documents**

The Borrower will supply the Agent with a sufficient number of copies of the documents referred to above to provide one copy for each Creditor Party; and if the Agent so requires in respect of any of those documents, the Borrower will provide a certified English translation prepared by a translator approved by the Agent.

**11.18 “Know your customer” checks**

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the composition of the shareholders of the Borrower or any Security Party after the date of this Agreement; or
- (c) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (c), any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or the Lender concerned supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or the Lender concerned (for itself or, in the case of the event described in paragraph (c), on behalf of any prospective new Lender) in order for the Agent, the Lender concerned or, in the case of the event described in paragraph (c), any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

**11.19 Minimum Liquidity and Additional Minimum Liquidity**

The Borrower shall maintain in the Minimum Liquidity Account credit balances in an aggregate amount as specified in Schedule 8 (*Additional Provisions*).

## **11.20 Compliance Certificate**

- (a) The Borrower shall supply to the Agent, together with each set of financial statements delivered pursuant to paragraphs 11.6(a) and 11.6(b) of Clause 11.6, a Compliance Certificate (commencing with the financial statements of the Corporate Guarantor to be provided for the period ending on 31 December 2020).
- (b) Each Compliance Certificate shall be duly signed by the chief financial officer of the Corporate Guarantor, evidencing (*inter alia*) the Borrower's compliance (or not, as the case may be) with the provisions of Clause 11.19 and Clause 15.1

## **12 CORPORATE UNDERTAKINGS**

### **12.1 General**

The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 12 at all times during the Security Period except as the Agent, acting with the authorisation of the Majority Lenders, may otherwise permit in writing (such permission not to be unreasonably withheld in respect of Clause 12.3(g)).

### **12.2 Maintenance of status**

The Borrower will maintain its separate corporate existence and remain in good standing under the laws of the Republic of the Marshall Islands.

### **12.3 Negative undertakings**

The Borrower will not:

- (a) change the nature of its business or carry on any business other than the ownership, chartering and operation of the Ship;
- (b) pay any dividend or make any other form of distribution or effect any form of redemption, purchase or return of share capital if an Event of Default has occurred and is continuing at the relevant time or an Event of Default will result from the payment of a dividend or the making of any other form of distribution;
- (c) provide any form of credit or financial assistance to:
  - (i) a person who is directly or indirectly interested in the Borrower's share or loan capital; or
  - (ii) any company in or with which such a person is directly or indirectly interested or connected,or enter into any transaction with or involving such a person or company on terms which are, in any respect, less favourable to the Borrower than those which it could obtain in a bargain made at arms' length;
- (d) open or maintain any account with any bank or financial institution except accounts with the Agent, the Account Bank and the Security Trustee for the purposes of the Finance Documents;

- (e) issue, allot or grant any person a right to any shares in its capital or repurchase or reduce its issued share capital;
- (f) acquire any shares or other securities other than short term debt obligations or Treasury bills issued by the US, the UK or a Participating Member State and certificates of deposit issued by major North American or European banks, or enter into any transaction in a derivative; or
- (g) enter into any form of amalgamation, merger or de-merger, acquisition, divesture, split-up or any form of reconstruction or reorganisation; or
- (h) change its Financial Year.

#### **12.4 Corporate Guarantor's Subsidiaries**

The Borrower shall provide the Agent with a list of the Corporate Guarantor's (direct and indirect) subsidiaries at the date of this Agreement (together with information requested by the Agent pursuant to paragraph (c) of Clause 11.6 in respect of such subsidiaries) and shall promptly update this list from time to time to advise the Agent of any amendments to the information included in the original list delivered to the Agent, unless such information is included in the financial statement or periodic public filings of the Corporate Guarantor.

### **13 INSURANCE**

#### **13.1 General**

The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 13 at all times during the Security Period except as the Agent, acting with the authorisation of the Majority Lenders, may otherwise permit in writing (such permission not to be unreasonably withheld in respect of a change relating to the class or classification society under Clause 13.11(b)).

#### **13.2 Maintenance of obligatory insurances**

The Borrower shall keep the Ship insured at the expense of the Borrower against:

- (a) fire and usual marine risks (including hull and machinery and excess risks);
- (b) war risks (including, without limitation, protection and indemnity war risks with a separate limit not less than hull value of the Ship);
- (c) protection and indemnity risks (including, without limitation, protection and indemnity war risks in excess of the amount for war risks (hull) and oil pollution liability risks) in each case in the highest amount available in the international insurance market; and
- (d) any other risks the insurance of which the Security Trustee (acting on the instructions of the Majority Lenders), having regard to practices, recommendations and other circumstances prevailing at the relevant time, may from time to time require by notice to the Borrower.

#### **13.3 Terms of obligatory insurances**

The Borrower shall effect such insurances in such amounts in such currency and upon such terms and conditions (including, without limitation, any LSW 1189 or, in the opinion of the Security Trustee, comparable mortgage clause) as shall from time to time be approved in writing by the Security Trustee in its sole discretion, but in any event as follows:

- (a) in Dollars;
- (b) in the case of fire and usual marine risks and war risks, on an agreed value basis in an amount equal to at least the higher of (i) an amount which is equal to 120 per cent. of the aggregate of (A) the Loan and (B) the principal amount secured by any equal or prior ranking Security Interest on the Ship and (ii) the Market Value of the Ship;
- (c) in the case of oil pollution liability risks, for an amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry (with the International Group of Protection and Indemnity Clubs) and the international marine insurance market (currently \$1,000,000,000 for any one accident or occurrence);
- (d) in relation to protection and indemnity risks in respect of the full value and tonnage of the Ship;
- (e) in relation to war risks insurance, extended to cover piracy and terrorism where excluded under the fire and usual marine risks insurance;
- (f) on approved terms and conditions;
- (g) such other risks of whatever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner of a vessel similar to the Ship; and
- (h) through approved brokers and with approved insurance companies and/or underwriters which have a Standard & Poor's rating of at least BBB- or a comparable rating by any other rating agency acceptable to the Security Trustee (acting on the instructions of the Majority Lenders) or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations which are members of the International Group of Protection and Indemnity Clubs.

#### **13.4 Further protections for the Creditor Parties**

In addition to the terms set out in Clause 13.3, the Borrower shall and shall procure that:

- (a) it and any and all third parties who are named assured or co-assured under any obligatory insurance shall assign their interest in any and all obligatory insurances and other Insurances if so required by the Agent;
- (b) whenever the Security Trustee requires, the obligatory insurances name (or be amended to name) the Security Trustee as additional named assured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation they may have under any applicable law against the Security Trustee but without the Security Trustee thereby being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
- (c) the interest of the Security Trustee as assignee and as loss payee shall be duly endorsed on all slips, cover notes, policies, certificates of entry or other instruments of insurance in respect of the obligatory insurances;

- (d) the obligatory insurances shall name the Security Trustee as sole loss payee with such directions for payment as the Security Trustee may specify;
- (e) the obligatory insurances shall provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Trustee shall be made without set-off, counterclaim or deductions or condition whatsoever;
- (f) the obligatory insurances shall provide that the insurers shall waive, to the fullest extent permitted by English law, their entitlement (if any) (whether by statute, common law, equity, or otherwise) to be subrogated to the rights and remedies of the Security Trustee in respect of any rights or interests (secured or not) held by or available to the Security Trustee in respect of the Secured Liabilities, until the Secured Liabilities shall have been fully repaid and discharged, except that the insurers shall not be restricted by the terms of this paragraph (f) from making personal claims against persons (other than the Borrower or any Creditor Party) in circumstances where the insurers have fully discharged their liabilities and obligations under the relevant obligatory insurances;
- (g) the obligatory insurances shall provide that the obligatory insurances shall be primary without right of contribution from other insurances effected by the Security Trustee or any other Creditor Party;
- (h) the obligatory insurances shall provide that the Security Trustee may make proof of loss if the Borrower fails to do so; and
- (i) the obligatory insurances shall provide that if any obligatory insurance is cancelled, or if any substantial change is made in the coverage which adversely affects the interest of the Security Trustee, or if any obligatory insurance is allowed to lapse for non-payment of premium, such cancellation, charge or lapse shall only be effective against the Security Trustee 14 days (or 7 days in the case of war risks) after receipt by the Security Trustee of prior written notice from the insurers of such cancellation, change or lapse.

### **13.5 Renewal of obligatory insurances**

The Borrower shall:

- (a) at least 14 days before the expiry of any obligatory insurance effected by it:
  - (i) notify the Security Trustee of the brokers, underwriters, insurance companies and any protection and indemnity or war risks association through or with whom the Borrower proposes to renew that obligatory insurance and of the proposed terms and conditions of renewal; and
  - (ii) seek the Security Trustee's approval to the matters referred to in paragraph (i);
- (b) at least 7 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Security Trustee's approval pursuant to paragraph (a); and
- (c) procure that the approved brokers and/or the war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Security Trustee in writing of the terms and conditions of the renewal.

### **13.6 Copies of policies; letters of undertaking**

The Borrower shall ensure that all approved brokers provide the Security Trustee with pro forma copies of all cover notes and policies relating to the obligatory insurances which they are to effect or renew and of a letter or letters of undertaking in a form required by the Security Trustee and including undertakings by the approved brokers that:

- (a) they will have endorsed on each policy, immediately upon issue, a loss payable clause and a notice of assignment complying with the provisions of Clause 13.4;
- (b) they will hold such policies, and the benefit of such insurances, to the order of the Security Trustee in accordance with the said loss payable clause;
- (c) they will advise the Security Trustee immediately of any material change to the terms of the obligatory insurances;
- (d) they will notify the Security Trustee, not less than 14 days before the expiry of the obligatory insurances, in the event of their not having received notice of renewal instructions from the Borrower or its agents and, in the event of their receiving instructions to renew, they will promptly notify the Security Trustee of the terms of the instructions; and
- (e) they will not set off against any sum recoverable in respect of a claim relating to the Ship under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of the Ship or otherwise, they waive any lien on the policies, or any sums received under them, which they might have in respect of such premiums or other amounts, and they will not cancel such obligatory insurances by reason of non-payment of such premiums or other amounts, and will arrange for a separate policy to be issued in respect of the Ship forthwith upon being so requested by the Security Trustee.

### **13.7 Copies of certificates of entry; letters of undertaking**

The Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship is entered provides the Security Trustee with:

- (a) a certified copy of the certificate of entry for the Ship;
- (b) a letter or letters of undertaking in such form as may be required by the Security Trustee;
- (c) where required to be issued under the terms of insurance/indemnity provided by the Borrower's protection and indemnity association, a certified copy of each United States of America voyage quarterly declaration (or other similar document or documents) made by the Borrower in accordance with the requirements of such protection and indemnity association; and
- (d) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority or, as the case may be, protection and indemnity associations in relation to the Ship (if applicable).

### **13.8 Deposit of original policies**

The Borrower shall ensure that all policies relating to obligatory insurances effected by it are deposited with the approved brokers through which the insurances are effected or renewed.

### **13.9 Payment of premiums**

The Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances effected by it and produce all relevant receipts when so required by the Security Trustee.

### **13.10 Guarantees**

The Borrower shall ensure that any guarantees required by a protection and indemnity or war risks association are promptly issued and remain in full force and effect.

### **13.11 Compliance with terms of insurances**

The Borrower shall not do nor omit to do (nor permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable under an obligatory insurance repayable in whole or in part; and, in particular it shall:

- (a) take all necessary action and comply with all requirements which may from time to time be applicable to the obligatory insurances, and (without limiting the obligation contained in paragraph (c) of Clause 13.6) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Security Trustee has not given its prior approval;
- (b) not make any changes relating to the classification or classification society or manager or operator of the Ship approved by the underwriters of the obligatory insurances;
- (c) make (and promptly supply copies to the Agent) of all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship is entered to maintain cover for trading to the United States of America and Exclusive Economic Zone (as defined in the United States Oil Pollution Act 1990 or any other applicable legislation) and, if applicable, shall procure that the Approved Manager complies with this requirement; and
- (d) not employ the Ship, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

### **13.12 Alteration to terms of insurances**

The Borrower shall neither make nor agree to any alteration to the terms of any obligatory insurance or waive any right relating to any obligatory insurance.

### **13.13 Settlement of claims**

The Borrower shall not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty, and shall do all things necessary and provide all documents, evidence and information to enable the Security Trustee to collect or recover any moneys which at any time become payable in respect of the obligatory insurances and shall do all things necessary to ensure such collection or recovery is made.

#### **13.14 Provision of copies of communications**

The Borrower shall provide the Security Trustee, when so requested, copies of all written communications between the Borrower and:

- (a) the approved brokers;
- (b) the approved protection and indemnity and/or war risks associations; and
- (c) the approved insurance companies and/or underwriters, which relate directly or indirectly to:
  - (i) the Borrower's obligations relating to the obligatory insurances including, without limitation, all requisite declarations and payments of additional premiums or calls; and
  - (ii) any credit arrangements made between the Borrower and any of the persons referred to in paragraphs (a), (b) or (c) relating wholly or partly to the effecting or maintenance of the obligatory insurances.

#### **13.15 Provision of information and further undertakings**

In addition, the Borrower shall promptly provide the Security Trustee (or any persons which it may designate) with any information which the Security Trustee (or any such designated person) requests for the purpose of:

- (a) obtaining or preparing any report from an independent marine insurance broker as to the adequacy of the obligatory insurances effected or proposed to be effected; and/or
- (b) effecting, maintaining or renewing any such insurances as are referred to in Clause 13.16 or dealing with or considering any matters relating to any such insurances,

and the Borrower shall:

- (i) do all things necessary and provide the Agent and the Security Trustee with all documents and information to enable the Security Trustee to collect or recover any moneys in respect of the Insurances which are payable to the Security Trustee pursuant to the Finance Documents; and
- (ii) promptly provide the Agent with full information regarding any Major Casualty in consequence whereof the Ship has become or may become a Total Loss and agree to any settlement of such casualty or other accident or damage to the Ship only with the Agent's prior written consent,

and the Borrower shall, forthwith upon demand, indemnify the Security Trustee in respect of all fees and other expenses incurred by or for the account of the Security Trustee in connection with any such report as is referred to in paragraph (a).

#### **13.16 Mortgagee's interest and additional perils insurances**

The Security Trustee shall be entitled from time to time to effect, maintain and renew all or any of the following insurances in such amounts, on such terms, through such insurers and generally in such manner as the Majority Lenders may from time to time consider appropriate:

- (a) a mortgagee's interest insurance providing for the indemnification of the Creditor Parties for any losses under or in connection with any Finance Document (in an amount of up to the aggregate of (i) 120 per cent. of the Loan and (ii) the principal amount secured by any equal or prior ranking Security Interest on the Ship) which directly or indirectly result from loss of or damage to the Ship or a liability of the Ship or of the Borrower, being a loss or damage which is *prima facie* covered by an obligatory insurance but in respect of which there is a non-payment (or reduced payment) by the underwriters by reason of, or on the basis of an allegation concerning:
- (i) any act or omission on the part of the Borrower, of any operator, charterer, manager or sub-manager of the Ship or of any officer, employee or agent of the Borrower or of any such person, including any breach of warranty or condition or any non-disclosure relating to such obligatory insurance;
  - (ii) any act or omission, whether deliberate, negligent or accidental, or any knowledge or privity of the Borrower, any other person referred to in paragraph (i) above, or of any officer, employee or agent of the Borrower or of such a person, including the casting away or damaging of the Ship and/or the Ship being unseaworthy; and/or
  - (iii) any other matter capable of being insured against under a mortgagee's interest marine insurance policy whether or not similar to the foregoing; and
- (b) a mortgagee's interest additional perils insurance providing for the indemnification of the Creditor Parties against, among other things, any possible losses or other consequences of any Environmental Claim, including the risk of expropriation, arrest or any form of detention of the Ship, the imposition of any Security Interest over the Ship and/or any other matter capable of being insured against under a mortgagee's interest additional perils policy whether or not similar to the foregoing, and in an amount of up to (i) 110 per cent. of the Loan and (ii) the principal amount secured by any equal or prior ranking Security Interest on the Ship,

and the Borrower shall upon demand fully indemnify the Security Trustee in respect of all premiums and other expenses which are incurred in connection with or with a view to effecting, maintaining or renewing any such insurance or dealing with, or considering, any matter arising out of any such insurance.

#### **13.17 Review of insurance requirements**

The Security Trustee shall be entitled to review the requirements of this Clause 13 from time to time in order to take account of any changes in circumstances after the date of this Agreement which are, in the opinion of the Agent (acting on the instructions of the Majority Lenders), significant and capable of affecting the Borrower, the Ship and its Insurances (including, without limitation, changes in the availability or the cost of insurance coverage or the risks to which the Borrower may be subject) and the Borrower shall upon demand fully indemnify the Agent in respect of all fees and other expenses incurred by or for the account of the Agent in appointing an independent marine insurance broker or adviser to conduct such review.

#### **13.18 Modification of insurance requirements**

The Security Trustee shall notify the Borrower of any proposed modification under Clause 13.17 to the requirements of this Clause 13 which the Security Trustee reasonably considers appropriate in the circumstances, and such modification shall take effect on and from the date it is notified in writing to the Borrower as an amendment to this Clause 13 and shall bind the Borrower accordingly.

### **13.19 Compliance with mortgagee's instructions**

The Security Trustee shall be entitled (without prejudice to or limitation of any other rights which it may have or acquire under any Finance Document) to require the Ship to remain at any safe port or to proceed to and remain at any safe port designated by the Security Trustee until the Borrower implements any amendments to the terms of the obligatory insurances and any operational changes required as a result of a notice served under Clause 13.18.

## **14 SHIP COVENANTS**

### **14.1 General**

The Borrower also undertakes with each Creditor Party to comply with the following provisions of this Clause 14 at all times during the Security Period except as the Agent, acting with the authorisation of the Majority Lenders, may otherwise permit in writing (such permission not to be unreasonably withheld in respect of a change of an Approved Flag under Clause 14.2).

### **14.2 Ship's name and registration**

The Borrower shall keep the Ship registered in its name under an Approved Flag; shall not do, omit to do or allow to be done anything as a result of which such registration might be cancelled or imperilled; and shall not change the name or port of registry of the Ship.

### **14.3 Repair and classification**

The Borrower shall, and shall procure that the Approved Manager shall, keep the Ship in a good and safe condition and state of repair, sea and cargo worthy in all respects:

- (a) consistent with first-class ship ownership and management practice;
- (b) so as to maintain the highest class free of overdue recommendations and conditions, with a classification society which is a member of IACS (other than the China Classification Society and the Russian Maritime Registry of Shipping) and acceptable to the Agent; and
- (c) so as to comply with all laws and regulations applicable to vessels registered at ports in the applicable Approved Flag State or to vessels trading to any jurisdiction to which the Ship may trade from time to time, including but not limited to the ISM Code and the ISPS Code,

and the Agent shall be given power of attorney in the form attached as Schedule 6 to act on behalf of the Borrower in order to, inspect the class records and any files held by the classification society and to require the classification society to provide the Agent or any of its nominees with any information, document or file, it might request and the classification society shall be fully entitled to rely hereon without any further inquiry.

### **14.4 Classification society undertaking**

The Borrower shall instruct the classification society referred to in Clause 14.3 (and procure that the classification society undertakes with the Security Trustee) in relation to the Ship:

- (a) to send to the Security Trustee, following receipt of a written request from the Security Trustee, certified true copies of all original class records and any other related records held by the classification society in relation to the Ship;
- (b) to allow the Security Trustee (or its agents), at any time and from time to time, to inspect the original class and related records of the Ship at the offices of the classification society and to take copies of them;
- (c) to notify the Security Trustee immediately in writing if the classification society:
  - (i) receives notification from the Borrower or any person that the Ship's classification society is to be changed; or
  - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of the Ship's class under the rules or terms and conditions of the Borrower's or the Ship's membership of the classification society;
- (d) following receipt of a written request from the Security Trustee:
  - (i) to confirm that the Borrower is not in default of any of its contractual obligations or liabilities to the classification society and, without limiting the foregoing, that it has paid in full all fees or other charges due and payable to the classification society; or
  - (ii) if the Borrower is in default of any of its contractual obligations or liabilities to the classification society, to specify to the Security Trustee in reasonable detail the facts and circumstances of such default, the consequences thereof, and any remedy period agreed or allowed by the classification society.

#### **14.5 Hazardous materials and sustainable dismantling**

- (a) The Borrower shall, from 1 January 2021 and at all times thereafter, carry on board of the Ship the inventory of hazardous materials required by the relevant Approved Classification Society on board of the Ship.
- (b) The Borrower shall ensure that in the event the Ship is permanently put out of service, it is dismantled at, or sold for dismantling only to buyers that undertake to dismantle the Ship at, a ship yard complying with such standards as are required by the Hong Kong International Convention for the safe and environmentally sound recycling of ships of 15 May 2009 or by the regulation (EG) no 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

#### **14.6 Modification**

The Borrower shall not make any modification or repairs to, or replacement of, the Ship or equipment installed on it which would or might materially alter the structure, type or performance characteristics of the Ship or materially reduce its value.

#### **14.7 Removal of parts**

The Borrower shall not remove any material part of the Ship, or any item of equipment installed on the Ship unless the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed, is free from any Security Interest or any right in favour of any person other than the Security Trustee and becomes on installation on the Ship the property of the Borrower and subject to the security constituted by the relevant Mortgage and Second Mortgage **Provided that** the Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Ship.

#### **14.8 Surveys**

The Borrower shall submit the Ship regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Security Trustee provide the Security Trustee, with copies of all survey reports.

#### **14.9 Inspection**

The Borrower shall permit the Security Trustee (by surveyors or other persons appointed by it for that purpose) to board the Ship at all reasonable times to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections at the Borrower's expense (which if no Event of Default has occurred and is continuing shall be limited to once in each calendar year).

#### **14.10 Prevention of and release from arrest**

The Borrower shall promptly discharge:

- (a) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against the Ship, the Earnings or the Insurances;
- (b) all taxes, dues and other amounts charged in respect of the Ship, the Earnings or the Insurances; and
- (c) all other outgoings whatsoever in respect of the Ship, the Earnings or the Insurances,

and, forthwith upon receiving notice of the arrest of the Ship, or of its detention in exercise or purported exercise of any lien or claim, the Borrower shall procure its release by providing bail or otherwise as the circumstances may require.

#### **14.11 Compliance with laws etc.**

The Borrower shall:

- (a) comply, or procure compliance with the ISM Code, the ISPS Code, all Environmental Laws and all other laws or regulations relating to the Ship, its ownership, operation and management or to the business of the Borrower;
- (b) not employ the Ship nor allow its employment in any manner contrary to any law or regulation in any relevant jurisdiction including but not limited to the ISM Code and the ISPS Code; and
- (c) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit the Ship to enter or trade to any zone which is declared a war zone by any government or by the Ship's war risks insurers unless the prior written consent of the Security Trustee has been given and the Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Trustee may require.

#### 14.12 Provision of information

The Borrower shall promptly provide the Security Trustee with any information which it requests regarding:

- (a) the Ship, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to the master and crew of the Ship;
- (c) 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;
- (d) any towages and salvages; and
- (e) its compliance, the Approved Manager's compliance and the compliance of the Ship with the ISM Code and the ISPS Code, and, upon the Security Trustee's request, provide copies of any current charter relating to the Ship, of any current charter guarantee and copies of the Borrower's or the Approved Manager's Document of Compliance, Safety Management Certificate and the ISSC.

#### 14.13 Notification of certain events

The Borrower shall:

- (a) before entering into:
  - (i) any demise charter for any period in respect of the Ship; or
  - (ii) any other Assignable Charter,

notify the Agent and provide copies of any draft charter relating to the Ship and, if applicable, any draft charter guarantee and the Borrower shall be entitled to enter into such charter without the consent of the Creditor Parties **Provided that:**

- (A) that Borrower executes in favour of the Security Trustee a specific assignment of all its rights, title and interest in and to such charter and any charter guarantee in the Agreed Form of a Charterparty Assignment;
- (B) the charterer and any charter guarantor receive a notice (1) of the specific assignment of such charter and charter guarantee and (2) that the Mortgage and the Second Mortgage have been registered prior to the entry into such charter;
- (C) in the case where such charter is a demise charter the charterer undertakes to the Security Trustee (1) to comply with all of the Borrower's undertakings with regard to the employment, insurances, operation, repairs and maintenance of the Ship contained in this Agreement, the Deed of Covenant, the Second Deed of Covenant and the General Assignment and (2) to provide an assignment of its interest in the insurances of the Ship in the Agreed Form;

- (D) the Borrower provides certified true and complete copies of the charter relating to the Ship and of any current charter guarantee, if any, promptly after its execution;
  - (E) the Agent's receipt of a copy of the charter and its failure or neglect to act, delay or acquiescence in connection with the Borrower's entering into such charter shall not in any way constitute an acceptance by the Agent of whether or not the Earnings under the charter are sufficient to meet the debt service requirements under this Agreement nor shall it in any way affect the Agent's or the Security Trustee's entitlement to exercise its rights under the Finance Documents pursuant to Clause 19 upon the occurrence of an Event of Default arising as a result of an act or omission of the charterer; and
  - (F) the Borrower delivers to the Agent such other documents equivalent to those referred to at paragraphs 2, 3, 4, 5, 7, 8 and 9 of Schedule 3, Part A as the Agent may require; and
- (b) immediately notify the Security Trustee by letter, of:
- (i) its entry into any agreement or arrangement for the postponement of any date on which any Earnings are due, the reduction of the amount of any Earnings or otherwise for the release or adverse alteration of any right of the Borrower to any Earnings;
  - (ii) its entry into any time or consecutive voyage charter in respect of the Ship for a term which exceeds, or which by virtue of any optional extensions may exceed, 12 months;
  - (iii) any casualty which is or is likely to be or to become a Major Casualty;
  - (iv) 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;
  - (v) any requirement, overdue condition or recommendation made by any insurer or classification society or by any competent authority which is not complied with in accordance with its terms;
  - (vi) 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;
  - (vii) any unscheduled dry docking of the Ship;
  - (viii) any Environmental Claim made against the Borrower or in connection with the Ship, or any Environmental Incident;
  - (ix) any claim for breach of the ISM Code or the ISPS Code being made against the Borrower, the Approved Manager or otherwise in connection with the Ship;
  - (x) its intention to de-activate or lay up the Ship; or

- (xi) any other matter, event or incident, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with, and the Borrower shall keep the Security Trustee advised in writing on a regular basis and in such detail as the Security Trustee shall require of the Borrower's, the Approved Manager's or any other person's response to any of those events or matters.

**14.14 Restrictions on chartering, appointment of managers etc.**

The Borrower shall not, in relation to the Ship:

- (a) enter into any charter in relation to the Ship under which more than two months' hire (or the equivalent) is payable in advance;
- (b) charter the Ship otherwise than on bona fide arm's length terms at the time when the Ship is fixed;
- (c) appoint a manager of the Ship other than the Approved Manager; or
- (d) 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 \$500,000 (or the equivalent in any other currency) unless that person has first given to the Security Trustee and in terms satisfactory to it a written undertaking not to exercise any lien on the Ship or its Earnings for the cost of such work or for any other reason.

**14.15 Notice of Mortgage**

The Borrower shall keep the Mortgage and the Second Mortgage registered against the Ship as a valid first preferred or, as the case may be, priority mortgage, carry on board the Ship a certified copy of the Mortgage and the Second Mortgage and place and maintain in a conspicuous place in the navigation room and the Master's cabin of the Ship a framed printed notice stating that the Ship is mortgaged by the Borrower to the Security Trustee.

**14.16 Sharing of Earnings**

The Borrower shall not enter into any agreement or arrangement for the sharing of any Earnings (other than (i) any profit sharing agreement with a charterer which takes effect above an agreed minimum charter hire rate payable to the Borrower under a charter to which the Borrower is a party and (ii) any pool agreement, in either case, on bona fide arm's length terms).

**14.17 ISPS Code**

The Borrower shall comply with the ISPS Code and in particular, without limitation, shall:

- (a) procure that the Ship and the company responsible for the Ship's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain for the Ship an ISSC; and
- (c) notify the Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

## 15 SECURITY COVER

### 15.1 Minimum required security cover

Clause 15.2 applies if the Agent notifies the Borrower that the Security Cover Ratio is below 135 per cent.

### 15.2 Prepayment; provision of additional security

If the Agent serves a notice on the Borrower under Clause 15.1, the Borrower shall prepay such part at least of the Loan as will eliminate the shortfall on or before the date falling 14 Business Days after the date on which the Agent's notice is served under Clause 15.1 (the "**Prepayment Date**") unless at least five calendar days before the Prepayment Date the Borrower has provided, or ensured that a third party has provided, additional security which, in the reasonable opinion of the Majority Lenders, has a net realisable value at least equal to the shortfall and is documented in such terms as the Agent may, with the authorisation of the Majority Lenders, approve or require.

### 15.3 Valuation of the Ship

The Market Value of the Ship:

- (a) for the purposes of the Initial Market Value, is that shown in one valuation addressed to the Agent issued by one Approved Broker to be nominated and appointed by the Agent. If the Borrower does not agree with such valuation, the Borrower can nominate another Approved Broker to provide a second valuation addressed to the Agent and appointed by the Agent, in which case the Initial Market Value is that shown by taking the arithmetic average of such two valuations. If the difference between these two valuations is greater than 15 per cent. paragraph (c) of this Clause 15.3 shall be applicable; and
- (b) at any other date is that shown in a valuation addressed to the Agent to be issued by an Approved Broker, nominated and appointed by the Borrower and addressed to the Agent (the "**First Valuation**") unless the Agent obtains a second valuation issued by an Approved Broker nominated and appointed by the Agent (the "**Second Valuation**") in which case the Market Value of the Ship at the relevant date is that shown:
  - (i) if the difference between the First Valuation and the Second Valuation is less than, or equal to, 10 per cent., by the First Valuation; and
  - (ii) if the difference between the First Valuation and the Second Valuation is greater than 10 per cent. but less than, or equal to, 15 per cent., by taking the arithmetic average of such two valuations,each valuation issued pursuant to paragraphs (a) and (b) of this Clause 15.3 to be prepared:
  - (A) as at a date not more than 30 days previously;
  - (B) with or without physical inspection of that Ship (as the Agent may require); and

- (C) on the basis of a sale for prompt delivery for cash on normal arm's length commercial terms as between a willing seller and a willing buyer, free of any existing charter or other contract of employment; and
- (c) if the difference between 2 valuations in respect of the Ship obtained at any time, in each case, pursuant to this Clause 15.3 is greater than 15 per cent. a valuation shall be commissioned from a third Approved Broker selected and appointed by the Agent. Such valuation to be conducted in accordance with this Clause 15.3 and the Market Value of that Ship in such circumstances shall be the arithmetic average of all three valuations.

**15.4 Value of additional vessel security**

The net realisable value of any additional security which is provided under Clause 15.2 and which consists of a Security Interest over a vessel shall be that shown by a valuation complying with the requirements of Clause 15.3.

**15.5 Valuations binding**

Any valuation under Clause 15.2, 15.3 or 15.4 shall be binding and conclusive as regards the Borrowers, as shall be any valuation which the Majority Lenders make of any additional security which does not consist of or include a Security Interest.

**15.6 Provision of information**

The Borrower shall promptly provide the Agent and any Approved Broker or expert acting under Clause 15.3 or 15.4 with any information which the Agent or that Approved Broker or expert may request for the purposes of the valuation; and, if the Borrower fails to provide the information by the date specified in the request, the valuation may be made on any basis and assumptions which that Approved Broker or the Majority Lenders (or the expert appointed by them) consider prudent.

**15.7 Payment of valuation expenses**

Without prejudice to the generality of the Borrower's obligations under Clauses 20.2, 20.3 and 21.3, the Borrower shall, on demand, pay the Agent the amount of the fees and expenses of any Approved Broker or expert instructed by the Agent under this Clause and all legal and other expenses incurred by any Creditor Party in connection with any matter arising out of this Clause.

**15.8 Frequency of valuations**

The Borrower shall provide the Agent with a valuation of the Ship, dated as of June or, as the case may be, December, on the date on which the Agent receives any financial statements in accordance with paragraphs (a) and (b) of Clause 11.6 for the period ending on the dates referred to above in respect of which the Market Value of the Ship will be determined and the Agent may, otherwise, request valuations to determine the Borrower's compliance under Clause 15.1 not less than twice during each 12-month period during the Security Period.

## **16 PAYMENTS AND CALCULATIONS**

### **16.1 Currency and method of payments**

All payments to be made by the Lenders or by the Borrower under a Finance Document shall be made to the Agent or to the Security Trustee, in the case of an amount payable to it:

- (a) by not later than 11.00 a.m. (New York City time) on the due date;
- (b) in same day Dollar funds settled through the New York Clearing House Interbank Payments System (or in such other Dollar funds and/or settled in such other manner as the Agent shall specify as being customary at the time for the settlement of international transactions of the type contemplated by this Agreement);
- (c) in the case of an amount payable by a Lender to the Agent or by the Borrower to the Agent or any Lender, to the account of the Agent at J.P. Morgan Chase Bank (SWIFT Code CHASUS33) (Account No. 001 1331 808 in favour of Hamburg Commercial Bank AG, SWIFT Code HSHNDEHH; Reference "Lefkada Shipping Corporation") or to such other account with such other bank as the Agent may from time to time notify to the Borrower and the other Creditor Parties; and
- (d) in the case of an amount payable to the Security Trustee, to such account as it may from time to time notify to the Borrower and the other Creditor Parties.

### **16.2 Payment on non-Business Day**

If any payment by the Borrower under a Finance Document would otherwise fall due on a day which is not a Business Day:

- (a) the due date shall be extended to the next succeeding Business Day; or
- (b) if the next succeeding Business Day falls in the next calendar month, the due date shall be brought forward to the immediately preceding Business Day,

and interest shall be payable during any extension under paragraph (a) at the rate payable on the original due date.

### **16.3 Basis for calculation of periodic payments**

All interest and commitment fee and any other payments under any Finance Document which are of an annual or periodic nature shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed and a 360 day year.

### **16.4 Distribution of payments to Creditor Parties**

Subject to Clauses 16.5, 16.6 and 16.7:

- (a) any amount received by the Agent under a Finance Document for distribution or remittance to a Lender or the Security Trustee shall be made available by the Agent to that Lender or, as the case may be, the Security Trustee by payment, with funds having the same value as the funds received, to such account as the Lender or the Security Trustee may have notified to the Agent not less than five Business Days previously; and

- (b) amounts to be applied in satisfying amounts of a particular category which are due to the Lenders generally shall be distributed by the Agent to each Lender pro rata to the amount in that category which is due to it.

**16.5 Permitted deductions by Agent**

Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent may, before making an amount available to a Lender, deduct and withhold from that amount any sum which is then due and payable to the Agent from that Lender under any Finance Document or any sum which the Agent is then entitled under any Finance Document to require that Lender to pay on demand.

**16.6 Agent only obliged to pay when monies received**

Notwithstanding any other provision of this Agreement or any other Finance Document, the Agent shall not be obliged to make available to the Borrower or any Lender any sum which the Agent is expecting to receive for remittance or distribution to the Borrower or that Lender until the Agent has satisfied itself that it has received that sum.

**16.7 Refund to Agent of monies not received**

If and to the extent that the Agent makes available a sum to the Borrower or a Lender, without first having received that sum, the Borrower or (as the case may be) the Lender concerned shall, on demand:

- (a) refund the sum in full to the Agent; and
- (b) pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding or other loss, liability or expense incurred by the Agent as a result of making the sum available before receiving it.

**16.8 Agent may assume receipt**

Clause 16.7 shall not affect any claim which the Agent has under the law of restitution, and applies irrespective of whether the Agent had any form of notice that it had not received the sum which it made available.

**16.9 Creditor Party accounts**

Each Creditor Party shall maintain accounts showing the amounts owing to it by the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.

**16.10 Agent's memorandum account**

The Agent shall maintain a memorandum account showing the amounts advanced by the Lenders and all other sums owing to the Agent, the Security Trustee and each Lender from the Borrower and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrower and any Security Party.

#### **16.11 Accounts prima facie evidence**

If any accounts maintained under Clauses 16.9 and 16.10 show an amount to be owing by the Borrower or a Security Party to a Creditor Party, those accounts shall be *prima facie* evidence that that amount is owing to that Creditor Party.

### **17 APPLICATION OF RECEIPTS**

#### **17.1 Normal order of application**

Except as any Finance Document may otherwise provide, any sums which are received or recovered by any Creditor Party under or by virtue of any Finance Document shall be applied:

- (a) **FIRST:** in or towards satisfaction of any amounts then due and payable under the Finance Documents in the following order and proportions:
  - (i) firstly, in or towards satisfaction pro rata of all amounts then due and payable to the Creditor Parties under the Finance Documents (including, but without limitation, all amounts payable by the Borrower under Clauses 20, 21 and 22 of this Agreement or by the Borrower or any Security Party under any corresponding or similar provision in any other Finance Document) other than those amounts referred to at paragraphs (ii) and (iii);
  - (ii) secondly, in or towards satisfaction pro rata of any and all amounts of interest or default interest payable to the Creditor Parties under the Finance Documents; and
  - (iii) thirdly, in or towards satisfaction of the Loan; and
- (b) **SECONDLY:** in retention of an amount equal to any amount not then due and payable under any Finance Document but which the Agent, by notice to the Borrower, the Security Parties and the other Creditor Parties, states in its opinion will either or may become due and payable in the future and, upon those amounts becoming due and payable, in or towards satisfaction of them in accordance with the provisions of paragraph (a) of Clause 17.1; and
- (c) **THIRDLY:** any surplus shall be paid to the Borrower or to any other person appearing to be entitled to it.

#### **17.2 Application by any covered bond Lender**

If and to the extent that any Lender includes the Loan and/or a Mortgage in its covered bond register, any enforcement proceeds recovered under the Finance Documents and attributable to it under the relevant Finance Document shall, notwithstanding the provisions of paragraph (a) of Clause 17.1, be applied by it first to the part of the Loan that corresponds to that Lender's Contribution registered in its covered bond register and thereafter in the following order:

- (a) firstly, in or towards satisfaction of the amounts set out under paragraph (a)(i) of Clause 17.1;
- (b) secondly, in or towards satisfaction of the amounts set out under paragraph (a)(ii) of Clause 17.1; and
- (c) thirdly, in or towards satisfaction of any part of the Loan that corresponds to any unregistered part of that Lender's contribution.

### **17.3 Variation of order of application**

The Agent may, with the authorisation of the Majority Lenders, by notice to the Borrower, the Security Parties and the other Creditor Parties provide for a different manner of application from that set out in Clause 17.1 (but not, for the avoidance of doubt, that set out in Clause 17.2) either as regards a specified sum or sums or as regards sums in a specified category or categories.

### **17.4 Notice of variation of order of application**

The Agent may give notices under Clause 17.3 from time to time; and such a notice may be stated to apply not only to sums which may be received or recovered in the future, but also to any sum which has been received or recovered on or after the third Business Day before the date on which the notice is served.

### **17.5 Appropriation rights overridden**

This Clause 17 and any notice which the Agent gives under Clause 17.3 shall override any right of appropriation possessed, and any appropriation made, by the Borrower or any Security Party.

## **18 APPLICATION OF EARNINGS**

### **18.1 Payment of Earnings**

The Borrower undertakes with each Creditor Party that, throughout the Security Period (and subject only to the provisions of the General Assignment):

- (a) it shall not maintain any other bank accounts, except for:
  - (i) the Accounts, which shall be held with the Account Bank; and
  - (ii) any accounts existing as at the date of this Agreement, which shall be closed within 45 days from the date of this Agreement;
- (b) it shall ensure that all Earnings of the Ship are paid to the Earnings Account; and
- (c) the Minimum Liquidity and the Additional Minimum Liquidity amounts required pursuant to Clause 11.19 shall be maintained in the Minimum Liquidity Account.

### **18.2 Monthly retentions**

The Borrower undertakes with each Creditor Party to ensure that, on and from the date falling one month after the Drawdown Date and at monthly intervals thereafter during the Security Period, there are transferred in respect of Loan drawn on the Drawdown Date to the Retention Account out of the Earnings received in the Earnings Account during the preceding month:

- (a) one-third of the amount of the relevant Instalment falling due in respect of the Loan under Clause 8.1 on the next Repayment Date; and
- (b) the relevant fraction of the aggregate amount of interest on the Loan which is payable on the next due date for payment of interest under this Agreement,

- (c) and the Borrower irrevocably authorises the Agent to make those transfers (in its sole discretion and without any obligation) if the Borrower fails to do so.

The “**relevant fraction**”, in relation to paragraph (b), is a fraction of which the numerator is 1 and the denominator the number of months comprised in the then current Interest Period (or if the current Interest Period in respect of the Loan ends after the next due date for payment of interest under this Agreement, the number of months from the later of the commencement of the current Interest Period in respect of the Loan or the last due date for payment of interest to the next due date for payment of interest in respect of the Loan under this Agreement).

### **18.3 Shortfall in Earnings**

If the aggregate Earnings received in the Earnings Account are insufficient at any time for the required amount to be transferred to the Retention Account under Clause 18.2, the Borrower shall immediately pay the amount of the insufficiency into the Retention Account.

### **18.4 Application of retentions**

- (a) Until an Event of Default or a Potential Event of Default occurs, the Agent shall, to the extent there are sufficient funds standing to the credit of the Retention Account, on each Repayment Date and on each due date for the payment of interest under this Agreement distribute to the Lenders in accordance with Clause 16.4 so much of the then balance on the Retention Account as equals:
  - (b) the Instalment due on that Repayment Date pursuant to Clause 8.1; or
  - (c) the amount of interest in respect of the Loan payable on that interest payment date, in discharge of the Borrower’s liability for that Instalment or that interest.

### **18.5 Interest accrued on the Accounts**

Any credit balance on each Account shall bear interest at the rate from time to time offered by the Agent to its customers for Dollar deposits of similar amounts and for periods similar to those for which such balances appear to the Agent likely to remain on that Account.

### **18.6 Release of accrued interest**

Interest accruing under Clause 18.5 shall be credited to the relevant Account and may be released to the Borrower pursuant to Clause 18.10.

### **18.7 Location of Accounts**

The Borrower shall promptly:

- (a) comply with any requirement of the Agent as to the location or re-location of the Accounts (or any of them); and
- (b) execute any documents which the Agent specifies to create or maintain in favour of the Security Trustee a Security Interest over (and/or rights of set-off, consolidation or other rights in relation to) the Accounts.

### **18.8 Debits for fees, expenses etc.**

The Agent shall be entitled (but not obliged) from time to time to debit the Earnings Account without prior notice in order to discharge any amount due and payable under Clauses 20 or 21 to a Creditor Party or payment of which any Creditor Party has become entitled to demand under Clauses 20 or 21.

### **18.9 Borrower's obligations unaffected**

The provisions of this Clause 18 (as distinct from a distribution effected under Clause 18.4) do not affect:

- (a) the liability of the Borrower to make payments of principal and interest on the due dates; or
- (b) any other liability or obligation of the Borrower or any Security Party under any Finance Document.

### **18.10 Restriction on withdrawal**

During the Security Period no sum may be withdrawn by the Borrower from the Minimum Liquidity Account or the Retention Account (other than interest pursuant to Clause 18.6, provided that no Event of Default or Potential Event of Default has occurred which is continuing), without the prior written consent of the Agent.

The Borrower may, in any calendar month, after having transferred and/or after having taken into account all amounts due or which will become due to be transferred to the Retention Account in such calendar month in accordance with Clause 18.2, withdraw any surplus (a "Surplus") from the Earnings Account as it may think fit for purposes permitted by this Agreement and the other Finance Documents **Provided always** no Event of Default or Potential Event of Default has occurred which is continuing in which case any Surplus shall remain on the Earnings Account and the Borrower may only withdraw the Surplus (or any part thereof) with the prior written consent of the Agent (acting upon the instructions of the Majority Lenders) in order to satisfy the documented and properly incurred operating expenses of the Ship.

## **19 EVENTS OF DEFAULT**

### **19.1 Events of Default**

An Event of Default occurs if:

- (a) the Borrower or any Security Party fails to pay when due or (if so payable) on demand any sum payable under a Finance Document or under any document relating to a Finance Document unless:
  - (i) its failure to pay is caused by administrative or technical error or a Disruption Event; and
  - (ii) payment is made within three Business Days; or
- (b) any breach occurs of Clause 9.2, 11.2, 11.3, 11.18, 11.19, 12.2, 12.3 or 15.2; or

- (c) any breach by the Borrower, the Approved Manager or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraphs (a) or (b)) which, in the reasonable opinion of the Majority Lenders, is capable of remedy, and such default continues unremedied 30 Business Days (or any other grace period agreed by the Agent) after written notice from the Agent requesting action to remedy the same; or
- (d) (subject to any applicable grace period specified in the Finance Documents) any material breach by the Borrower, the Approved Manager or any Security Party occurs of any provision of a Finance Document (other than a breach falling within paragraphs (a), (b) or (c)); or
- (e) any representation, warranty or statement made or repeated by, or by an officer of, the Borrower, the Approved Manager or a Security Party in a Finance Document or in the Drawdown Notice or any other notice or document relating to a Finance Document is untrue or misleading in any material respect when it is made or repeated; or
- (f) any of the following occurs in relation to any Financial Indebtedness of a Relevant Person:
  - (i) any Financial Indebtedness of a Relevant Person is not paid when due unless the Relevant Person is contesting its obligation to pay the relevant amount in good faith and on substantial grounds and by appropriate proceedings and adequate reserves have been set aside for its payment if such proceedings fail; or
  - (ii) any Financial Indebtedness of a Relevant Person which in the case of any Relevant Person other than the Borrower exceeds \$15,000,000 (or the equivalent in any other currency in aggregate), becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default; or
  - (iii) any overdraft, loan, note issuance, acceptance credit, letter of credit, guarantee, foreign exchange or other facility, or any swap or other derivative contract or transaction, relating to any Financial Indebtedness of a Relevant Person which in the case of any Relevant Person other than the Borrower exceeds \$15,000,000 (or the equivalent in any other currency in aggregate) 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
  - (iv) any Security Interest securing any Financial Indebtedness of a Relevant Person, which in the case of any Relevant Person other than the Borrower exceeds an amount of \$15,000,000 (or the equivalent in any other currency in aggregate), becomes enforceable; or
- (g) any of the following occurs in relation to a Relevant Person:
  - (i) a Relevant Person becomes, in the reasonable opinion of the Majority Lenders, unable to pay its debts as they fall due; or
  - (ii) any assets of a Relevant Person are subject to any form of execution, attachment, arrest, sequestration or distress or any form of freezing order, which in the case of any Relevant Person other than the Borrower exceeds \$15,000,000 (or the equivalent in any other currency in aggregate), and such execution, attachment, arrest, sequestration, distress or freezing order is not withdrawn within thirty (30) Business Days; or

- (iii) any administrative or other receiver is appointed over any asset of a Relevant Person; or
- (iv) an administrator is appointed (whether by the court or otherwise) in respect of a Relevant Person; or
- (v) any formal declaration of bankruptcy or any formal statement to the effect that a Relevant Person is insolvent or likely to become insolvent is made by a Relevant Person or by the directors or officers of a Relevant Person or, in any proceedings, by a lawyer acting for a Relevant Person; or
- (vi) a provisional liquidator is appointed in respect of a Relevant Person, a winding up order is made in relation to a Relevant Person or a winding up resolution is passed by a Relevant Person; or
- (vii) a resolution is passed, an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by (aa) a Relevant Person, (bb) the shareholders, directors or officers of a Relevant Person, (cc) a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person, or (dd) a government minister or public or regulatory authority of a Pertinent Jurisdiction for or with a view to the winding up of that or another Relevant Person or the appointment of a provisional liquidator or administrator in respect of that or another Relevant Person, or that or another Relevant Person ceasing or suspending business operations or payments to creditors, save that this paragraph does not apply to a fully solvent winding up of a Relevant Person other than the Borrower or the Corporate Guarantor or the Shareholder which is, or is to be, effected for the purposes of an amalgamation or reconstruction previously approved by the Majority Lenders and effected not later than three months after the commencement of the winding up; or
- (viii) an administration notice is given or filed, an application or petition to a court is made or presented or any other step is taken by a creditor of a Relevant Person (other than a holder of Security Interests which together relate to all or substantially all of the assets of a Relevant Person) for the winding up of a Relevant Person or the appointment of a provisional liquidator or administrator in respect of a Relevant Person in any Pertinent Jurisdiction, unless the proposed winding up, appointment of a provisional liquidator or administration is being contested in good faith, on substantial grounds and not with a view to some other insolvency law procedure being implemented instead and either (aa) the application or petition is dismissed or withdrawn within 60 days of being made or presented, or (bb) within 60 days of the administration notice being given or filed, or the other relevant steps being taken, other action is taken which will ensure that there will be no administration and (in both cases (aa) or (bb)) the Relevant Person will continue to carry on business in the ordinary way and without being the subject of any actual, interim or pending insolvency law procedure; or
- (ix) a Relevant Person or its directors or officers take any steps (whether by making or presenting an application or petition to a court, or submitting or presenting a document setting out a proposal or proposed terms, or otherwise) with a view to obtaining, in relation to that or another Relevant Person, any form of moratorium, suspension or deferral of payments, reorganisation of debt (or certain debt) or arrangement with all or a substantial proportion (by number or value) of creditors or of any class of them or any such moratorium, suspension or deferral of payments, reorganisation or arrangement is effected by court order, by the filing of documents with a court, by means of a contract or in any other way at all; or

- (x) any meeting of the shareholders or directors, or of any committee of the board or senior management, of a Relevant Person is held or summoned for the purpose of considering a resolution or proposal to authorise or take any action of a type described in paragraphs (iv) to (ix) or a step preparatory to such action, or (with or without such a meeting) the shareholders, directors or such a committee resolve or agree that such an action or step should be taken or should be taken if certain conditions materialise or fail to materialise; or
- (xi) in a Pertinent Jurisdiction other than England, any event occurs, any proceedings are opened or commenced or any step is taken which, in the reasonable opinion of the Majority Lenders is similar to any of the foregoing; or
- (h) the Borrower ceases or suspends carrying on its business or a part of its business which, in the reasonable opinion of the Majority Lenders, is material in the context of this Agreement; or
- (i) it becomes unlawful in any Pertinent Jurisdiction or impossible:
  - (i) for the Borrower, the Approved Manager or any Security Party to discharge any liability under a Finance Document or to comply with any other obligation which the Majority Lenders consider material under a Finance Document; or
  - (ii) for the Agent, the Security Trustee or the Lenders to exercise or enforce any right under, or to enforce any Security Interest created by, a Finance Document; or
- (j) any official consent necessary to enable the Borrower to own, operate or charter the Ship or to enable the Borrower, the Approved Manager or any Security Party to comply with any provision which the Majority Lenders reasonably consider material of a Finance Document or any Underlying Document is not granted, expires without being renewed, is revoked or becomes liable to revocation or any condition of such a consent is not fulfilled unless such revocation is validly contested in good faith by the Borrower, the Approved Manager or, as the case may be, that Security Party; or
- (k) it appears to the Majority Lenders that, without their prior consent, a Change of Control has occurred; or
- (l) any provision which the Majority Lenders reasonably consider material of a Finance Document proves to have been or becomes invalid or unenforceable, or a Security Interest created by a Finance Document proves to have been or becomes invalid or unenforceable or such a Security Interest proves to have ranked after, or loses its priority to, another Security Interest or any other third party claim or interest (excluding any Permitted Security Interests); or
- (m) the security constituted by a Finance Document is in any way imperilled or in jeopardy; or
- (n) the Borrower, the Approved Manager or any Security Party or any other person (other than a Creditor Party) repudiates any of the Finance Documents to which the Borrower, the Approved Manager or that Security Party or person is a party or evidences an intention to do so; or
- (o) any other event occurs or any other circumstances arise or develop including, without limitation:

- (i) a change in the financial position, state of affairs or prospects of the Borrower, the Corporate Guarantor or any other Security Party; or
- (ii) the commencement of legal or administrative action involving the Borrower, the Ship, the Approved Manager or any Security Party; or
- (iii) the withdrawal of any material license or governmental or regulatory approval in respect of the Ship, the Borrower, the Approved Manager or the Borrower's or Approved Manager's business (unless such withdrawal can be contested with the effect of suspension and is in fact so contested in good faith by the Borrower or the Approved Manager),

which in the reasonable opinion of the Lenders constitutes a Material Adverse Change.

#### **19.2 Actions following an Event of Default**

On, or at any time after, the occurrence of an Event of Default:

- (a) the Agent may, and if so instructed by the Majority Lenders, the Agent shall:
  - (i) serve on the Borrower a notice stating that all or part of the Commitments and of the other obligations of each Lender to the Borrower under this Agreement are cancelled; and/or
  - (ii) serve on the Borrower a notice stating that all or part of the Loan together with accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
  - (iii) take any other action which, as a result of the Event of Default or any notice served under paragraph (i) or (ii), the Agent and/or the Lenders are entitled to take under any Finance Document or any applicable law; and/or
- (b) the Security Trustee may, and if so instructed by the Agent, acting with the authorisation of the Majority Lenders, the Security Trustee shall take any action which, as a result of the Event of Default or any notice served under paragraph (a)(i) or (a)(ii), the Security Trustee, the Agent, the Mandated Lead Arranger and/or the Lenders are entitled to take under any Finance Document or any applicable law.

#### **19.3 Termination of Commitments**

On the service of a notice under paragraph (a)(i) of Clause 19.2, the Commitments and all other obligations of each Lender to the Borrower under this Agreement shall be cancelled.

#### **19.4 Acceleration of Loan**

On the service of a notice under paragraph (a)(ii) of Clause 19.2, all or, as the case may be, the part of the Loan specified in the notice together with accrued interest and all other amounts accrued or owing from the Borrower or any Security Party under this Agreement and every other Finance Document shall become immediately due and payable or, as the case may be, payable on demand.

#### **19.5 Multiple notices; action without notice**

The Agent may serve notices under paragraphs (a)(i) and (a)(ii) of Clauses 19.2 simultaneously or on different dates and it and/or the Security Trustee may take any action referred to in Clause 19.2 if no such notice is served or simultaneously with or at any time after the service of both or either of such notices.

#### **19.6 Notification of Creditor Parties and Security Parties**

The Agent shall send to each Lender, the Security Trustee, the Approved Manager and each Security Party a copy or the text of any notice which the Agent serves on the Borrower under Clause 19.2; but the notice shall become effective when it is served on the Borrower, and no failure or delay by the Agent to send a copy or the text of the notice to any other person shall invalidate the notice or provide the Borrower, the Approved Manager or any Security Party with any form of claim or defence.

#### **19.7 Creditor Party rights unimpaired**

Nothing in this Clause shall be taken to impair or restrict the exercise of any right given to individual Lenders under a Finance Document or the general law; and, in particular, this Clause is without prejudice to Clause 3.1.

#### **19.8 Exclusion of Creditor Party liability**

No Creditor Party, and no receiver or manager appointed by the Security Trustee, shall have any liability to the Borrower or a Security Party:

- (a) for any loss caused by an exercise of rights under, or enforcement of a Security Interest created by, a Finance Document or by any failure or delay to exercise such a right or to enforce such a Security Interest; or
- (b) as mortgagee in possession or otherwise, for any income or principal amount which might have been produced by or realised from any asset comprised in such a Security Interest or for any reduction (however caused) in the value of such an asset,

except that this does not exempt a Creditor Party or a receiver or manager from liability for losses shown to have been directly and mainly caused by gross negligence, the dishonesty or the wilful misconduct of such Creditor Party's own officers and employees or (as the case may be) such receiver's or manager's own partners or employees.

#### **19.9 Relevant Persons**

In this Clause 19, a "**Relevant Person**" means the Borrower or any Security Party; and for the purposes of Clause 19.1(f) it, also, means any member of the Group.

#### **19.10 Interpretation**

In paragraph (f) of Clause 19.1 references to an event of default or a termination event include any event, howsoever described, which is similar to an event of default in a facility agreement or a termination event in a finance lease; and in paragraph (g) of Clause 19.1 "**petition**" includes an application.

## **20 FEES AND EXPENSES**

### **20.1 Structuring and commitment fees**

The Borrower shall pay to the Agent:

- (a) a non-refundable structuring fee in the amount of \$318,000 (representing 1 per cent. of the Total Commitments) which shall be due and payable to the Agent (for its own account) on the earliest of (i) the Drawdown Date, (ii) the last day of the Availability Period and (iii) the date of cancellation of the Total Commitment; and
- (b) a non-refundable commitment fee, at the rate of 1.00 per cent. per annum on the undrawn or uncanceled amount of the Total Commitments, payable quarterly in arrears for distribution among the Lenders pro rata to their Commitments, during the period from (and including) 18 September 2019 (being the date of acceptance of the firm offer) to the earlier of (i) the Drawdown Date and (ii) the last day of the Availability Period (and on the last day of such period).

### **20.2 Costs of negotiation, preparation etc.**

The Borrower shall pay to the Agent on its demand the amount of all legal and other expenses incurred by the Agent or the Security Trustee in connection with the negotiation, preparation, execution or registration of any Finance Document or any related document or with any transaction contemplated by a Finance Document or a related document.

### **20.3 Costs of variations, amendments, enforcement etc.**

The Borrower shall pay to the Agent, on the Agent's demand, for the account of the Creditor Party concerned, the amount of all legal and other expenses incurred by a Creditor Party in connection with:

- (a) any amendment or supplement (or any proposal for such an amendment or supplement) requested (or, in the case of a proposal, made) by or on behalf of the Borrower and relating to a Finance Document or any other Pertinent Document;
- (b) any consent, waiver or suspension of rights by the Lenders, the Majority Lenders or the Creditor Party concerned or any proposal for any of the foregoing requested (or, in the case of a proposal, made) by or on behalf of the Borrower under or in connection with a Finance Document or any other Pertinent Document;
- (c) the valuation of any security provided or offered under and pursuant to Clause 15 or any other matter relating to such security;
- (d) any step taken by the Creditor Party concerned with a view to the preservation, protection, exercise or enforcement of any rights or Security Interest created by a Finance Document or for any similar purpose including, without limitation, any proceedings to recover or retain proceeds of enforcement or any other proceedings following enforcement proceedings until the date all outstanding indebtedness to the Creditor Parties under the Finance Documents and any other Pertinent Document is repaid in full; or
- (e) any amendment or supplement (or any proposal for such an amendment or supplement) in connection with a Finance Document or any other Pertinent Document required as contemplated in Clause 27.5.

There shall be recoverable under paragraph (d) the full amount of all legal expenses, whether or not such as would be allowed under rules of court or any taxation or other procedure carried out under such rules.

#### **20.4 Documentary taxes**

The Borrower shall promptly pay any tax payable on or by reference to any Finance Document, and shall, on the Agent's demand, fully indemnify each Creditor Party against any claims, expenses, liabilities and losses resulting from any failure or delay by the Borrower to pay such a tax.

#### **20.5 Certification of amounts**

A notice which is signed by two officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 20 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be *prima facie* evidence that the amount, or aggregate amount, is due.

### **21 INDEMNITIES**

#### **21.1 Indemnities regarding borrowing and repayment of Loan**

The Borrower shall fully indemnify the Agent and each Lender on the Agent's demand and the Security Trustee on its demand in respect of all claims, expenses, liabilities and losses which are made or brought against or incurred by that Creditor Party, or which that Creditor Party reasonably and with due diligence estimates that it will incur, as a result of or in connection with:

- (a) The Loan not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity after the Drawdown Notice has been served in accordance with the provisions of this Agreement;
- (b) the receipt or recovery of all or any part of the Loan or an overdue sum otherwise than on the last day of an Interest Period or other relevant period;
- (c) any failure (for whatever reason) by the Borrower to make payment of any amount due under a Finance Document on the due date or, if so payable, on demand (after giving credit for any default interest paid by the Borrower on the amount concerned under Clause 7) including but not limited to any costs and expenses of enforcing any Security Interests created by the Finance Documents and any claims, liabilities and losses which may be brought against, or incurred by, a Creditor Party when enforcing any Security Interests created by the Finance Documents; and
- (d) the occurrence and/or continuance of an Event of Default or a Potential Event of Default and/or the acceleration of repayment of the Loan under Clause 19,

and in respect of any tax (other than tax on its overall net income and a FATCA Deduction) for which a Creditor Party is liable in connection with any amount paid or payable to that Creditor Party (whether for its own account or otherwise) under any Finance Document.

## 21.2 Break Costs

If a Lender (the “**Notifying Lender**”) notifies the Agent that as a consequence of receipt or recovery of all or any part of the Loan (a “**Payment**”) on a day other than the last day of an Interest Period applicable to the sum received or recovered the Notifying Lender has or will, with effect from a specified date, incur Break Costs:

- (a) the Agent shall promptly notify the Borrower of a notice it receives from a Notifying Lender under this Clause 21.2;
- (b) the Borrower shall, within five Business Days of the Agent’s demand, pay to the Agent for the account of the Notifying Lender the amount of such Break Costs; and
- (c) the Notifying Lender shall, as soon as reasonably practicable, following a request by the Borrower, provide a certificate confirming the amount of the Notifying Lender’s Break Costs for the Interest Period in which they accrue, such certificate to be, in the absence of manifest error, conclusive and binding on the Borrower.

In this Clause 21.2, “**Break Costs**” means, in relation to a Payment the amount (if any) by which:

- (i) the interest which the Notifying Lender, should have received in accordance with Clause 5 in respect of the sum received or recovered from the date of receipt or recovery of such Payment to the last day of the then current Interest Period applicable to the sum received or recovered had such Payment been made on the last day of such Interest Period;

exceeds

- (ii) the amount which the Notifying Lender, would be able to obtain by placing an amount equal to such Payment on deposit with a leading bank in the Relevant Interbank Market for a period commencing on the Business Day following receipt or recovery of such Payment (as the case may be) and ending on the last day of the then current Interest Period applicable to the sum received or recovered.

## 21.3 Other breakage costs

Without limiting its generality, Clause 21.1 covers any claim, expense, liability or loss, including (without limitation) (i) a loss of a prospective profit, incurred by a Lender in borrowing, liquidating or re-employing deposits from third parties acquired, contracted for or arranged to fund, effect or maintain all or any part of its Contribution and/or any overdue amount (or an aggregate amount which includes its Contribution or any overdue amount) other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the gross negligence or wilful misconduct of the officers or employees of the Creditor Party concerned and (ii) any applicable legal fees.

## 21.4 Miscellaneous indemnities

The Borrower shall fully indemnify each Creditor Party severally on their respective demands, without prejudice to any of their other rights under any of the Finance Documents, in respect of all claims, expenses, liabilities and losses which may be made or brought against or sustained or incurred by a Creditor Party, in any country, as a result of or in connection with:

- (a) any action taken, or omitted or neglected to be taken, under or in connection with any Finance Document by the Agent, the Security Trustee or any other Creditor Party or by any receiver appointed under a Finance Document;
- (b) investigating any event which the Creditor Party concerned reasonably believes constitutes an Event of Default or Potential Event of Default; or
- (c) acting or relying on any notice, request or instruction which the Creditor Party concerned reasonably believes to be genuine, correct and appropriately authorised,

other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the dishonesty, gross negligence or wilful misconduct of the officers or employees of the Creditor Party concerned.

#### **21.5 Environmental Indemnity**

Without prejudice to the generality of Clause 21.4, this Clause 21.5 covers any claims, demands, proceedings, liabilities, taxes, losses, liabilities or expenses of every kind which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code or the ISPS Code, any Environmental Law.

#### **21.6 Currency indemnity**

If any sum due from the Borrower or any Security Party to a Creditor Party under a Finance Document or under any order, award or judgment relating to a Finance Document (a “**Sum**”) has to be converted from the currency in which the Finance Document provided for the Sum to be paid (the “**Contractual Currency**”) into another currency (the “**Payment Currency**”) for the purpose of:

- (a) making, filing or lodging any claim or proof against the Borrower or any Security Party, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order, judgment or award from any court or other tribunal in relation to any litigation or arbitration proceedings; or
- (c) enforcing any such order, judgment or award,

the Borrower shall as an independent obligation, within three Business Days of demand, indemnify the Creditor Party to whom that Sum is due against any cost, loss or liability arising when the payment actually received by that Creditor Party is converted at the available rate of exchange back into the Contractual Currency including any discrepancy between (A) the rate of exchange actually used to convert the Sum from the Payment Currency into the Contractual Currency and (B) the available rate of exchange.

In this Clause 21.6, the “**available rate of exchange**” means the rate at which the Creditor Party concerned is able at the opening of business (London time) on the Business Day after it receives the Sum to purchase the Contractual Currency with the Payment Currency.

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.

If any Creditor Party receives any Sum in a currency other than the Contractual Currency, the Borrower shall indemnify in full the Creditor Party concerned against any cost, loss or liability arising directly or indirectly from any conversion of such Sum to the Contractual Currency.

This Clause 21.6 creates a separate liability of the Borrower which is distinct from its other liabilities under the Finance Documents and which shall not be merged in any judgment or order relating to those other liabilities.

**21.7 Certification of amounts**

A notice which is signed by two officers of a Creditor Party, which states that a specified amount, or aggregate amount, is due to that Creditor Party under this Clause 21 and which indicates (without necessarily specifying a detailed breakdown) the matters in respect of which the amount, or aggregate amount, is due shall be *prima facie* evidence that the amount, or aggregate amount, is due.

**21.8 Sums deemed due to a Lender**

For the purposes of this Clause 21, a sum payable by the Borrower to the Agent or the Security Trustee for distribution to a Lender shall be treated as a sum due to that Lender.

**22 NO SET-OFF OR TAX DEDUCTION**

**22.1 No deductions**

All amounts due from the Borrower under a Finance Document shall be paid:

- (a) without any form of set-off, counter-claim, cross-claim or condition; and
- (b) free and clear of any tax deduction except a tax deduction which the Borrower is required by law to make.

**22.2 Grossing-up for taxes**

If, at any time, the Borrower is required by law, regulation or regulatory requirement to make a tax deduction from any payment due under a Finance Document:

- (a) the Borrower shall notify the Agent as soon as it becomes aware of the requirement;
- (b) the amount due in respect of the payment shall be increased by the amount necessary to ensure that, after the making of such tax deduction, each Creditor Party receives on the due date for such payment (and retains free from any liability relating to the tax deduction) a net amount which is equal to the full amount which it would have received had no such tax deduction been required to be made; and
- (c) the Borrower shall pay the full amount of the tax required to be deducted to the appropriate taxation authority promptly in accordance with the relevant law, regulation or regulatory requirement, and in any event before any fine or penalty arises.

### 22.3 Indemnity and evidence of payment of taxes

The Borrower shall fully indemnify each Creditor Party on the Agent's demand in respect of all claims, expenses, liabilities and losses incurred by any Creditor Party by reason of any failure of the Borrower to make any tax deduction or by reason of any increased payment not being made on the due date for such payment in accordance with Clause 22.2. Within 30 days after making any tax deduction, the Borrower shall deliver to the Agent any receipts, certificates or other documentary evidence satisfactory to the Agent that the tax had been paid to the appropriate taxation authority.

### 22.4 Exclusion of tax on overall net income

In this Clause 22 "**tax deduction**" means any deduction or withholding from any payment due under a Finance Document for or on account of any present or future tax except:

- (a) tax on a Creditor Party's overall net income; and
- (b) a FATCA Deduction.

### 22.5 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party; and
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to sub-paragraph (i) of paragraph (a) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Creditor Party to do anything and sub-paragraph (iii) of paragraph (a) above shall not oblige any other Party to do anything which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with sub-paragraphs (i) or (ii) of paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

- (e) If a Lender knows or has reason to know that the Borrower is a US Tax Obligor, or where the Agent reasonably believes that its obligations under FATCA require it, each Lender shall, within ten Business Days of:
- (i) where the Lender knows or has reason to know that the Borrower is a US Tax Obligor and the relevant Lender is a Party as at the date of this Agreement, the date of this Agreement;
  - (ii) where the Lender knows or has reason to know that the Borrower is a US Tax Obligor and the relevant Lender became a Party after the date of this Agreement, the date on which the relevant Transfer Certificate became effective; or
  - (iii) the date of a request from the Agent,
- supply to the Agent:
- (iv) a withholding certificate on US Internal Revenue Service Form W-8 or Form W-9 (or any successor form) (as applicable); or
  - (v) any withholding statement and other documentation, authorisations and waivers as the Agent may require to certify or establish the status of such Lender under FATCA.

The Agent shall provide any withholding certificate, withholding statement, documentation, authorisations and waivers it receives from a Lender pursuant to this paragraph (e) to the Borrower, to the extent required for compliance with FATCA or any other law or regulation, and shall be entitled to rely on any such withholding certificate, withholding statement, documentation, authorisations and waivers provided without further verification. The Agent shall not be liable for any action taken by it under or in connection with this paragraph (e).

- (f) Each Lender agrees that if any withholding certificate, withholding statement, documentation, authorisations and waivers provided to the Agent pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, it shall promptly update such withholding certificate, withholding statement, documentation, authorisations and waivers or promptly notify the Agent in writing of its legal inability to do so. The Agent shall provide any such updated withholding certificate, withholding statement, documentation, authorisations and waivers to the Borrower, to the extent required for compliance with FATCA or any other law or regulation. The Agent shall not be liable for any action taken by it under or in connection with this paragraph (f).

## **22.6 FATCA Deduction**

- (a) Each Party may make any FATCA Deduction as it reasonably determines it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Creditor Parties.

## **23 ILLEGALITY, ETC.**

### **23.1 Illegality**

This Clause 23 applies if a Lender (the “**Notifying Lender**”) notifies the Agent that it has become, or will with effect from a specified date, become:

- (a) unlawful or prohibited as a result of the introduction of a new law, an amendment to an existing law or a change in the manner in which an existing law is or will be interpreted or applied; or
- (b) contrary to, or inconsistent with, any regulation, for the Notifying Lender to perform, maintain or give effect to any of its obligations under this Agreement in the manner contemplated by this Agreement or to fund or maintain the Loan.

### **23.2 Notification of illegality**

The Agent shall promptly notify the Borrower, the Security Parties, the Security Trustee and the other Lenders of the notice under Clause 23.1 which the Agent receives from the Notifying Lender.

### **23.3 Prepayment; termination of Commitment**

On the Agent notifying the Borrower under Clause 23.2, the Notifying Lender’s Commitment shall be immediately cancelled; and thereupon or, if later, on the date specified in the Notifying Lender’s notice under Clause 23.1 as the date on which the notified event would become effective the Borrower shall prepay the Notifying Lender’s Contribution on the last day of the then current Interest Period in accordance with Clauses 8.10 and 8.11.

## **24 INCREASED COSTS**

### **24.1 Increased costs**

This Clause 24 applies if a Lender (the “**Notifying Lender**”) notifies the Agent that the Notifying Lender considers that as a result of:

- (a) the introduction or alteration after the date of this Agreement of a law or an alteration after the date of this Agreement in the manner in which a law is interpreted or applied (disregarding any effect which relates to the application to payments under this Agreement of a tax on the Lender’s overall net income); or
- (b) complying with any regulation (including any which relates to capital adequacy or liquidity controls or which affects the manner in which the Notifying Lender allocates capital resources to its obligations under this Agreement) which is introduced, or altered, or the interpretation or application of which is altered, after the date of this Agreement; or
- (c) the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (the “**Basel II Accord**”) or any other law or regulation implementing the Basel II Accord or any of the approaches provided for and allowed to be used by banks under or in connection with the Basel II Accord, in each case when compared to the cost of complying with such regulations as determined by the Agent (or parent company of it) on the date of this Agreement (whether such implementation, application or compliance is by a government, regulator, supervisory authority, the Notifying Lender or its holding company); or

- (d) the implementation or application of or compliance with Basel III or any law or regulation which implements or applies Basel III (regardless of the date on which it is enacted, adopted or issued and regardless of whether any such implementation, application or compliance is by a government, regulator, the Notifying Lender or any of its affiliates),

the Notifying Lender (or a parent company of it) has incurred or will incur an “**increased cost**”.

#### **24.2 Meaning of “increased cost”**

In this Clause 24, “**increased cost**” means, in relation to a Notifying Lender:

- (a) an additional or increased cost incurred as a result of, or in connection with, the Notifying Lender having entered into, or being a party to, this Agreement or a Transfer Certificate, of funding or maintaining its Commitment or Contribution or performing its obligations under this Agreement, or of having outstanding all or any part of its Contribution or other unpaid sums;
- (b) a reduction in the amount of any payment to the Notifying Lender under this Agreement or in the effective return which such a payment represents to the Notifying Lender or on its capital;
- (c) an additional or increased cost of funding all or maintaining all or any of the advances comprised in a class of advances formed by or including the Notifying Lender’s Contribution or (as the case may require) the proportion of that cost attributable to the Contribution; or
- (d) a liability to make a payment, or a return foregone, which is calculated by reference to any amounts received or receivable by the Notifying Lender under this Agreement,

but not an item attributable to a change in the rate of tax on the overall net income of the Notifying Lender (or a parent company of it) or an item covered by the indemnity for tax in Clause 21.1 or by Clause 22 or a FATCA Deduction required to be made by a Party.

For the purposes of this Clause 24.2 the Notifying Lender may in good faith allocate or spread costs and/or losses among its assets and liabilities (or any class of its assets and liabilities) on such basis as it considers appropriate.

#### **24.3 Notification to Borrower of claim for increased costs**

The Agent shall promptly notify the Borrower and the Security Parties of the notice which the Agent received from the Notifying Lender under Clause 24.1.

#### **24.4 Payment of increased costs**

The Borrower shall pay to the Agent, within 5 Business Days after the Agent’s demand, for the account of the Notifying Lender the amounts which the Agent from time to time notifies the Borrower that the Notifying Lender has specified to be necessary to compensate the Notifying Lender for the increased cost.

#### **24.5 Notice of prepayment**

If the Borrower is not willing to continue to compensate the Notifying Lender for the increased cost under Clause 24.4, the Borrower may give the Agent not less than 14 days' notice of their intention to prepay the Notifying Lender's Contribution at the end of an Interest Period.

#### **24.6 Prepayment; termination of Commitment**

A notice under Clause 24.5 shall be irrevocable; the Agent shall promptly notify the Notifying Lender of the Borrower's notice of intended prepayment; and:

- (a) on the date on which the Agent serves that notice, the Commitment of the Notifying Lender shall be cancelled; and
- (b) on the date specified in its notice of intended prepayment, the Borrower shall prepay (without premium or penalty) the Notifying Lender's Contribution, together with accrued interest thereon at the applicable rate plus the applicable Margin and the Mandatory Cost (if any).

#### **24.7 Application of prepayment**

Clause 8 shall apply in relation to the prepayment.

### **25 SET-OFF**

#### **25.1 Application of credit balances**

Each Creditor Party may without prior notice to the Borrower but with prior notice to the Agent:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of the Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from the Borrower to that Creditor Party under any of the Finance Documents; and
- (b) for that purpose:
  - (i) break, or alter the maturity of, all or any part of a deposit of the Borrower;
  - (ii) convert or translate all or any part of a deposit or other credit balance into Dollars; and
  - (iii) enter into any other transaction or make any entry with regard to the credit balance which the Creditor Party concerned considers appropriate.

#### **25.2 Existing rights unaffected**

No Creditor Party shall be obliged to exercise any of its rights under Clause 25.1; and those rights shall be without prejudice and in addition to any right of set-off, combination of accounts, charge, lien or other right or remedy to which a Creditor Party is entitled (whether under the general law or any document).

#### **25.3 Sums deemed due to a Lender**

For the purposes of this Clause 25, a sum payable by the Borrower to the Agent or the Security Trustee for distribution to, or for the account of, a Lender shall be treated as a sum due to that Lender; and each Lender's proportion of a sum so payable for distribution to, or for the account of, the Lenders shall be treated as a sum due to such Lender.

#### 25.4 No Security Interest

This Clause 25 gives the Creditor Parties a contractual right of set-off only, and does not create any equitable charge or other Security Interest over any credit balance of the Borrower.

### 26 TRANSFERS AND CHANGES IN LENDING OFFICES

#### 26.1 Transfer by Borrower

The Borrower may not assign or transfer any of its rights, liabilities or obligations under any Finance Document.

#### 26.2 Transfer by a Lender

Subject to Clause 26.4, a Lender (the “**Transferor Lender**”) may at any time, without the consent of the Borrower or any Security Party, but after consultation with the Borrower, cause:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b); or
- (d) all or part of its credit risk under this Agreement and the other Finance Documents,

to be syndicated to or, (in the case of its rights) assigned, pledged or transferred to, or (in the case of its obligations) pledged or assumed by, any other bank or financial institution or to a trust, fund or other entity, provided such other entity is regularly engaged in, or established for the purpose of, making, purchasing or investing in loans, securities or other financial assets (a “**Transferee Lender**”) by delivering to the Agent a completed certificate in the form set out in Schedule 5 with any modifications approved or required by the Agent (a “**Transfer Certificate**”) executed by the Transferor Lender and the Transferee Lender.

However, any rights and obligations of the Transferor Lender in its capacity as Agent or Security Trustee will have to be dealt with separately in accordance with the Agency and Trust Agreement.

All costs and expenses relating to a transfer effected pursuant to this Clause 26.2 shall be borne by the Transferee Lender.

#### 26.3 Transfer Certificate, delivery and notification

As soon as reasonably practicable after a Transfer Certificate is delivered to the Agent, it shall (unless it has reason to believe that the Transfer Certificate may be defective):

- (a) sign the Transfer Certificate on behalf of itself, the Borrower, the Security Parties, the Security Trustee and each of the other Lenders;
- (b) on behalf of the Transferee Lender, send to the Borrower and each Security Party letters or faxes notifying them of the Transfer Certificate and attaching a copy of it; and

- (c) send to the Transferee Lender copies of the letters or faxes sent under paragraph (b) above.

#### **26.4 Effective Date of Transfer Certificate**

A Transfer Certificate becomes effective on the date, if any, specified in the Transfer Certificate as its effective date **Provided that** it is signed by the Agent under Clause 26.3 on or before that date.

#### **26.5 No transfer without Transfer Certificate**

Except as provided in Clause 26.18, no assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, the Borrower, any Security Party, the Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

#### **26.6 Lender re-organisation**

However, if a Lender enters into any merger, de-merger or other reorganisation as a result of which all its rights or obligations vest in another person (the “**successor**”), the successor shall become a Lender with the same Commitment and Contribution as were held by the predecessor Lender only upon receipt by the Agent of a notice to this effect and evidence that all rights and obligations have automatically and by operation of law vested in the successor by virtue of the merger, de-merger or other reorganisation, without the need for the execution and delivery of a Transfer Certificate; the Agent shall in that event inform the Borrower and the Security Trustee accordingly.

#### **26.7 Effect of Transfer Certificate**

A Transfer Certificate takes effect in accordance with English law as follows:

- (a) to the extent specified in the Transfer Certificate, all rights and interests (present, future or contingent) which the Transferor Lender has under or by virtue of the Finance Documents are assigned to the Transferee Lender absolutely, free of any defects in the Transferor Lender’s title and of any rights or equities which the Borrower or any Security Party had against the Transferor Lender;
- (b) the Transferor Lender’s Commitment is discharged to the extent specified in the Transfer Certificate;
- (c) the Transferee Lender becomes a Lender with the Contribution previously held by the Transferor Lender and a Commitment of an amount specified in the Transfer Certificate;
- (d) the Transferee Lender becomes bound by all the provisions of the Finance Documents which are applicable to the Lenders generally, including those about pro-rata sharing and the exclusion of liability on the part of, and the indemnification of, the Agent and the Security Trustee and, to the extent that the Transferee Lender becomes bound by those provisions (other than those relating to exclusion of liability), the Transferor Lender ceases to be bound by them;
- (e) any part of the Loan which the Transferee Lender advances after the Transfer Certificate’s effective date ranks in point of priority and security in the same way as it would have ranked had it been advanced by the transferor, assuming that any defects in the transferor’s title and any rights or equities of the Borrower or any Security Party against the Transferor Lender had not existed;

- (f) the Transferee Lender becomes entitled to all the rights under the Finance Documents which are applicable to the Lenders generally, including but not limited to those relating to the Majority Lenders and those under Clause 5.7 and Clause 20, and to the extent that the Transferee Lender becomes entitled to such rights, the Transferor Lender ceases to be entitled to them; and
- (g) in respect of any breach of a warranty, undertaking, condition or other provision of a Finance Document or any misrepresentation made in or in connection with a Finance Document, the Transferee Lender shall be entitled to recover damages by reference to the loss incurred by it as a result of the breach or misrepresentation, irrespective of whether the original Lender would have incurred a loss of that kind or amount.

The rights and equities of the Borrower or any Security Party referred to above include, but are not limited to, any right of set off and any other kind of cross-claim.

#### **26.8 Maintenance of register of Lenders**

During the Security Period the Agent shall maintain a register in which it shall record the name, Commitment, Contribution and administrative details (including the lending office) from time to time of each Lender holding a Transfer Certificate and the effective date (in accordance with Clause 26.4) of the Transfer Certificate; and the Agent shall make the register available for inspection by any Lender, the Security Trustee and the Borrower during normal banking hours, subject to receiving at least three Business Days' prior notice.

#### **26.9 Reliance on register of Lenders**

The entries on that register shall, in the absence of manifest error, be conclusive in determining the identities of the Lenders and the amounts of their Commitments and Contributions and the effective dates of Transfer Certificates and may be relied upon by the Agent and the other parties to the Finance Documents for all purposes relating to the Finance Documents.

#### **26.10 Authorisation of Agent to sign Transfer Certificates**

The Borrower, the Security Trustee and each Lender irrevocably authorises the Agent to sign Transfer Certificates on its behalf. The Borrower and each Security Party irrevocably agree to the transfer procedures set out in this Clause 26 and to the extent the cooperation of the Borrower and/or any Security Party shall be required to effect any such transfer, the Borrower and such Security Party shall take all necessary steps to afford such cooperation **Provided that** this shall not result in any additional costs to the Borrower or such Security Party.

#### **26.11 Sub-participation; subrogation assignment**

A Lender may sub-participate or include in a securitisation or similar transaction all or any part of its rights and/or obligations under or in connection with the Finance Documents without the Borrower's prior consent and without serving a notice thereon; the Lenders may assign without the Borrower's prior consent but after consultation with the Borrower, in any manner and terms agreed by the Majority Lenders, the Agent and the Security Trustee, all or any part of those rights to an insurer or surety who has become subrogated to them.

#### **26.12 Registration fee**

In respect of any Transfer Certificate, the Agent shall be entitled to recover a registration fee of \$2,500 from the Transferor Lender or (at the Agent's option) the Transferee Lender.

#### **26.13 Sub-division, split, modification or re-tranching**

Any Lender may, in its sole discretion, sub-divide, split, sever, modify or re-tranche its Contribution into one or more parts subject to the overall cost of its Contribution to the Borrower remaining unchanged, if such changes are necessary in order to achieve a successful execution of a securitisation, syndication or any other capital market exit in respect of its Contribution (or any applicable part thereof).

#### **26.14 Disclosure of information**

A Lender may, without the prior consent of the Borrower, the Corporate Guarantor or any other Security Party, disclose to a potential Transferee Lender or sub participant as well as, where relevant, to rating agencies, trustees and accountants, any financial or other information which that Lender has received in relation to the Loan, the Borrower, the Corporate Guarantor and any other Security Party or their affairs and collateral or security provided under or in connection with any Finance Document, their financial circumstances and any other information whatsoever, as that Lender may deem reasonably necessary or appropriate in connection with the potential syndication, the assessment of the credit risk and the ongoing monitoring of the Loan by any potential Transferee Lender and that Lender shall be released from its obligation of secrecy and from banking confidentiality.

This permission is given for the purposes of giving relief from banking secrecy and confidentiality requirements. It is not intended as and is no declaration of consent in accordance with the DS\_GVO (DS-GVO refers to Datenschutz-Grundverordnung, the German term for General Data Protection Regulation) (EU Regulation 2016/679, General Data Protection Regulation).

In the event any such potential Transferee Lender, sub-participant, rating agency, trustee or accountant is not already bound by any legal obligation of secrecy or banking confidentiality, the Lender concerned may only give, disclose or reveal such information as the Corporate Guarantor is entitled to disclose by rules and regulations of the SEC and the New York Stock Exchange applicable to the Corporate Guarantor and shall require such other party to sign a confidentiality agreement. The Borrower shall, and shall procure that the Corporate Guarantor and any other Security Party shall:

- (a) provide the Creditor Parties (or any of them) with all information deemed, reasonably, necessary by the Creditor Parties (or any of them) for the purposes of any transfer, syndication or sub-participation to be effected pursuant to this Clause 26;
- (b) procure that the directors and officers of the Borrower, the Corporate Guarantor or any other Security Party, are available to participate in any meeting with any Transferee Lender or any rating agency at such times and places as the Creditor Parties may reasonably request following prior notice (to be served on the Borrower reasonably in advance) to the Borrower, the Corporate Guarantor or that Security Party; and
- (c) permit any Transferee Lender to board the Ship at all reasonable times and locations to inspect its condition in accordance with Clause 14.9.

#### **26.15 Confidentiality**

Any publicity regarding the Loan or any of the terms thereof shall be agreed in advance by the Corporate Guarantor and the Agent (acting on the instructions of the Majority Lenders) unless otherwise required in connection with the Corporate Guarantor's reporting obligations under or in connection with the rules and regulations of the SEC and the New York Stock Exchange applicable to Corporate Guarantor.

#### **26.16 Change of lending office**

A Lender may change its lending office by giving notice to the Agent and the change shall become effective on the later of:

- (a) the date on which the Agent receives the notice; and
- (b) the date, if any, specified in the notice as the date on which the change will come into effect.

#### **26.17 Notification**

On receiving such a notice, the Agent shall notify the Borrower and the Security Trustee; and, until the Agent receives such a notice, it shall be entitled to assume that a Lender is acting through the lending office of which the Agent last had notice.

#### **26.18 Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 26, each Lender may without consulting with or obtaining consent from, the Borrower or any Security Party, at any time charge, assign or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security Interest to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security Interest granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities;

except that no such charge, assignment or Security Interest shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by the Borrower or any Security Party or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

#### **26.19 Replacement of a Reference Bank**

If any Reference Bank ceases to be a Lender or is unable on a continuing basis to supply quotations for the purposes of Clause 5 then, unless the Borrower, the Agent and the Majority Lenders otherwise agree, the Agent, acting on the instructions of the Majority Lenders, and after consulting the Borrower, shall appoint another bank (whether or not a Lender) to be a replacement Reference Bank; and, when that appointment comes into effect, the first-mentioned Reference Bank's appointment shall cease to be effective.

## **26.20 Securitisation**

The Borrower shall, and the Borrower shall procure that each Security Party will, assist the Agent and/or any Lender in achieving a successful securitisation (or similar transaction) in respect of the Loan and the Finance Documents and such Security Party's reasonable costs for providing such assistance shall be met by the relevant Lender.

## **26.21 No additional costs**

If a Transferor Lender assigns or transfers any of its rights or obligations under the Finance Documents and as a result of circumstances existing at the date the assignment or transfer occurs, the Borrower or a Security Party would be obliged to make a payment to the Transferee Lender under Clause 22.2 or under that clause as incorporated by reference or in full in any other Finance Document, then the Transferee Lender is only entitled to receive payment under that clause to the same extent as the Transferor Lender would have been if the assignment or transfer had not occurred.

## **27 VARIATIONS AND WAIVERS**

### **27.1 Required consents**

- (a) Subject to Clause 27.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Creditor Parties and the Borrower.
- (b) Any instructions given by the Majority Lenders will be binding on all the Creditor Parties.
- (c) The Agent may effect, on behalf of any Creditor Party, any amendment or waiver permitted by this Clause.

### **27.2 Exceptions**

- (a) An amendment or waiver that has the effect of changing or which relates to:
  - (i) the definition of "Majority Lenders" or "Finance Documents" in Clause 1.1 (Definitions);
  - (ii) an extension to the date of payment of any amount under the Finance Documents;
  - (iii) a reduction in the applicable Margin or a reduction in the amount of any payment of principal, interest fees, commission or other amount payable under any of the Finance Documents;
  - (iv) an increase in or an extension of any Lender's Commitment;
  - (v) any provision which expressly requires the consent of all the Lenders;
  - (vi) Clause 3 (*Position of the Lenders*), Clause 11.5 (*Information provided to be accurate*), Clause 11.6 (*Provision of financial statements*), Clause 11.7 (*Form of financial statements*), Clause 11.6 (*Provision of further information*), Clause 26 (*Transfers and Changes in Lending Offices*) or this Clause 27.2;

- (vii) any release of any Security Interest, guarantee, indemnities or subordination arrangement created by any Finance Document;
- (viii) any change of the currency in which the Loan is provided or any amount is payable under any of the Finance Documents;
- (ix) an extension of the Availability Period; or
- (x) a change in Clauses 16.4 (Distribution of payment to Creditor Parties) or 22 (Grossing-up),

may not be effected without the prior written consent of all Lenders.

- (b) An amendment or waiver which relates to the rights or obligations of the Agent, the Mandated Lead Arranger or the Security Trustee may not be effected without the consent of the Agent, the Mandated Lead Arranger or the Security Trustee, as the case may be.

### **27.3 Exclusion of other or implied variations**

Except for a document which satisfies the requirements of Clauses 27.1 and 27.2, no document, and, subject to Clause 27.4, no act, course of conduct, failure or neglect to act, delay or acquiescence on the part of the Creditor Parties or any of them (or any person acting on behalf of any of them) shall result in the Creditor Parties or any of them (or any person acting on behalf of any of them) being taken to have varied, waived, suspended or limited, or being precluded (permanently or temporarily) from enforcing, relying on or exercising:

- (a) a provision of this Agreement or another Finance Document; or
- (b) an Event of Default; or
- (c) a breach by the Borrower, the Approved Manager or a Security Party of an obligation under a Finance Document or the general law; or
- (d) any right or remedy conferred by any Finance Document or by the general law,

and there shall not be implied into any Finance Document any term or condition requiring any such provision to be enforced, or such right or remedy to be exercised, within a certain or reasonable time.

### **27.4 Deemed consent**

With respect to any amendment, variation, waiver, suspension or limit requested by any Party and which requires the approval of all the Lenders or the Majority Lenders (as the case may be), other than an amendment or supplement (or any proposal for such an amendment or supplement) in connection with a Finance Document or any other Pertinent Document required as contemplated in Clause 27.5, the Agent shall provide each Lender with written notice of such request accompanied by such detailed background information as may be reasonably necessary (in the opinion of the Agent) to determine whether to approve such action. A Lender shall be deemed to have approved such action if such Lender fails to object to such action by written notice to the Agent within 10 days of that Lender's receipt of the Agent's notice or such other time as the Agent may state in the relevant notice as being the time available for approval of such action.

## 27.5 Replacement of Screen Rate

- (a) Subject to paragraph (b) of Clause 27.2, if a Screen Rate Replacement Event has occurred in relation to the Screen Rate for dollars, any amendment or waiver which relates to:
- (i) providing for the use of a Replacement Benchmark in relation to (or in addition to) that currency in place of that Screen Rate; and
  - (ii)
    - (A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
    - (B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
    - (C) implementing market conventions applicable to that Replacement Benchmark;
    - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
    - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),
- may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.
- (b) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within 5 Business Days (or such longer time period in relation to any request which the Borrower and the Agent may agree) of that request being made:
- (i) its Commitment shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
  - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

## 28 NOTICES

### 28.1 General

Unless otherwise specifically provided, any notice under or in connection with any Finance Document shall be given by letter or fax; and references in the Finance Documents to written notices, notices in writing and notices signed by particular persons shall be construed accordingly.

### 28.2 Addresses for communications

A notice by letter or fax shall be sent:

(a) to the Borrower:

c/o Navios Tankers Management Inc.  
85 Akti Miaouli  
Piraeus 185 38  
Greece

Fax No: +30 210 417 2070

for the attention of: Vassiliki Papaefthymiou

(b) to a Lender:

At the address below its name in Schedule 1 or (as the case may require) in the relevant Transfer Certificate.

(c) to the Agent and Security Trustee:

for general matters:

Hamburg Commercial Bank AG  
BU Asset Based Finance/Shipping  
Gerhart-Hauptmann-Platz 50  
20095 Hamburg  
Germany

Fax No: +30 210 429 5323

Attn: Mr. Loukas Lagaras/Mr Solon Merikas

for credit administrative matters:

Hamburg Commercial Bank AG  
BU Business Operations  
Loan & Collateral Operations  
Gerhart-Hauptmann-Platz 50  
20095 Hamburg  
Germany

Fax No: +49 40 3333 34167,

or to such other address as the relevant Party may notify the Agent or, if the relevant Party is the Agent or the Security Trustee, the Borrower, the Lenders and the Security Parties.

**28.3 Effective date of notices**

Subject to Clauses 28.4 and 28.5:

- (a) a notice which is delivered personally or posted shall be deemed to be served, and shall take effect, at the time when it is delivered; and
- (b) a notice which is sent by fax shall be deemed to be served, and shall take effect, two hours after its transmission is completed.

**28.4 Service outside business hours**

However, if under Clause 28.3 a notice would be deemed to be served:

- (a) on a day which is not a business day in the place of receipt; or
  - (b) on such a business day, but after 5 p.m. local time,
- the notice shall (subject to Clause 28.5) be deemed to be served, and shall take effect, at 9 a.m. on the next day which is such a business day.

**28.5 Illegible notices**

Clauses 28.3 and 28.4 do not apply if the recipient of a notice notifies the sender within one hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

**28.6 Valid notices**

A notice under or in connection with a Finance Document shall not be invalid by reason that its contents or the manner of serving it do not comply with the requirements of this Agreement or, where appropriate, any other Finance Document under which it is served if:

- (a) the failure to serve it in accordance with the requirements of this Agreement or other Finance Document, as the case may be, has not caused any party to suffer any significant loss or prejudice; or
- (b) in the case of incorrect and/or incomplete contents, it should have been reasonably clear to the party on which the notice was served what the correct or missing particulars should have been.

**28.7 Electronic communication**

Any communication from the Agent or the other Creditor Parties made by electronic means will be sent unsecured and without electronic signature, however, the Borrower may request the Agent and the other Creditor Parties at any time in writing to change the method of electronic communication from unsecured to secured electronic mail communication.

The Borrower hereby acknowledges and accepts the risks associated with the use of unsecured electronic mail communication including, without limitation, risk of delay, loss of data, confidentiality breach, forgery, falsification and malicious software. The Agent and the other Creditor Parties shall not be liable in any way for any loss or damage or any other disadvantage suffered by the Borrower resulting from such unsecured electronic mail communication.

If the Borrower or any other Security Party wish to cease all electronic communication, they shall give written notice to the Agent and the other Creditor Parties accordingly after receipt of which notice the Parties shall cease all electronic communication.

For as long as electronic communication is an accepted form of communication, the Parties shall:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (b) notify each other of any change to their respective addresses or any other such information supplied to them; and
- in case electronic communication is sent to recipients with the domain <domain with ending>, the parties shall without undue delay inform each other if there are changes to the said domain or if electronic communication shall thereafter be sent to individual e-mail addresses.

#### **28.8 English language**

Any notice under or in connection with a Finance Document shall be in English.

#### **28.9 Meaning of “notice”**

In this Clause 28, “**notice**” includes any demand, consent, authorisation, approval, instruction, waiver or other communication.

### **29 SUPPLEMENTAL**

#### **29.1 Rights cumulative, non-exclusive**

The rights and remedies which the Finance Documents give to each Creditor Party are:

- (a) cumulative;
- (b) may be exercised as often as appears expedient; and
- (c) shall not, unless a Finance Document explicitly and specifically states so, be taken to exclude or limit any right or remedy conferred by any law.

#### **29.2 Severability of provisions**

If any provision of a Finance Document is or subsequently becomes void, unenforceable or illegal, that shall not affect the validity, enforceability or legality of the other provisions of that Finance Document or of the provisions of any other Finance Document.

#### **29.3 Counterparts**

A Finance Document may be executed in any number of counterparts.

#### **29.4 Third party rights**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

#### **29.5 Benefit and binding effect**

The terms of this Agreement shall be binding upon, and shall enure to the benefit of, the Parties and their respective (including subsequent) successors and permitted assigns and transferees.

### **30 LAW AND JURISDICTION**

#### **30.1 English law**

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

#### **30.2 Exclusive English jurisdiction**

Subject to Clause 30.3, the courts of England shall have exclusive jurisdiction to settle any Dispute.

#### **30.3 Choice of forum for the exclusive benefit of the Creditor Parties**

Clause 30.2 is for the exclusive benefit of the Creditor Parties, each of which reserves the right:

- (a) to commence proceedings in relation to any Dispute in the courts of any country other than England and which have or claim jurisdiction to that Dispute; and
- (b) to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England.

The Borrower shall not commence any proceedings in any country other than England in relation to a Dispute.

#### **30.4 Process agent**

The Borrower irrevocably appoints Hill Dickinson LLP at their office for the time being, presently at The Broadgate Tower, 20 Primrose Street, London EC2A 2EW, England to act as its agent to receive and accept on its behalf any process or other document relating to any proceedings in the English courts which are connected with a Dispute.

#### **30.5 Creditor Party rights unaffected**

Nothing in this Clause 30 shall exclude or limit any right which any Creditor Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction.

#### **30.6 Meaning of “proceedings” and “Dispute”**

In this Clause 30, “**proceedings**” means proceedings of any kind, including an application for a provisional or protective measure and a “**Dispute**” means any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement) or any non-contractual obligation arising out of or in connection with this Agreement.

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this Agreement.