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

FORM 20-F

(Mark One)

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

OR

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

For the fiscal year ended December 31, 2018

OR

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

OR

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

Date of event requiring this shell company report _____

For the transition period from _____ to _____

Commission file number 001-33811

Navios Maritime Partners L.P.

(Exact name of Registrant as specified in its charter)

Not Applicable

(Translation of Registrant's Name into English)

Republic of Marshall Islands

(Jurisdiction of incorporation or organization)

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(Address of Principal Executive Offices)

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(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

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

Title of each class
Common Units

Name of each exchange on which registered
New York Stock Exchange LLC

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

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

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 169,054,258 Common Units

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

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

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

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

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

Large Accelerated Filer Accelerated Filer Non-Accelerated Filer Emerging Growth Company

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

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP International Financial Reporting Standards as issued by the International Accounting Standards Board Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17 Item 18

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

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FORWARD-LOOKING STATEMENTS

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

Statements included in this annual report which are not historical facts (including our statements concerning plans and objectives of management for future operations or economic performance, or assumptions related thereto) are forward-looking statements. In addition, we and our representatives may from time to time make other oral or written statements which are also forward-looking statements. Such statements include, in particular, statements about our plans, strategies, business prospects, changes and trends in our business, and the markets in which we operate as described in this annual report. In some cases, you can identify the forward-looking statements by the use of words such as “may,” “could,” “should,” “would,” “expect,” “plan,” “anticipate,” “intend,” “forecast,” “believe,” “estimate,” “predict,” “propose,” “potential,” “continue” or the negative of these terms or other comparable terminology.

Forward-looking statements appear in a number of places and include statements with respect to, among other things:

- our ability to make cash distributions on our common units;
- our future financial condition or results of operations and our future revenues and expenses;
- future levels of operating surplus and levels of distributions, as well as our future cash distribution policy;
- our current and future business and growth strategies and other plans and objectives for future operations;
- future charter hire rates and vessel values;
- the repayment of debt;
- our ability to access debt and equity markets;
- planned capital expenditures and availability of capital resources to fund capital expenditures;
- future supply of, and demand for, dry cargo commodities;
- increases in interest rates;
- our ability to maintain long-term relationships with major commodity traders, operators and liner companies;
- our ability to leverage to our advantage Navios Maritime Holdings Inc.’s (“Navios Holdings”) relationships and reputation in the shipping industry;
- our continued ability to enter into long-term, fixed-rate time charters;
- our ability to maximize the use of our vessels, including the re-deployment or disposition of vessels no longer under long-term time charters;
- timely purchases and deliveries of newbuilding vessels;
- future purchase prices of newbuildings and secondhand vessels;
- our ability to compete successfully for future chartering and newbuilding opportunities;
- our future financial condition or results of operations and our future revenues and expenses, including revenues from any profit sharing arrangements, and required levels of reserves;
- potential liability and costs due to environmental, safety and other incidents involving our vessels;
- our track record, and past and future performance, in safety, environmental and regulatory matters;
- our anticipated incremental general and administrative expenses as a publicly traded limited partnership and our expenses under the management agreement, as amended (the “Management Agreement”) and the administrative services agreement (the “Administrative Services Agreement”) with Navios ShipManagement Inc., a subsidiary of Navios Holdings (the “Manager”) and for reimbursements for fees and costs of our general partner;
- estimated future maintenance and replacement capital expenditures;
- future sales of our common units in the public market;
- a lack of sufficient cash to pay the quarterly distribution on our common units;

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- the cyclical nature of the international dry cargo and container shipping industry;
- fluctuations in charter rates for dry cargo carriers and containerships;
- the high numbers of newbuildings currently under construction in the dry cargo industry;
- changes in the market values of our vessels and the vessels for which we have purchase options;
- an inability to expand relationships with existing customers and obtain new customers;
- the loss of any customer or charter or vessel;
- the aging of our fleet and resultant increases in operations costs;
- damage to our vessels;
- global economic outlook and growth and changes in general economic and business conditions;
- general domestic and international political conditions, including wars, terrorism and piracy;
- 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 adequacy of our insurance arrangements and our ability to obtain insurance and required certifications;
- 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;
- the changes to the regulatory requirements applicable to the shipping industry, including, without limitation, stricter requirements adopted by international organizations, such as the International Maritime Organization and the European Union, or by individual countries or charterers and actions taken by regulatory authorities and governing such areas as safety and environmental compliance;
- the anticipated taxation of our partnership and our unitholders;
- expected demand in the dry cargo shipping sector in general and the demand for our Panamax, Capesize, Ultra-Handymax and Container vessels in particular;
- our ability to retain key executive officers;
- customers' increasing emphasis on environmental and safety concerns;
- changes in the availability and costs of funding due to conditions in the bank market, capital markets and other factors; and
- other factors detailed from time to time in our periodic reports filed with the U.S. Securities and Exchange Commission (the "SEC").

These and other forward-looking statements are made based upon management's current plans, expectations, estimates, assumptions and beliefs concerning future events impacting us and therefore involve a number of risks and uncertainties, including those set forth below, as well as those risks discussed in "Item 3. Key Information".

The risks and assumptions are inherently subject to significant uncertainties and contingencies, many of which are beyond our control. We caution that forward-looking statements are not guarantees and that actual results could differ materially from those expressed or implied in the forward-looking statements.

We undertake no obligation to update any forward-looking statement or statements to reflect events or circumstances after the date on which such statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for us to predict all of these factors. Further, we cannot assess the impact of each such factor on our business or the extent to which any factor, or combination of factors, may cause actual results to be materially different from those contained in any forward-looking statement.

PART I

Item 1. Identity of Directors, Senior Management and Advisers

Not Applicable.

Item 2. Offer Statistics and Expected Timetable

Not Applicable.

Item 3. Key Information
A. Selected Financial Data

The selected consolidated historical financial information as of December 31, 2018 and 2017 and operating results for the years ended December 31, 2018, 2017, and 2016, were derived from our audited consolidated financial statements of Navios Maritime Partners L.P. (sometimes referred to as “Navios Partners”, the “Partnership”, “we” or “us”) which are included elsewhere in this report. The selected consolidated historical financial information as of December 31, 2016, 2015 and 2014 and for the years ended December 31, 2015 and December 31, 2014 have been derived from our audited financial statements not included in this report. This information is qualified by reference to, and should be read in conjunction with, “Item 5. Operating and Financial Review and Prospects” and our consolidated financial statements and notes thereto included elsewhere in this report.

	Year ended December 31,				
	2018	2017	2016	2015	2014
	(Expressed in thousands of U.S. dollars-except unit and per unit data)				
Statement of Income Data					
Time charter and voyage revenues	\$ 231,361	\$ 211,652	\$ 190,524	\$ 223,676	\$ 227,356
Time charter and voyage expenses	(10,024)	(4,158)	(5,673)	(7,199)	(15,390)
Direct vessel expenses	(6,180)	(7,172)	(6,381)	(4,043)	(761)
Management fees	(68,871)	(67,310)	(59,209)	(56,504)	(50,359)
General and administrative expenses	(18,458)	(17,163)	(12,351)	(7,931)	(7,839)
Depreciation and amortization	(58,334)	(72,760)	(92,370)	(75,933)	(95,822)
Vessel impairment losses	(44,344)	(32,677)	(27,201)	—	—
Loss on sale of securities	—	—	(19,435)	—	—
Interest expense and finance cost, net	(42,766)	(38,225)	(31,247)	(31,720)	(28,761)
Interest income	4,408	3,277	541	222	243
Gain on change in control	—	4,068	—	—	—
Other income	1,554	9,884	14,523	5,232	47,935
Other expense	(5,384)	(5,133)	(4,270)	(3,995)	(1,749)
Equity in net earnings of affiliated companies	3,957	866	—	—	—
Net (loss)/ income	\$ (13,081)	\$ (14,851)	\$ (52,549)	\$ 41,805	\$ 74,853
Balance Sheet Data (at period end)					
Current assets, including cash	\$ 111,112	\$ 60,306	\$ 56,349	\$ 39,835	\$ 115,197
Vessels, net	1,043,250	1,099,015	1,037,206	1,230,049	1,139,426
Total assets	1,314,133	1,305,302	1,268,580	1,350,291	1,338,709(2)
Total long-term financial liability, including current portion, net	23,820	—	—	—	—
Total long-term debt, including current portion, net	483,665	493,463	523,776	598,078	575,974(2)
Total partners' capital	776,753	767,710	680,209	732,215	749,098
Units issued and outstanding					
Common unitholders	169,054,258	147,797,720	83,323,911	83,079,710	77,359,163
Weighted average units outstanding (basic and diluted)					
Common unitholders	162,353,865	132,610,330	83,107,066	82,437,128	76,587,656
Earnings per unit (basic and diluted)					
Common unit	\$ (0.08)	\$ (0.11)	\$ (0.62)	\$ 0.48	\$ 0.93
Dividends declared per unit					
Cash dividend per common unit	\$ 0.06	—	—	\$ 1.54	\$ 1.73
Cash dividend per general partner unit	\$ 0.06	—	—	\$ 2.57	\$ 3.08
Cash Flow Data					
Net cash provided by operating activities	\$ 68,319	\$ 53,499(3)	\$ 61,813(3)	\$ 123,702(3)	\$ 171,438(3)
Net cash (used in)/ provided by investing activities	(67,888)	(187,211)	5,051	(149,301)	(123,272)
Net cash provided by/ (used in) financing activities	31,091	138,557(3)	(76,315)(3)	(40,311)(3)	15,760(3)
Fleet Data:					
Vessels operating at end of period(1)	37	36	32	31	32

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- (1) Includes owned and chartered-in vessels.
- (2) The total assets and long-term debt, including current portion net of discount presented in this table have been revised to reflect the adoption of ASU 2015-03, which was effective beginning the first quarter ending March 31, 2015 and applied retrospectively to all prior periods presented in the Company's financial statements.
- (3) The net cash provided by operating activities and net increase in operating assets presented in this table have been revised to reflect the adoption of ASU 2016-18, which was effective beginning the first quarter ended March 31, 2018 and applied retrospectively to all prior periods presented in the Company's financial statements.

B. Capitalization and indebtedness.

Not applicable.

C. Reasons for the offer and use of proceeds.

Not applicable.

D. Risk factors

Risks Relating to Our Business

We are a holding company and we depend on the ability of our subsidiaries to distribute funds to us in order to satisfy our financial obligations and to make distributions.

We are a holding company and our subsidiaries conduct all of our operations and own all of our operating assets, including our ships. We have no significant assets other than the equity interests in our subsidiaries. As a result, our ability to pay our obligations and to make distributions depends entirely on our subsidiaries and their ability to distribute funds to us. The ability of a subsidiary to make these distributions could be affected by a claim or other action by a third party, including a creditor, or by the law of their respective jurisdiction of incorporation which regulates the payment of distributions. If we are unable to obtain funds from our subsidiaries, our Board of Directors may not exercise its discretion not to declare or make distributions.

We depend on Navios Holdings and its affiliates to assist us in operating and expanding our business.

Pursuant to the Management Agreement between Navios Partners and the Manager, an affiliate of our general partner, the Manager provides to us significant commercial and technical management services (including the commercial and technical management of our vessels, vessel maintenance and crewing, purchasing and insurance and shipyard supervision). In addition, pursuant to the Administrative Services Agreement between us and the Manager, the Manager provides to Navios Partners significant administrative, financial and other support services. Our operational success and ability to execute our growth strategy will depend significantly upon the Manager's satisfactory performance of these services. Our business will be harmed if the Manager fails to perform these services satisfactorily, if the Manager cancels either of these agreements, or if the Manager stops providing these services to us.

Our growth depends on continued growth in demand for drybulk commodities, finished or semi-finished goods, and the shipping of drybulk cargoes as well as the shipping of containers.

Our growth strategy focuses on expansion in the dry cargo shipping sector. Accordingly, our growth depends on continued growth in world and regional demand for drybulk commodities, finished or semi-finished goods and the shipping of dry cargoes, which could be negatively affected by a number of factors, such as declines in prices for drybulk commodities or containerized cargoes, or general political and economic conditions.

We anticipate that the future demand for our drybulk carriers and drybulk charter rates will be dependent upon demand for imported commodities, economic growth in the emerging markets, including the Asia Pacific region, India, Brazil and Russia. In past years, China and India have had two of the world's fastest growing economies in terms of gross domestic product and have been the main driving force behind increases in marine drybulk trade and the demand for drybulk vessels. The Asia Pacific and Indian economies have also been significant suppliers of manufactured goods currently shipped by container to the developed markets of the OECD. If economic growth declines in China, Japan, India and other countries in the Asia Pacific region, we may face decreases in such drybulk and container shipping trade and demand. For example, the recent slowdown of the Chinese economy has adversely affected demand for Capesize bulk carriers and, as a result, spot and period rates, as well as asset values, are currently at low levels. A slowdown in the

economies of the United States or the European Union, or certain other Asian countries may also adversely affect economic growth in the Asia Pacific region and India. A decline in demand for commodities transported in drybulk carriers and/or containerships, or an increase in supply of drybulk vessels or containerships could cause a further decline in charter rates, which could materially adversely affect our results of operations and financial condition. If we sell a vessel at a time when the market value of our vessels has fallen, the sale may be at less than the vessel's carrying amount, resulting in a loss.

A decrease in the level of China's imports of raw materials or a decrease in trade globally could have a material adverse impact on our charterers' business and, in turn, could cause a material adverse impact on our results of operations, financial condition and cash flows.

China imports significant quantities of raw materials. For example, in 2018, China imported 1.047 billion tons of iron ore by sea out of a total of 1.476 billion tons shipped globally, accounting for about 71% of the global seaborne iron ore trade. While it only accounted for approximately 19% of seaborne coal movements of coal in 2018 according to current estimates (236 million tons imported compared to 1.262 billion tons of seaborne coal traded globally), that is a decline from over 22% in 2013 (264 million tons imported compared to 1.182 billion tons of seaborne coal traded globally). Our drybulk vessels are deployed by our charterers on routes involving drybulk trade in and out of emerging markets, and our charterers' drybulk shipping and business revenue may be derived from the shipment of goods within and to the Asia Pacific region from various overseas export markets. Any reduction in or hindrance to China-based importers could have a material adverse effect on the growth rate of China's imports and on our charterers' business. For instance, the government of China has implemented economic policies aimed at reducing pollution, increasing consumption of domestically produced Chinese coal or promoting the export of such coal or increasing consumption of natural gas or increasing the production of electricity from renewable resources. This may have the effect of reducing the demand for imported raw materials and may, in turn, result in a decrease in demand for drybulk shipping. Additionally, though in China there is an increasing level of autonomy and a gradual shift in emphasis to a "market economy" and enterprise reform, many of the reforms, particularly some limited price reforms that result in the prices for certain commodities being principally determined by market forces, are unprecedented or experimental and may be subject to revision, change or abolition. The level of imports to and exports from China could be adversely affected by changes to these economic reforms by the Chinese government, as well as by changes in political, economic and social conditions or other relevant policies of the Chinese government.

Our operations expose us to the risk that increased trade protectionism from China or other nations will adversely affect our business. If the global recovery is undermined by downside risks and the recent economic downturn returns, governments may turn to trade barriers to protect their domestic industries against foreign imports, thereby depressing the demand for shipping. Specifically, increasing trade protectionism in the markets that our charterers serve may cause (i) a decrease in cargoes available to our charterers in favor of Chinese charterers and Chinese owned ships and (ii) an increase in the risks associated with importing goods to China. Any increased trade barriers or restrictions on trade, especially trade with China, would have an adverse impact on our charterers' business, operating results and financial condition and could thereby affect their ability to make timely charter hire payments to us and to renew and increase the number of their time charters with us. This could have a material adverse effect on our business, results of operations, financial condition and our ability to pay cash distributions to our unitholders.

We are focused on employing vessels on long-term charters and we may have difficulties in doing so if a more active short-term or spot market develops.

One of our principal strategies is to enter into long-term charters, although we believe it is impractical to determine the typical charter length for vessels in our sectors due to factors such as market dynamics, charter strategy and the private nature of charter agreements. If a market for long-term time charters in the sectors in which we operate does not develop, we may have increased difficulty entering into long-term time charters upon expiration or early termination of the time charters for our vessels. As a result, our revenues and cash flows may become more volatile. In addition, an active short-term or spot charter market may require us to enter into charters based on changing market prices, as opposed to contracts based on fixed rates, which could result in a decrease in our revenues and cash flows, including cash available for distribution to unitholders, if we enter into charters during periods when the market price for shipping dry cargoes is depressed or these markets become depressed during the period of any adjustable rate charter.

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

Long-term time charters have the potential to provide income at pre-determined rates over more extended periods of time. However, the process for obtaining longer term time charters is highly competitive and generally involves a lengthy, intensive and continuous screening and vetting process and the submission of competitive bids that often extends for several months. In addition to the quality, age and suitability of the vessel, longer term shipping contracts tend to be awarded based upon a variety of other factors relating to the vessel operator, including:

- the operator's environmental, health and safety record;
- compliance with the IMO standards and the heightened industry standards that have been set by some energy companies;
- shipping industry relationships, reputation for customer service, technical and operating expertise;
- shipping experience and quality of ship operations, including cost-effectiveness;
- quality, experience and technical capability of crews;
- the ability to finance vessels at competitive rates and overall financial stability;
- relationships with shipyards and the ability to obtain suitable berths;
- construction management experience, including the ability to procure on-time delivery of new vessels according to customer specifications;
- willingness to accept operational risks pursuant to the charter, such as allowing termination of the charter for force majeure events; and
- competitiveness of the bid in terms of overall price.

It is likely that we will face substantial competition for long-term charter business from a number of experienced companies. We may not be able to compete profitably as we expand our business into new geographic regions or provide new services. New markets may require different skills, knowledge or strategies than we use in our current markets. Many of these competitors have significantly greater financial resources than we do. It is also likely that we will face increased numbers of competitors entering into our transportation sectors, including in the containership and drybulk sector. Many of these competitors have strong reputations and extensive resources and experience. Increased competition may cause greater price competition, especially for long-term charters.

As a result of these factors, we may be unable to expand our relationships with existing customers or obtain new customers for long-term charters on a profitable basis, if at all. However, even if we are successful in employing our vessels under longer term charters, our vessels will not be available for trading in the spot market during an upturn in the dry cargo market cycle, when spot trading may be more profitable. If we cannot successfully employ our vessels in profitable time charters our results of operations and operating cash flow could be adversely affected.

As we expand our business, we may have difficulty managing our growth, which could increase expenses.

We intend to seek to grow our fleet, either through purchases, the increase of the number of chartered-in vessels or through the acquisitions of businesses. The addition of vessels to our fleet or the acquisition of new businesses will impose significant additional responsibilities on our management. We will also have to increase our customer base to provide continued employment for the new vessels. Our growth will depend on our success in locating and acquiring suitable vessels, identifying and consummating acquisitions or joint ventures, integrating any acquired business successfully with our existing operations, enhancing our customer base, managing our expansion, and obtaining required financing.

Growing any business by acquisition presents numerous risks such as undisclosed liabilities and obligations, difficulty in obtaining additional qualified personnel, and managing relationships with customers and suppliers and integrating newly acquired operations into existing infrastructures, and we may not be successful in executing our growth plans. We may incur significant expenses and losses in connection therewith or that our acquisitions will perform as expected, which could materially adversely affect our results of operations and financial condition.

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

Our growth strategy focuses on a gradual expansion of our fleet. Any acquisition of a vessel may not be profitable to us at or after the time we acquire it and may not generate cash flow sufficient to justify our investment. We may also fail to realize anticipated benefits of our growth, such as new customer relationships, cost-savings or cash flow enhancements, or we may be unable to hire, train or retain qualified shore and seafaring personnel to manage and operate our growing business and fleet.

Our growth strategy could decrease our liquidity by using a significant portion of our available cash or borrowing capacity to finance acquisitions. To the extent that we incur additional debt to finance acquisitions, it could significantly increase our interest expense or financial leverage. We may also incur other significant charges, such as impairment of goodwill or other intangible assets, asset devaluation or restructuring charges.

Additionally, the marine transportation and logistics industries are capital intensive, traditionally using substantial amounts of indebtedness to finance vessel acquisitions, capital expenditures and working capital needs. If we finance the purchase of our vessels through the issuance of debt securities, it could result in:

- default and foreclosure on our assets if our operating cash flow after a business combination or asset acquisition were insufficient to pay our debt obligations;
- acceleration of our obligations to repay the indebtedness even if we have made all principal and interest payments when due if the debt security contained covenants that required the maintenance of certain financial ratios or reserves and any such covenant were breached without a waiver or renegotiation of that covenant;
- our immediate payment of all principal and accrued interest, if any, if the debt security was payable on demand; and
- our inability to obtain additional financing, if necessary, if the debt security contained covenants restricting our ability to obtain additional financing while such security was outstanding.

In addition, our business plan and strategy is predicated on buying vessels at what we believe is near the low end of the cycle in what has typically been a cyclical industry. However, charter rates and vessel asset values may sink lower, and shipping costs or vessel asset values may not increase in the near-term or at all.

Delays in deliveries of secondhand vessels, our decision to cancel an order for purchase of a vessel or our inability to otherwise complete the acquisitions of additional vessels for our fleet, could harm our business, financial condition and results of operations.

We expect to purchase secondhand vessels from time to time. The delivery of these vessels could be delayed, not completed or cancelled, which would delay or eliminate our expected receipt of revenues from the employment of these vessels. The seller could fail to deliver these vessels to us as agreed, or we could cancel a purchase contract because the seller has not met its obligations.

If the delivery of any vessel is materially delayed or cancelled, especially if we have committed the vessel to a charter for which we become responsible for substantial liquidated damages to the customer as a result of the delay or cancellation, our business, financial condition and results of operations could be adversely affected.

If we purchase any newbuilding vessels, delays, cancellations or non-completion of deliveries of newbuilding vessels could harm our operating results.

If we purchase any newbuilding vessels, the shipbuilder could fail to deliver the newbuilding vessel as agreed or their counterparty could cancel the purchase contract if the shipbuilder fails to meet its obligations. In addition, under charters that are related to a newbuilding, delays in our delivery of the newbuilding to our customer could result in liquidated damages payable to the customer. For prolonged delays, the customer may terminate the charter and, in addition to the resulting loss of revenues, we may be responsible for additional, substantial liquidated damages. We do not derive any revenue from a vessel until after its delivery and will be required to pay substantial sums as progress payments during construction of a newbuilding. While we expect to have refund guarantees from financial institutions with respect to such progress payments in the event the vessel is not delivered by the shipyard or is otherwise not accepted by us, there is the potential that we may not be able to collect all portion of such refund guarantees, in which case we would lose the amounts of monies we have advanced to the shipyards for such progress payments.

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The completion and delivery of newbuildings could be delayed, cancelled or otherwise not completed because of:

- quality or engineering problems;
- changes in governmental regulations or maritime self-regulatory organization standards;
- work stoppages or other labor disturbances at the shipyard;
- bankruptcy or other financial crisis of the shipbuilder;
- a backlog of orders at the shipyard;
- political or economic disturbances;
- weather interference or catastrophic event, such as a major earthquake or fire;
- requests for changes to the original vessel specifications;
- shortages of or delays in the receipt of necessary construction materials, such as steel;
- inability to finance the construction or conversion of the vessels; or
- inability to obtain requisite permits or approvals.

If delivery of a vessel is materially delayed, it could materially adversely affect our results of operations and financial condition and our ability to make cash distributions.

We rely on the master limited partnership (“MLP”) structure and its appeal to investors for accessing debt and equity markets to finance our growth and repay or refinance our debt. The depressed trading price of our common units may affect our ability to access capital markets and, as a result, our ability to pay distributions or repay our debt.

We rely on the master limited partnership (“MLP”) structure and its appeal to investors for accessing debt and equity markets to finance our growth and repay or refinance our debt.

We rely on our ability to raise capital in the equity and debt markets to grow our fleet and to refinance our debt. A protracted deterioration in the valuation of our common units would increase our cost of capital, make any equity issuance significantly dilutive and may affect our ability to access capital markets and, as a result, our capacity to pay distributions to our unitholders and refinance or repay our debt.

The loss of a customer, charter or vessel could result in a loss of revenues and cash flow in the event we are unable to replace such customer, charter or vessel.

For the year ended December 31, 2018, HMM represented approximately 24.5% of total revenues. For the year ended December 31, 2017, HMM and Yang Ming accounted for approximately 26.8% and 12.0%, respectively, of our total revenues. For the year ended December 31, 2016, HMM, Yang Ming and Mediterranean Shipping Co. S.A. accounted for 29.6%, 13.0% and 11.6%, respectively, of our total revenues. No other customers accounted for 10% or more of total revenues for any of the years presented.

The charterers in the containership sector consist of a limited number of liner companies. The combination of any surplus of containership capacity and the expected increase in the size of the world containership fleet over the next few years may make it difficult to secure substitute employment for any of our containerships if our counterparties fail to perform their obligations under the currently arranged time charters, and any new charter arrangements we are able to secure may be at lower rates. Furthermore, the surplus of containerships available at lower charter rates and lack of demand for our customers’ liner services could negatively affect our charterers’ willingness to perform their obligations under our time charters, which in many cases provide for charter rates significantly above current market rates. We expect that a limited number of leading liner companies will continue to generate a substantial portion of our revenues. The cessation of business with these liner companies or their failure to fulfill their obligations under the time charters for our containerships could have a material adverse effect on our financial condition and results of operations.

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Our customers may go bankrupt or fail to perform their obligations under the contracts, they may delay payments or suspend payments altogether, they may terminate the contracts prior to the agreed-upon expiration date or they may attempt to renegotiate the terms of the contracts. For example, in 2016, HMM faced financial difficulties and developed a restructuring plan, which included restructuring agreements for five of our container vessels (see Note 19 — Notes Receivable). In addition, Navios Partners has filed claims for lost revenues in connection with the 2016 filing by Hanjin for rehabilitation, which was later followed by entry into liquidation in 2017. These claims are currently being assessed by the court.

The failure of a customer to perform its obligations under a contract may mean we increase our exposure to the spot market, which is subject to greater rate fluctuation than the time charter market.

If we receive lower rates under replacement contracts or are unable to re-employ all of our vessels, it could have a material adverse effect on our business, financial condition, cash flows and results of operations.

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

As of April 8, 2019, the vessels in our fleet had an average age of approximately 10 years, when most dry cargo vessels have an expected life of approximately 25 years, and we may acquire older vessels in the future. Older vessels are typically more costly to maintain than more recently constructed vessels due to improvements in engine technology. In some instances, charterers prefer newer vessels that are more fuel efficient than older vessels. Cargo insurance rates also increase with the age of a vessel, making older vessels less desirable to charterers as well. Governmental regulations, safety or other equipment standards related to the age of the vessels may require expenditures for alterations or the addition of new equipment to our vessels and may restrict the type of activities in which these vessels may engage. We cannot assure you that as our vessels age, market conditions will justify those expenditures or enable us to operate our vessels profitably during the remainder of their useful lives. If we sell vessels, we may have to sell them at a loss, and if charterers no longer charter out vessels due to their age, it could materially adversely affect our earnings.

Vessels may suffer damage and we may face unexpected drydocking costs, which could affect our cash flow and financial condition.

If our owned vessels suffer damage, they may need to be repaired at a drydocking facility. The costs of drydock repairs are unpredictable and can be substantial. We may have to pay drydocking costs that insurance does not cover. The loss of earnings while these vessels are being repaired and repositioned, as well as the actual cost of these repairs, could decrease our revenues and earnings substantially, particularly if a number of vessels are damaged or drydocked at the same time. Under the terms of the Management Agreement with the Manager, the costs of drydocking repairs are not included in the daily management fee, but are reimbursed at cost upon occurrence.

In addition, we often purchase secondhand vessels that, unlike newbuilt vessels, typically do not carry warranties as to their condition, and our vessel inspections would not normally provide us with as much knowledge of a vessel's condition as we would possess if it had been built for us and operated by us during its life. Repairs and maintenance costs for secondhand vessels are difficult to predict and may be substantially higher than for vessels we have operated since they were built. These costs could decrease our cash flows, liquidity and our ability to pay dividends to our unitholders.

The market value of our vessels, which has declined from historically high levels, may fluctuate significantly, which could cause us to breach covenants in our credit facilities and result in the foreclosure on our mortgaged vessels.

The factors that influence vessel values include:

- the number of newbuilding deliveries;
- prevailing economic conditions in the markets in which drybulk or containerships operate;
- reduced demand for drybulk or containerships, including as a result of a substantial or extended decline in world trade;
- the number of vessels scrapped or otherwise removed from the total fleet;
- changes in environmental and other regulations that may limit the useful life of vessels;
- changes in global dry cargo commodity supply;

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- types, sizes and age of vessels;
- advances in efficiency, such as the introduction of remote or autonomous vessels;
- the development of an increase in use of other modes of transportation;
- where the ship was built and as-built specification;
- lifetime maintenance record;
- the cost of vessel acquisitions;
- governmental or other regulations (including the application of any IMO rules);
- prevailing level of charter rates;
- the availability of financing, or lack thereof, for ordering newbuildings or for facilitating ship sale and purchase transactions;
- general economic and market conditions affecting the shipping industry; and
- the cost of retrofitting or modifying existing ships to respond to technological advances in vessel design or equipment, changes in applicable environmental or other regulations or standards, or otherwise.

If the market value of our owned vessels decreases, we may be required to record an impairment charge in our financial statements that, among other things, could cause us to breach covenants contained in our credit facilities, which could adversely affect our financial results. We purchased the majority of our drybulk vessels from Navios Holdings based on market prices that were, for certain vessels, at historically high levels. If we breach the covenants in our credit facilities and are unable to remedy any relevant breach, our lenders could accelerate our debt and foreclose on the collateral, including our vessels. Any loss of vessels would significantly decrease our ability to generate positive cash flow from operations and therefore service our debt. If a charter expires or is terminated, we may be unable to re-charter the vessel at an acceptable rate and, rather than continue to incur costs to maintain the vessel, may seek to dispose of it. Our inability to dispose of a vessel at a reasonable price could result in a loss on its sale and could materially and adversely affect our business, results of operations and financial condition, as well as our cash flows, including cash available for distributions to our unitholders.

Charter rates in the drybulk and container shipping industry have decreased from their historically high levels and may decrease further in the future, which may adversely affect our earnings and ability to pay dividends.

The current charter rates for dry cargo vessels have significantly decreased from their historic highs reached in the second quarter of 2008. If the drybulk shipping industry, which has been highly cyclical and volatile, is depressed in the future when our charters expire, our earnings and available cash flow may be adversely affected. We cannot assure you that we will be able to successfully charter our vessels in the future or renew our existing charters at rates sufficient to allow us to operate our business profitably, to meet our obligations, including payment of debt service to our lenders, or to pay dividends to our unitholders. Our ability to renew the charters on our vessels upon the expiration or termination of our current charters, or on vessels that we may acquire in the future, as well as, the charter rates payable under any replacement charters will depend upon, among other things, economic conditions in the sectors in which our vessels operate at that time, changes in the supply and demand for vessel capacity and changes in the supply and demand for the transportation of commodities.

All of our drybulk time charters are scheduled to expire on dates ranging from March 2019 to September 2022. If, upon expiration or termination of these or other contracts, long-term recharter rates are lower than existing rates, particularly considering that we intend to enter into long-term charters, or if we are unable to obtain replacement charters, our earnings, cash flow and our ability to make cash distributions to our unitholders could be materially adversely affected.

The five containerships that we own are on long-term time charter for ten years until 2023 with our option to terminate after year seven. Our ability to re-charter our containerships upon the expiration or termination of their current time charters and the charter rates payable under any renewal options or replacement time charters will depend upon, among other things, the prevailing state of the containership charter market, which can be affected by consumer demand for products shipped in containers. If the charter market is depressed when our containerships' time charters expire, we may be forced to re-charter our containerships at reduced or even unprofitable rates, or we may not be able to re-charter them at all, which may reduce or eliminate our earnings, make our earnings volatile, affect our ability to generate cash flows and maintain liquidity.

We must make substantial capital expenditures to maintain the operating capacity of our fleet, which will reduce our cash available for distribution. In addition, each quarter our board of directors is required to deduct estimated maintenance and replacement capital expenditures from operating surplus, which may result in less or no cash available to unitholders than if actual maintenance and replacement capital expenditures were deducted.

We must make substantial capital expenditures to maintain, over the long term, the operating capacity of our fleet. These maintenance and replacement capital expenditures include capital expenditures associated with drydocking a vessel, modifying an existing vessel or acquiring a new vessel to the extent these expenditures are incurred to maintain the operating capacity of our fleet. These expenditures could increase as a result of changes in the cost of our labor and materials, the cost of suitable replacement vessels, customer/market requirements, increases in the size of our fleet, and governmental regulations and maritime self-regulatory organization standards relating to safety, security or the environment.

Our significant maintenance and replacement capital expenditures, including without limitation the management fees paid to the Manager pursuant to the Management Agreement, may reduce or eliminate the amount of cash we have available for distribution to our unitholders. Our partnership agreement requires our board of directors to deduct estimated, rather than actual, maintenance and replacement capital expenditures from operating surplus each quarter in an effort to reduce fluctuations in operating surplus. The amount of estimated capital expenditures deducted from operating surplus is subject to review and change by the Conflicts Committee of our board of directors at least once a year. If our board of directors underestimates the appropriate level of estimated maintenance and replacement capital expenditures, we may have less, if any, cash available for distribution in future periods when actual capital expenditures begin to exceed previous estimates. For detailed information on the amount of management fees owed under the Management Agreement, please see the section entitled, “Item 5. Operating and Financial Review and Prospects – A. Operating results – Management fees”.

Our debt levels may limit our ability to obtain additional financing and pursue other business opportunities, and our interest rates under our credit facilities may fluctuate and may impact our operations.

As of December 31, 2018, the total borrowings, net of unamortized discount, under our credit facilities amounted to \$512.4 million. We have the ability to incur additional debt, subject to limitations in our credit facilities. Our level of debt could have important consequences to us, including the following:

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

Our ability to service our debt depends upon, among other things, our future financial and operating performance, which will be affected by prevailing economic conditions and financial, business, regulatory and other factors, some of which are beyond our control. Our ability to service debt under our credit facilities also will depend on market interest rates, since the interest rates applicable to our borrowings will fluctuate with the London Interbank Offered Rate (“LIBOR”), or the prime rate. We do not currently hedge against increases in such rates and, accordingly, significant increases in such rate would require increased debt levels and reduce distributable cash. We may not be able to refinance all or part of our maturing debt on favorable terms, or at all. If our operating income is not sufficient to service our current or future indebtedness, we will be forced to take actions such as reducing or discontinuing distributions, reducing or delaying our business activities, acquisitions, investments or capital expenditures, selling assets, restructuring or refinancing our debt, or seeking additional equity capital or bankruptcy protection. We may not be able to effect any of these remedies on satisfactory terms, or at all.

We are exposed to volatility in the London Interbank Offered Rate, or LIBOR, which can affect our profitability, earnings and cash flow.

The loans under our credit facilities are generally advanced at a floating rate based on LIBOR, which was volatile in prior years and has been steadily increasing in recent years. LIBOR can affect the amount of interest payable on our debt, which, in turn, could have an adverse effect on our earnings and cash flow. In addition, although in recent years LIBOR has been at relatively low levels, LIBOR increased during 2016 and may continue to rise in the future as the current low interest rate environment comes to an end.

Our financial condition could be materially adversely affected as we have not entered into interest rate hedging arrangements to hedge our exposure to the interest rates applicable to our credit facilities and may not enter into interest rate hedging arrangements for these or any other financing arrangements we may enter into in the future, including those we may enter into to finance a portion of the amounts payable with respect to newbuildings or acquisitions.

We may enter into derivative contracts to hedge our overall exposure to interest rate risk. Entering into swaps and other derivatives transactions is inherently risky and presents possibilities for incurring significant expenses. The derivatives strategies that we may employ may not be successful or effective, and we could, as a result, incur substantial additional interest and breakage costs.

Changes in the method of determining LIBOR, or the replacement of LIBOR with an alternative reference rate, may adversely affect interest expense related to outstanding debt.

Our outstanding debt bears interest rates in relation to LIBOR. On July 27, 2017, the United Kingdom's Financial Conduct Authority, which regulates LIBOR, announced that it intends to phase out LIBOR by the end of 2021. It is unclear if at that time whether or not LIBOR will cease to exist or if new methods of calculating LIBOR will be established such that it continues to exist after 2021. The U.S. Federal Reserve, in conjunction with the Alternative Reference Rates Committee, a steering committee comprised of large U.S. financial institutions, is considering replacing U.S. dollar LIBOR with a new index calculated by short-term repurchase agreements, backed by Treasury securities ("SOFR"). SOFR is observed and backward looking, which stands in contrast with LIBOR under the current methodology, which is an estimated forward-looking rate and relies, to some degree, on the expert judgment of submitting panel members. Whether or not SOFR attains market traction as a LIBOR replacement tool remains in question. As such, the future of LIBOR at this time is uncertain. If LIBOR ceases to exist, we may need to renegotiate our credit agreements that utilize LIBOR as a factor in determining the interest rate.

In addition, lenders have recently insisted on provisions that entitle the lenders, in their discretion, to replace published LIBOR as the base for the interest calculation with their cost-of-funds rate. Such provisions could significantly increase our lending costs, which would have an adverse effect on our profitability, earnings and cash flow.

Our credit facilities contain restrictive covenants, which may limit our business and financing activities and may prevent us from paying distributions to unitholders, if our board of directors determines to do so again in the future.

We have two credit facilities with DVB Bank S.E. (the "DVB Credit Facility" and the "DVB \$44m Credit Facility"), a term loan facility (the "Term Loan B Facility"), a credit facility with BNP PARIBAS (the "BNP Credit Facility") and a credit facility with Nordea Bank AB, Skandinaviska Enskilda Banken AB and NIBC Bank N.V. (the "March 2018 Credit Facility"). We have two sale and leaseback agreements with unrelated third parties for the Navios Fantastiks and the Navios Beaufiks. As of December 31, 2018, the outstanding loan balance under Navios Partners' credit facilities, net of deferred finance fees and discounts, was \$507.5 million.

We also have three credit facilities with DNB Bank ASA (the "April 2019 Credit Facility"), DVB Bank S.E. (the "February 2019 Credit Facility") and NIBC Bank N.V. (the "December 2018 Credit Facility"). No amount has been drawn yet under these facilities.

The operating and financial restrictions and covenants in our credit facilities and any future credit facilities could adversely affect our ability to finance future operations or capital needs to engage, expand or pursue our business activities and reduce cash available for distribution on our common units. For example, our credit facilities require the consent of our lenders or limit our ability to (among other things):

- incur or guarantee indebtedness;
- charge, pledge or encumber the vessels;
- merge or consolidate;
- change the flag, class or commercial and technical management of our vessels;

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- make cash distributions;
- make new investments; and
- sell or change the ownership or control of our vessels.

Our credit facilities also require us to comply with the International Safety Management Code (the “ISM Code”), and International Ship and Port Facilities Security Code (“ISPS Code”) and to maintain valid safety management certificates and documents of compliance at all times.

The credit facilities require compliance with a number of financial covenants, including: (i) maintain a required security amount ranging over 120% to 140%; (ii) minimum free consolidated liquidity in an amount equal to at least \$650 per owned vessel; (iii) maintain a ratio of EBITDA to interest expense of at least 2.00:1.00; (iv) maintain a ratio of total liabilities or total debt to total assets (as defined in our credit facilities) ranging of less than 0.75; and (v) maintain a minimum net worth to \$135.0 million.

The Financial Liabilities have no financial covenants.

It is an event of default under the credit facilities if such covenants are not complied with in accordance with the terms and subject to the prepayments or cure provisions of the facilities.

The Term Loan B facility is secured by first priority mortgages covering certain vessels owned by subsidiaries of Navios Partners, in addition to other collateral, and guaranteed by each subsidiary of Navios Partners.

The Term Loan B Facility requires maintenance of a loan to value ratio of 0.8 to 1.0, and other restrictive covenants customary for facilities of this type (subject to negotiated exceptions and baskets), including restrictions on indebtedness, liens, acquisitions and investments, restricted payments and dispositions. The Term Loan B Facility also provides for customary events of default, prepayment and cure provisions.

In addition, our credit facilities prohibit the payment of distributions if we are not in compliance with certain financial covenants or upon the occurrence of an event of default.

Events of default under our credit facilities include, among other things, the following:

- failure to pay any principal, interest, fees, expenses or other amounts when due;
- failure to observe any other agreement, security instrument, obligation or covenant beyond specified cure periods in certain cases;
- default under other indebtedness;
- an event of insolvency or bankruptcy;
- material adverse change in the financial position or prospects of us or our general partner;
- failure of any representation or warranty to be materially correct; and
- failure of Navios Holdings or its affiliates (as defined in the credit facilities agreements) to own at least 15% of us.

Our ability to comply with the covenants and restrictions that are contained in our credit facilities and any other debt instruments we may enter into in the future may be affected by events beyond our control, including prevailing economic, financial and industry conditions. If market or other economic conditions deteriorate, our ability to comply with these covenants may be impaired. If we are in breach of any of the restrictions, covenants, ratios or tests in our credit facilities, especially if we trigger a cross default currently contained in certain of our loan agreements, a significant portion of our obligations may become immediately due and payable, and our lenders’ commitment to make further loans to us may terminate. We may not have, or be able to obtain, sufficient funds to make these accelerated payments. In addition, our obligations under our credit facilities are secured by certain of our vessels, and if we are unable to repay borrowings under such credit facilities, lenders could seek to foreclose on those vessels. We anticipate that any subsequent refinancing of our current debt or any new debt will have similar restrictions.

We may be subject to litigation that, if not resolved in our favor or not sufficiently insured against, could have a material adverse effect on us.

We have been and may be, from time to time, involved in various litigation matters. These matters may include, among other things, contract disputes, personal injury claims, environmental claims or proceedings, and other tort claims, employment matters, governmental claims for taxes or duties, and other litigation that arises in the ordinary course of our business. We cannot predict with certainty the outcome or effect of any claim or other litigation matter, and the ultimate outcome of any litigation or the potential costs to resolve them may have a material adverse effect on us. Insurance may not be applicable or sufficient in all cases and/or insurers may not remain solvent which may have a material adverse effect on our financial condition.

The loss of key members of our senior management team could disrupt the management of our business.

We believe that our success depends on the continued contributions of the members of our senior management team, including Ms. Angeliki Frangou, our Chairman and Chief Executive Officer. The loss of the services of Ms. Frangou or one of our other executive officers or those of Navios Holdings who provide us with significant managerial services could impair our ability to identify and secure new charter contracts, to maintain good customer relations and to otherwise manage our business, which could have a material adverse effect on our financial performance and our ability to compete.

The Manager acting on our behalf may be unable to attract and retain qualified, skilled employees or crew necessary to operate our business or may have to pay substantially increased costs for its employees and crew.

Our success will depend in part on the Manager's ability to attract, hire, train and retain highly skilled and qualified personnel. In crewing our vessels, we require technically skilled employees with specialized training who can perform physically demanding work. Competition to attract, hire, train and retain qualified crew members is intense, and crew manning costs continue to increase. If we are not able to increase our hire rates to compensate for any crew cost increases, our business, financial condition, results of operations and ability to make cash distributions to our unitholders may be adversely affected. Any inability we experience in the future to attract, hire, train and retain a sufficient number of qualified employees could impair our ability to manage, maintain and grow our business.

Because we generate all of our revenues in U.S. dollars but incur a portion of our expenses in other currencies, exchange rate fluctuations could cause us to suffer exchange rate losses thereby increasing expenses and reducing income.

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 at present predominantly U.S. dollar-denominated. Transactions in currencies other than the functional currency are translated at the exchange rate in effect on the date of each transaction. Expenses incurred in foreign currencies against which the U.S. dollar falls in value can increase thereby decreasing our income or vice versa if the U.S. dollar increases in value. For example, as of December 31, 2018, the value of the U.S. dollar as compared to the Euro increased by approximately 4.7% compared with the respective value as of December 31, 2017. A greater percentage of our transactions and expenses in the future may be denominated in currencies other than the U.S. dollar.

Security breaches and disruptions to our information technology infrastructure could interfere with our operations and expose us to liability which could have a material adverse effect on our business, financial condition, cash flows and results of operations.

In the ordinary course of business, we rely heavily on information technology networks and systems to process, transmit, and store electronic information, and to manage or support a variety of business processes and activities. Additionally, we collect and store certain data, including proprietary business information and customer and employee data, and may have access to other confidential information in the ordinary course of our business. Despite our cybersecurity measures, which includes active monitoring, training, reporting and other activities designed to protect and secure our data, our information technology networks and infrastructure may be vulnerable to damage, disruptions, or shutdowns due to attack by hackers or breaches, employee error or malfeasance, data leakage, power outages, computer viruses and malware, telecommunication or utility failures, systems failures, natural disasters, or other catastrophic events. Any such events could result in legal claims or proceedings, liability or penalties under privacy or other laws, disruption in operations, and damage to our reputation, which could have a material adverse effect on our business, financial condition, cash flows and results of operations.

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

The charter hire rates and the value and operational life of a vessel are determined by a number of factors including the vessel's efficiency, operational flexibility and physical life. Efficiency includes speed, fuel economy, loading and discharging speed and personnel required to operate. The potential introduction of autonomous vessels, which would significantly reduce or eliminate the costs of crew and victuals, could put our vessels at an efficiency disadvantage. Flexibility includes the ability to enter harbors, utilize related docking facilities and pass through canals and straits. The length of a vessel's physical life is related to its original design and construction, its maintenance and the impact of the stress of operations. If new vessels are built that are more efficient or flexible or have longer physical lives than our vessels, competition from these more technologically advanced vessels could adversely affect the amount of charter hire payments that we receive for our vessels upon expiration of their current charters and the resale value of our vessels could significantly decrease. This could adversely affect our revenues and cash flows, and our ability to service our debt or make distributions to our unit holders and repurchases of common units.

We may not have adequate insurance to compensate us if we lose our vessels or to compensate third parties.

There are a number of risks associated with the operation of ocean-going vessels, including mechanical failure, collision, human error, war, terrorism, piracy, loss of life, property loss, cargo loss or damage and business interruption due to political circumstances in foreign countries, hostilities and labor strikes. Any of these events may result in loss of revenues, increased costs and decreased cash flows. In addition, the operation of any vessel is subject to the inherent possibility of marine disaster.

Although we carry insurance for our fleet against risks commonly insured against by vessel owners and operators, including hull and machinery insurance, war risks insurance and protection and indemnity insurance (which include environmental damage and pollution insurance), all risks may not be adequately insured against, and any particular claim may not be paid.

We do not currently maintain strike or off-hire insurance, which would cover the loss of revenue during extended vessel off-hire periods, such as those that occur during an unscheduled drydocking due to damage to the vessel from accidents except in cases of loss of hire up to a limited number of days due to war or a piracy event. Other events that may lead to off-hire periods include natural or man-made disasters that result in the closure of certain waterways and prevent vessels from entering or leaving certain ports. Accordingly, any extended vessel off-hire, due to an accident or otherwise, could have a material adverse effect on our business and our ability to pay distributions to our unitholders.

Because we obtain some of our insurance through protection and indemnity associations, we may also be subject to calls, or premiums, in amounts based not only on our own claim records, but also the claim records of all other members of the protection and indemnity associations. Our payment of these calls could result in significant expenses to us, which could have a material adverse effect on our business, results of operations and financial condition.

In addition, we cannot assure you that we will be able to renew our insurance policies on the same or commercially reasonable terms, or at all, in the future. For example, more stringent environmental regulations have led in the past to increased costs for, and in the future may result in the lack of availability of, protection and indemnity insurance against risks of environmental damage or pollution. Any uninsured or underinsured loss could harm our business, financial condition, cash flows and results of operations. In addition, our insurance may be voidable by the insurers as a result of certain of our actions, such as our vessels failing to maintain certification with applicable maritime self-regulatory organizations. Further, we cannot assure you that our insurance policies will cover all losses that we incur, or that disputes over insurance claims will not arise with our insurance carriers. Any claims covered by insurance would be subject to deductibles, and since it is possible that a large number of claims may be brought, the aggregate amount of these deductibles could be material. In addition, our insurance policies are subject to limitations and exclusions, which may increase our costs or lower our revenues, and could have a material adverse effect on our business, financial condition, cash flows and results of operations.

Navios Holdings, Navios Maritime Acquisition Corporation ("Navios Acquisition"), Navios Maritime Midstream Partners L.P. ("Navios Midstream"), Navios Maritime Containers L.P. ("Navios Containers") and their affiliates may compete with us.

Navios Partners has entered into an omnibus agreement with Navios Holdings (the "Partners Omnibus Agreement") in connection with the closing of the Navios Partners' IPO governing, among other things, Navios Holdings and its controlled affiliates (other than us, our general partner and our subsidiaries) generally agreed not to acquire or own Panamax or Capesize drybulk carriers under time charters of three or more years without the consent of an independent committee of Navios Holdings. The Omnibus Agreement, however, contains significant exceptions that allow Navios Holdings or any of its controlled affiliates to compete with us under

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specified circumstances which could harm our business. In addition, concurrently with the successful consummation of the initial business combination by Navios Acquisition, on May 28, 2010, because of the overlap between Navios Acquisition, Navios Holdings and us, with respect to possible acquisitions under the terms of the Omnibus Agreement, we entered into a business opportunity right of first refusal agreement which provides the types of business opportunities in the marine transportation and logistics industries, we, Navios Holdings and Navios Acquisition must share with the each other.

In connection with the Navios Midstream initial public offering and effective November 18, 2014, Navios Partners entered into the Omnibus Agreement with Navios Midstream, Navios Acquisition and Navios Holdings (the "Navios Midstream Omnibus Agreement") pursuant to which Navios Acquisition, Navios Holdings and Navios Partners have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under time charters of five or more years and also providing rights of first offer on certain tanker vessels.

In connection with the 2017 Navios Containers private placement and listing on the Norwegian over-the-counter ("N-OTC") market effective June 8, 2017, Navios Partners entered into an omnibus agreement with Navios Containers, Navios Holdings, Navios Acquisition and Navios Midstream (the "Navios Containers Omnibus Agreement"), pursuant to which Navios Partners, Navios Holdings, Navios Acquisition 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 Partners, Navios Holdings, Navios Acquisition and Navios Midstream to compete with Navios Containers under specified circumstances.

Risks Relating in Our Industry

Charter hire rates are volatile and have declined significantly since their historic highs and may remain at low levels or decrease in the future, which may adversely affect our earnings, revenue and our profitability. The cyclical nature of the international shipping industry may lead to decreases in charter rates and lower vessel values.

The drybulk shipping industry is cyclical with attendant volatility in charter hire rates and profitability. The degree of charter hire rate volatility among different types of drybulk vessels has varied widely, and charter hire rates for drybulk vessels have declined significantly from historically high levels. For example, in the past time charter and spot market rates for drybulk vessels have declined below operating costs of vessels. The Baltic Dry Index, or BDI, an index published by the Baltic Exchange Limited of shipping rates for 19 key drybulk routes, fell 97% from a peak of 11,793 in May 2008 to a low of 290 in February 2016. While the BDI showed improvement since then, it has ranged from a low of 595 in February 2019 to a high of 1,774 in July 2018, it remains at low levels compared to historical highs and there can be no assurance that the drybulk charter market will not decline further.

The ocean-going container shipping industry is both cyclical and volatile in terms of charter rates, profitability and, consequently, vessel values. According to industry data, containership charter rates peaked in 2005, with the Containership Timecharter Rate Index (a \$/day per TEU weighted average of 6-12 month time charter rates of Panamax and smaller vessels (1993=100)) reaching 172 points in March and April 2005, and generally stayed above 100 points until the middle of 2008, when the effects of the economic crisis began to affect global container trade, driving the Containership Timecharter Rate Index to a 10-year low of 32 points in the period from November 2009 to January 2010. As of the end of January 2018, the Containership Timecharter Rate Index stood at 54 points, peaked at 68 as of the end of June 2018 and then fell to 50 at the end of January 2019.

Fluctuations in charter rates result from changes in the supply and demand for vessel capacity and changes in the supply and demand for the major commodities carried by water internationally. Because the factors affecting the supply and demand for vessels are outside of our control and are unpredictable, the nature, timing, direction and degree of changes in charter rates are also unpredictable.

Furthermore, a significant decrease in charter rates would cause asset values to decline, and we may have to record an impairment charge in our consolidated financial statements which could adversely affect our financial results. Because the market value of our vessels may fluctuate significantly, we may also incur losses when we sell vessels, which may adversely affect our earnings. If we sell vessels at a time when vessel prices have fallen and before we have recorded an impairment adjustment to our financial statements, the sale may be at less than the vessel's carrying amount in our financial statements, resulting in a loss and a reduction in earnings.

Factors that influence demand for vessels capacity include:

- global and regional economic and political conditions, including armed conflicts and terrorist activities (including piracy), embargoes and strikes;
- disruptions and developments in international trade, including the effects of currency exchange rate changes;
- changes in seaborne and other transportation patterns, such as port congestion and canal closures or expansions;
- supply and demand for energy resources, drybulk products, commodities, semi-finished and finished consumer and industrial products;
- changes in the exploration or production of energy resources, commodities, semi-finished and finished consumer and industrial products;

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- supply and demand for products shipped in containers;
- changes in global production of raw materials, semi-finished goods or products transported by containerships;
- the distance drybulk cargo or containers are to be moved by sea;
- the globalization of manufacturing;
- carrier alliances, vessel sharing or container slot sharing that seek to allocate container ship capacity on routes;
- weather and crop yields;
- political, environmental and other regulatory developments, including but not limited to governmental macroeconomic policy changes, import and export restrictions (including trade wars), central bank policies and pollution conventions or protocols;
- international sanctions, embargoes, import and export restrictions, nationalizations and wars; and
- technical advances in ship design and construction.

The supply of vessel capacity has generally been influenced by, among other factors:

- the number of vessels that are out of service, namely those that are laid-up, drydocked, awaiting repairs or otherwise not available for hire.
- the scrapping rate of older vessels;
- the availability of finance or lack thereof for ordering newbuildings or for facilitating ship sale and purchase transactions;
- port and canal traffic and congestion, including canal improvements that can affect employment of ships designed for older canals;
- the number of shipyards and ability of shipyards to deliver vessels;
- vessel casualties;
- weather;
- changes in environmental and other regulations and standards (including IMO rules requiring a reduction in the use of high sulphur fuels and the fitting of additional ballast water treatment systems) that limit the profitability, operations or useful lives of vessels;
- the availability of shipyard capacity; and
- the economics of slow steaming.

In addition to the prevailing and anticipated charter rates, factors that affect the rate of newbuilding, scrapping and laying-up include newbuilding prices, secondhand vessel values in relation to newbuilding and scrap prices, costs of bunkers and other operating costs, costs associated with classification society surveys, normal maintenance and insurance coverage costs, the efficiency and age profile of the existing drybulk fleet in the market and government and industry regulation of maritime transportation practices, particularly environmental protection laws and regulations. These and other factors influencing the supply of and demand for shipping capacity are outside of our control, and we may not be able to correctly assess the nature, timing and degree of changes in industry conditions.

We anticipate that the future demand for our vessels will be dependent upon economic growth in the world's economies, mainly China and India, seasonal and regional changes in demand, changes in the capacity of the global dry fleet and the sources and supply of drybulk cargo to be transported by sea.

The oversupply of drybulk vessel capacity may continue to prolong or further depress the current low charter rates, which has and may continue to limit our ability to operate our drybulk vessels profitably.

The market supply of drybulk carriers has been increasing as a result of the delivery of numerous newbuilding orders over the last few years. Newbuildings have been delivered in significant numbers over the last few years and, as of April 1, 2019, newbuilding orders had been placed for an aggregate of about 11% of the existing global drybulk fleet, with deliveries expected during the next three years. Due to lack of financing, many analysts expect significant cancellations and/or slippage of newbuilding orders. While vessel supply will continue to be affected by the delivery of new vessels and the removal of vessels from the global fleet, either through scrapping or accidental losses, an over-supply of drybulk carrier capacity could exacerbate decreases in charter rates or prolong the period during which low charter rates prevail which may have a material adverse effect on our business, results of operations, cash flows, financial condition and ability to pay dividends.

An oversupply of containership capacity may depress charter rates, as has happened in the past, or prolong the period of depressed charter rates, and adversely affect our ability to charter our containerships at profitable rates, or at all.

From 2005 through 2010, the containership orderbook was at historically high levels as a percentage of the in-water fleet reaching a high of 61% in November 2007, according to industry data. Since that time, deliveries of previously ordered containerships increased substantially and ordering momentum slowed somewhat with the total orderbook declining as a percentage of the existing fleet from 21% in October 2015 to an all-time low of 12% as of September 2018. As of the beginning of April the ratio stood at approximately 13%. The orderbook remains significantly skewed towards vessels over 8,000 twenty-foot equivalent units (“TEU”). An oversupply of large newbuilding vessel and/or re-chartered containership capacity entering the market, combined with any decline in the demand for containerships, may prolong or further depress current charter rates and may decrease our ability to charter our containerships when we are seeking new or replacement charters other than for unprofitable or reduced rates, or we may not be able to charter our containerships at all.

A number of third party owners have ordered so-called “eco-type” vessel designs, which may offer substantial bunker savings as compared to older designs. Increased demand for and supply of “eco-type” vessels could reduce demand for our vessels that are not classified as such and expose us to lower vessel utilization and/or decreased charter rates.

New eco-type vessel designs purport to offer material bunker savings compared to older designs, including certain of our vessels. Such savings could result in a substantial reduction of bunker cost for charterers compared to such vessels of ours. Such savings may also increase as a result of the International Maritime Organization (the “IMO”) 0.5% sulphur limitations on marine fuels due to come into force on January 1, 2020, which may increase the cost of fuels that meet these limits. As the supply of such “eco-type” vessel increases and if charterers prefer such vessels over our vessels that are not classified as such, this may reduce demand for our non-“eco-type” vessels, impair our ability to re-charter such vessels at competitive rates and have a material adverse effect on our business, financial condition, cash flows and results of operations.

If we expand the size of our fleet in the future, we generally will be required to make significant installment payments for acquisitions of vessels even prior to their delivery and generation of revenue. Depending on whether we finance our expenditures through cash from operations or by issuing debt or equity securities, our ability to make cash distributions to unitholders, to the extent we are making distributions, may be diminished or our financial leverage could increase or our unitholders could be diluted.

The actual cost of a vessel varies significantly depending on the market price, the size and specifications of the vessel, governmental regulations and maritime self-regulatory organization standards. If we purchase additional vessels in the future, we generally will be required to make installment payments prior to their delivery. If we finance these acquisition costs by issuing debt or equity securities, we will increase the aggregate amount of interest payments or distributions, to the extent we are making distributions, prior to generating cash from the operation of the vessel.

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

We are subject to various laws, regulations and conventions, including environmental and safety laws, that could require significant expenditures both to maintain compliance with such laws and to pay for any uninsured environmental liabilities, including any resulting from a spill or other environmental incident.

The shipping business and vessel operation are materially affected by government regulation in the form of international conventions, national, state and local laws, and regulations in force in the jurisdictions in which vessels operate, as well as in the country or countries of their registration, such as the International Convention for the Prevention of Pollution from Ships, the International Convention for the Control and Management of Ships' Ballast Water and Sediments, the International Convention for Civil Liability for Oil Pollution Damage, the International Convention on Civil Liability for Bunker Oil Pollution Damage, the Comprehensive Environmental Response, Compensation, and Liability Act, and The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015. Governmental regulations, safety or other equipment standards, as well as compliance with standards imposed by maritime self-regulatory organizations and customer requirements or competition, may require us to make capital and other expenditures. Because such conventions, laws and regulations are often revised, we cannot predict the ultimate cost of complying with such conventions, laws and regulations, or the impact thereof on the fair market price or useful life of our vessels. In order to satisfy any such requirements, we may be required to take any of our vessels out of service for extended periods of time, with corresponding losses of revenues. In the future, market conditions may not justify these expenditures or enable us to operate our vessels, particularly older vessels, profitably during the remainder of their economic lives. This could lead to significant asset write downs. In addition, violations of environmental and safety regulations can result in substantial penalties and, in certain instances, seizure or detention of our vessels.

Additional conventions, laws and regulations may be adopted that could limit our ability to do business, require capital expenditures or otherwise increase our cost of doing business, which may materially adversely affect our operations, as well as the shipping industry generally. For example, in various jurisdictions, legislation has been enacted, or is under consideration, that would impose more stringent requirements on air pollution and effluent discharges from our vessels, such as the amendments to the International Convention for the Prevention of Pollution from Ships that are imposed by the IMO from time to time.

In addition, certain jurisdictions have adopted more stringent requirements compared to other regulatory authorities. For instance, California has adopted more stringent low sulfur fuel requirements within California-regulated waters. Compliance with new emissions standards could require modifications to vessels or the use of more expensive fuel. While it is unclear how new emissions standards will affect the employment of our vessels, over time it is possible that ships not retrofitted to comply with new standards may become less competitive. In addition, the IMO, the United States and states within the United States have proposed or implemented requirements relating to the management of ballast water to prevent the harmful effects of foreign invasive species.

Criminal liability for a pollution incident could not only result in us incurring substantial penalties or fines, but may also, in some jurisdictions, facilitate civil liability claims for greater compensation than would otherwise have been payable. We maintain insurance coverage for each owned vessel in our fleet against pollution liability risks in the amount of \$1.0 billion in the aggregate for any one event. The insured risks include penalties and fines as well as civil liabilities and expenses resulting from accidental pollution. However, this insurance coverage is subject to exclusions, deductibles and other terms and conditions, and we cannot be certain that liabilities or expenses will not fall within an exclusion from coverage, or that damages from a catastrophic incident will not exceed the aggregate liability of \$1.0 billion for any one event. Our cash flow, profitability and financial position would be adversely impacted.

The operation of vessels is also affected by the requirements set forth in the ISM Code and to national and international laws governing pollution from such vessels.

For more information on these international regulations that affect our business, please see the section entitled, "Item 4. Information on the Partnership—B. Business Overview—Regulation".

In addition, the IMO, the United States and states within the United States have proposed or implemented requirements relating to the management of ballast water to prevent the harmful effects of foreign invasive species. In February 2004, the IMO adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments (the "BWM Convention"). The BWM Convention's implementing regulations call for a phased introduction of mandatory ballast water exchange requirements, to be replaced in time with mandatory concentration limits, as well as other obligations including recordkeeping requirements and implementation of a Ballast Water and Sediments Management Plan. The BWM convention entered into force on September 8, 2017. As of February 11, 2019, the BWM Convention had 79 contracting states for 80.94% of world gross tonnage. New ships constructed after September 8, 2017 must comply on delivery with the BWM Convention. For vessels constructed prior to September 8, 2017, installation of ballast water management systems must take place at the first renewal survey following September 8, 2017 (the date the BWM Convention entered into force). Ships built before September 8, 2017 must comply with IMO discharge standards by the due date for their IOPPC renewal survey under MARPOL Annex 1. All ships must meet the IMO ballast water discharge standard by September 8, 2024. The BWM Convention requires ships to manage ballast water in a manner that removes, renders harmless or avoids the update or discharge of aquatic organisms and pathogens within ballast water and sediment. Recently updated Ballast Water

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and Sediment Management Plan guidance includes more robust testing and performance specifications. The entry of the BWM Convention and revised guidance, as well as similar ballast water treatment requirements in certain jurisdictions (such as the United States and states within the United States), will likely result in substantial compliance costs relating to the installation of equipment on our vessels to treat ballast water before it is discharged and other additional ballast water management and reporting requirements. In the United States, the Vessel Incidental Discharge Act (“VIDA”) was signed into law on December 4, 2018, which requires the U.S. Coast Guard to address the regulation of discharges incidental to the normal operation of commercial vessels into navigable waters, including management of ballast water. This change is expected to result in a simplification of the current patch-work state of ballast water regulation in the United States, which is currently variably regulated by the U.S. Environmental Protection Agency and the various states.

We operate a fleet of dry cargo vessels that are subject to national and international laws governing pollution from such vessels. Several international conventions impose and limit pollution liability from vessels. An owner of a tanker vessel carrying a cargo of “persistent oil” as defined by the International Convention for Civil Liability for Oil Pollution Damage (the “CLC”) is subject under the convention to strict liability for any pollution damage caused in a contracting state by an escape or discharge from cargo or bunker tanks. This liability is subject to a financial limit calculated by reference to the tonnage of the ship, and the right to limit liability may be lost if the spill is caused by the ship owner’s intentional or reckless conduct. Liability may also be incurred under the CLC for a bunker spill from the vessel even when she is not carrying such cargo, but is in ballast.

When a tanker is carrying clean oil products that do not constitute “persistent oil” that would be covered under the CLC, liability for any pollution damage will generally fall outside the CLC and will depend on other international conventions or domestic laws in the jurisdiction where the spillage occurs. The same principle applies to any pollution from the vessel in a jurisdiction which is not a party to the CLC. The CLC applies in over 100 jurisdictions around the world, but it does not apply in the United States, where the corresponding liability laws such as the Oil Pollution Act of 1990 (the “OPA”) discussed below, are particularly stringent.

For vessel operations not covered by the CLC, including those operated under our fleet, at present, international liability for oil pollution is governed in part by the International Convention on Civil Liability for Bunker Oil Pollution Damage (the “Bunker Convention”). In 2001, the IMO adopted the Bunker Convention, which imposes strict liability on ship owners for pollution damage and response costs incurred in contracting states caused by discharges, or threatened discharges, of bunker oil from all classes of ships not covered by the CLC. The Bunker Convention also requires registered owners of ships over a certain size to maintain insurance to cover their liability for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, including liability limits calculated in accordance with the Convention on Limitation of Liability for Maritime Claims 1976, as amended (the “1976 Convention”), discussed in more detail in the following paragraph. The Bunker Convention became effective in contracting states on November 21, 2008, and, as of February 11, 2019, had 91 contracting states, representing 92.85% of the gross tonnage of the world’s merchant fleet. In non-contracting states, liability for such bunker oil pollution typically is determined by the national or other domestic laws in the jurisdiction where the spillage occurs.

The CLC and Bunker Convention also provide vessel owners a right to limit their liability, depending on the applicable national or international regime. The CLC includes its own liability limits. The 1976 Convention is the most widely applicable international regime limiting maritime pollution liability. Rights to limit liability under the 1976 Convention are forfeited where a spill is caused by a ship owner’s intentional or reckless conduct. Certain jurisdictions have ratified the IMO’s Protocol of 1996 to the 1976 Convention, referred to herein as the “Protocol of 1996.” The Protocol of 1996 provides for substantially higher liability limits in those jurisdictions than the limits set forth in the 1976 Convention. Finally, some jurisdictions, such as the United States, are not a party to either the 1976 Convention or the Protocol of 1996, and, therefore, a ship owner’s rights to limit liability for maritime pollution in such jurisdictions may be uncertain.

Environmental legislation in the United States merits particular mention as it is in many respects more onerous than international laws, representing a high-water mark of regulation with which ship owners and operators must comply, and of liability likely to be incurred in the event of non-compliance or an incident causing pollution.

Though it has been several years since the 2010 Deepwater Horizon oil spill in the Gulf of Mexico (the “Deepwater Horizon incident”), such regulation may become even stricter because of the incident’s impact. In the United States, the OPA establishes an extensive regulatory and liability regime for the protection and cleanup of the environment from cargo and bunker oil spills from vessels, including tankers. The OPA covers all owners and operators whose vessels trade in the United States, its territories and possessions or whose vessels operate in U.S. waters, which includes the United States’ territorial sea and its 200 nautical mile exclusive economic zone. Under the OPA, vessel owners, operators and bareboat charterers are “responsible parties” and are jointly, severally and strictly liable (unless the spill results solely from the act or omission of a third party, an act of God or an act of war) for all containment and clean-up costs and other damages arising from discharges or substantial threats of discharges, of oil from their vessels. In response to the 2010 Deepwater Horizon oil incident in the Gulf of Mexico, the U.S. House of Representatives passed and the U.S. Senate considered but did not pass a bill to strengthen certain requirements of the OPA; similar legislation may be introduced in the future. Further, under the federal Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) and

similar state laws, investigation and cleanup requirements for threatened or actual releases of hazardous substances may be imposed upon owners and operators of vessels, on a joint and several basis, regardless of fault or the legality of the original activity that resulted in the release of hazardous substances

In addition to potential liability under the federal OPA and CERCLA, vessel owners may in some instances incur liability on an even more stringent basis under state law in the particular state where the spillage occurred. For example, California regulations prohibit the discharge of oil, require an oil contingency plan be filed with the state, require that the ship owner contract with an oil response organization and require a valid certificate of financial responsibility, all prior to the vessel entering state waters.

In recent years, the European Union has become increasingly active in the field of regulation of maritime safety and protection of the environment. In some areas of regulation the European Union has introduced new laws without attempting to procure a corresponding amendment to international law. Notably, in 2005 the European Union adopted a directive, as amended in 2009, on ship-source pollution, imposing criminal sanctions for pollution not only where pollution is caused by intent or recklessness (which would be an offence under MARPOL), but also where it is caused by “serious negligence.” The concept of “serious negligence” may be interpreted in practice to be little more than ordinary negligence. The directive could therefore result in criminal liability being incurred in circumstances where it would not be incurred under international law.

In response to the Deepwater Horizon incident, the EU issued “Directive 2013/30/EU of the European Parliament and of the Council of June 12, 2013 on safety of offshore oil and gas operations.” Implemented on July 19, 2015, the objective of this Directive is to reduce as far as possible the occurrence of major accidents relating to offshore oil and gas operations and to limit their consequences, thus increasing the protection of the marine environment and coastal economies against pollution, establishing minimum conditions for safe offshore exploration and exploitation of oil and gas and limiting possible disruptions to Union indigenous energy production, and to improve the response mechanisms in case of an accident. As far as the environment is concerned, the UK has various regulations such as: the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 (OSDEF), the 2015 amendments to the Merchant Shipping (Oil Pollution Preparedness, Response and Cooperation Convention) Regulations 1998 (OPRC 1998) and other environmental Directive requirements, specifically the Environmental Management System. The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 will implement the licensing Directive requirements.

Climate change and government laws and regulations related to climate change could negatively impact our financial condition.

We are and will be, directly and indirectly, subject to the effects of climate change and may, directly or indirectly, be affected by government laws and regulations related to climate change. A number of countries have adopted or are considering the adoption of, regulatory frameworks to reduce greenhouse gas emissions, such as carbon dioxide, methane, and nitrogen oxides. In the U.S., the United States Environmental Protection Agency (“EPA”) has declared greenhouse gases to be dangerous pollutants and has issued greenhouse gas reporting requirements for emissions sources in certain industries (which currently do not include the shipping industry). The EPA does require owners of vessels subject to MARPOL Annex VI to maintain records for nitrogen oxides standards and in-use fuel specifications.

In addition, while the emissions of greenhouse gases from international shipping are not subject to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (the “UNFCCC”), which requires adopting countries to implement national programs to reduce greenhouse gas emissions, the IMO intends to develop limits on greenhouse gases from international shipping. It has responded to the global focus on climate change and greenhouse gas emissions by developing specific technical and operational efficiency measures and a work plan for market-based mechanisms in 2011. These include the mandatory measures of under the ISM Code, and an energy efficiency design index (“EEDI”) for new ships. The IMO is also considering its position on market-based measures through an expert working group. Among the numerous proposals being considered by the working group are the following: a port state levy based on the amount of fuel consumed by the vessel on its voyage to the port in question; a global emissions trading scheme which would allocate emissions allowances and set an emissions cap; and an international fund establishing a global reduction target for international shipping, to be set either by the UNFCCC or the IMO.

At its 68th session (2015), the Marine Environmental Protection Committee (the “MEPC”) amended the 2014 Guidelines on EEDI survey and certification as well as the method of calculating of EEDI for new ships, the latter of which was again amended at the 70th session (2016). At its 70th session, the MEPC also adopted mandatory requirements for ships of 5,000 gross tonnage or greater to collect fuel consumption data for each type of fuel used, and report the data to the flag State after the end of each calendar year. At the 72nd MEPC session (April 2018), the committee adopted the goal of reducing annual greenhouse gas emissions from ships by at least 50% by 2050 as compared to 2008 levels, which if implemented could significantly increase operational costs associated with equipment upgrades and fuel costs.

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In December 2011, UN climate change talks took place in Durban and concluded with an agreement referred to as the Durban Platform for Enhanced Action. The Durban Conference did not result in any proposals specifically addressing the shipping industry's role in climate change but the progress that has been made by the IMO in this area was widely acknowledged throughout the negotiating bodies of the UNFCCC process, and an ad hoc working group was established.

Although regulation of greenhouse gas emissions in the shipping industry was discussed during the 2015 UN Climate Change Conference in Paris (the "Paris Conference"), the agreement reached among the 195 nations did not expressly reference the shipping industry. Following the Paris Conference, the IMO announced it would continue its efforts on this issue at the MEPC, and at its 70th session, the MEPC approved a Roadmap for developing a comprehensive greenhouse gas emissions reduction strategy for ships, which includes the goal of adopting an initial strategy and emission reduction commitments in 2018. In April 2018, the IMO's MEPC adopted the initial strategy to reduce greenhouse gas emissions from shipping by at least 50% by 2050 compared to 2008 levels, while pursuing efforts towards phasing them out entirely, as a pathway towards greenhouse gas emissions reduction consistent with the Paris Agreement's temperature goals. The initial strategy is due to be revised and adopted by 2023.

On August 3, 2017, the U.S. formally submitted a notice of withdrawal from the Paris Agreement. Thus far, no other nations have withdrawn from the Paris Agreement, so it remains to be seen whether the withdrawal will significantly impact greenhouse gas developments moving forward. The United Nations' Katowice Climate Change Conference occurred December 2-14, 2018. The key objective of the meeting was to begin adopting the implementation guidelines of the Paris Climate Change Agreement.

The European Union announced in April 2007 that it planned to expand the European Union emissions trading scheme ("ETS") by adding vessels, as ETS-regulated businesses required to report on carbon emissions and subject to a credit trading system for carbon allowances. A proposal from the European Commission ("EC") was expected if no global regime for reduction of seaborne emissions had been agreed to by the end of 2011. On October 1, 2012, it announced that it would propose measures to monitor, verify and report on greenhouse-gas emissions from the shipping sector. On June 28, 2013, the EC adopted a communication setting out a strategy for progressively including greenhouse gas emissions from maritime transport in the EU's policy for reducing its overall GHG emissions. The first step proposed by the EC was an EU Regulation (as defined below) to an EU-wide system for the monitoring, reporting and verification of carbon dioxide emissions from large ships starting in 2018. The EU Regulation (2015/757) was adopted on April 29, 2015 and took effect on July 1, 2015, with monitoring, reporting and verification requirements beginning on January 1, 2018. This Regulation appears to be indicative of an intent to maintain pressure on the international negotiating process. The EC also adopted an Implementing Regulation, which entered into force in November 2016, setting templates for monitoring plans, emissions reports and compliance documents pursuant to Regulation 2015/757.

In February 2017, European Union member states met to consider independently regulating the shipping industry under the ETS. On February 15, 2017, European Parliament voted in favor of a bill to include maritime shipping in the ETS by 2023 if the IMO has not promulgated a comparable system by 2021. In November 2017, the Council of Ministers, the European Union's main decision making body, agreed that the European Union should act on shipping emissions by 2023 if the IMO fails to deliver effective global measures. In 2018, IMO's urgent call to action to bring about shipping greenhouse gas emissions reductions before 2023 was met with industry push-back in many countries. Depending on how fast IMO and the European Union move on this issue, the ETS may result in additional compliance costs for our vessels.

We cannot predict with any degree of certainty what effect, if any possible climate change and government laws and regulations related to climate change will have on our operations, whether directly or indirectly. However, we believe that climate change, including the possible increase in severe weather events resulting from climate change, and government laws and regulations related to climate change may affect, directly or indirectly, (i) the cost of the vessels we may acquire in the future, (ii) our ability to continue to operate as we have in the past, (iii) the cost of operating our vessels, and (iv) insurance premiums, deductibles and the availability of coverage. As a result, our financial condition could be negatively impacted by significant climate change and related governmental regulation, and that impact could be material.

For more information on regulatory developments in response to growing concerns of greenhouse gas emissions, please see the section entitled, "Item 4. Information on the Partnership—B. Business Overview—Regulation—Greenhouse gas emissions".

We are subject to vessel security regulations and we incur costs to comply with adopted regulations. We may be subject to costs to comply with similar regulations that may be adopted in the future in response to terrorism.

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

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- on-board installation of automatic information systems (“AIS”), to enhance vessel-to-vessel and vessel-to-shore communications;
- on-board installation of ship security alert systems;
- the development of vessel security plans; and
- compliance with flag state security certification requirements.

The U.S. Coast Guard regulations, intended to be aligned with international maritime security standards, exempt non-U.S. vessels from MTSA vessel security measures, provided such vessels have on board a valid International Ship Security Certificate (“ISSC”) that attests to the vessel’s compliance with SOLAS security requirements and the ISPS Code. Starting January 1, 2016, the IMDG Code also included updates to the provisions for radioactive material, reflecting the latest provisions from the International Atomic Energy Agency, or the IAEA, new marking requirements for “overpack” and “salvage” and updates to various individual packing requirements. We will implement the various security measures addressed by the MTSA, SOLAS and the ISPS Code and take measures for our vessels or vessels that we charter to attain compliance with all applicable security requirements within the prescribed time periods. Although management does not believe these additional requirements will have a material financial impact on our operations, there can be no assurance that there will not be an interruption in operations to bring vessels into compliance with the applicable requirements and any such interruption could cause a decrease in charter revenues. Furthermore, additional security measures could be required in the future that could have significant financial impact on us.

The cost of vessel security measures has also been affected by the escalation in recent years in the frequency and seriousness of acts of piracy against ships, notably off the coast of Somalia, including the Gulf of Aden and Arabian Sea area. Attacks of this kind have commonly resulted in vessels and their crews being detained for several months, and being released only on payment of large ransoms. Substantial loss of revenue and other costs may be incurred as a result of such detention. Although we insure against these losses to the extent practicable, the risk remains of uninsured losses which could significantly affect our business. Costs are incurred in taking additional security measures in accordance with Best Management Practices to Deter Piracy, notably those contained in the BMP3 industry standard. A number of flag states have signed the 2009 New York Declaration, which expresses commitment to Best Management Practices in relation to piracy and calls for compliance with them as an essential part of compliance with the ISPS Code.

Our international activities increase the compliance risks associated with economic and trade sanctions imposed by the United States, the European Union and other jurisdictions.

Iran

Prior to January 2016, the scope of sanctions imposed against Iran, the government of Iran and persons engaging in certain activities or doing certain business with and relating to Iran was expanded by a number of jurisdictions, including the United States, the European Union and Canada. In 2010, the U.S. enacted the Comprehensive Iran Sanctions Accountability and Divestment Act (“CISADA”), which expanded the scope of the former Iran Sanctions Act. The scope of U.S. sanctions against Iran were expanded subsequent to CISADA by, among other U.S. laws, the National Defense Authorization Act of 2012 (the “2012 NDAA”), the Iran Threat Reduction and Syria Human Rights Act of 2012 (“ITRA”), Executive Order 13662, and the Iran Freedom and Counter-Proliferation Act of 2012 (“IFCA”). The foregoing laws, among other things, expanded the application of prohibitions to non-U.S. companies such as our company and to transactions with no U.S. nexus, and introduced limits on the ability of non-U.S. companies and other non-U.S. persons to do business or trade with Iran when such activities relate to specific activities such as investment in Iran, the supply or export of refined petroleum or refined petroleum products to Iran, the supply and delivery of goods to Iran which could enhance Iran’s petroleum or energy sectors, and the transportation of crude oil from Iran to countries which do not enjoy Iran crude oil sanctions waivers (our tankers called in Iran but did not engage in the prohibited activities specifically identified by these sanctions).

U.S. economic sanctions on Iran fall into two general categories: “Primary” sanctions, which prohibit U.S. persons or U.S. companies and their foreign branches, foreign owned or controlled subsidiaries, U.S. citizens, U.S. permanent residents, persons within the territory of the United States from engaging in all direct and indirect trade and other transactions with Iran without U.S. government authorization, and “secondary” sanctions, which are mainly nuclear-related sanctions. While most of the U.S. nuclear-related sanctions with respect to Iran (including, *inter alia*, CISADA, ITRA, and IFCA) and the EU sanctions on Iran were initially lifted on January 16, 2016 through the implementation of the Joint Comprehensive Plan of Action (“JCPOA”) entered into between the permanent members of the United Nations Security Council (China, France, Russia, the United Kingdom and the United States) and Germany, there are still certain limitations under that sanctions framework in place with which we need to comply. The primary sanctions with which U.S. persons or transactions with a U.S. nexus must comply are still in force and have not been lifted or relaxed.

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However, the following sanctions which were lifted under the JCPOA were reimposed (“snapped back”) on May 8, 2018 as a result of the U.S. withdrawal from the JCPOA:

- i. Sanctions on the purchase or acquisition of U.S. dollar banknotes by the Government of Iran;
- ii. Sanctions on Iran’s trade in gold or precious metals;
- iii. Sanctions on the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes;
- iv. Sanctions on significant transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial;
- v. Sanctions on the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt; and
- vi. Sanctions on Iran’s automotive sector.

Following a 180-day wind-down period ending on November 4, 2018, the U.S. government will re-impose the following sanctions that were lifted pursuant to the JCPOA, including sanctions on associated services related to the activities below:

- i. Sanctions on Iran’s port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates;
- ii. Sanctions on petroleum-related transactions with, among others, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- iii. Sanctions on transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (NDAA);
- iv. Sanctions on the provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA);
- v. Sanctions on the provision of underwriting services, insurance, or reinsurance; and
- vi. Sanctions on Iran’s energy sector.

U.S. Iran sanctions also prohibit significant transactions with any individual or entity that the U.S. Government has designated as an Iran sanctions target.

EU sanctions remain in place in relation to the export of arms and military goods listed in the EU common military list, missiles-related goods and items that might be used for internal repression. The main nuclear-related EU sanctions which remain in place include restrictions on:

- i. Graphite and certain raw or semi-finished metals such as corrosion-resistant high-grade steel, iron, aluminum and alloys, titanium and alloys and nickel and alloys (as listed in Annex VIIB to EU Regulation 267/2012 as updated by EU Regulation 2015/1861 (the “EU Regulation”));
- ii. Goods listed in the Nuclear Suppliers Group list (listed in Annex I to the EU Regulation);
- iii. Goods that could contribute to nuclear-related or other activities inconsistent with the JCPOA (as listed in Annex II to the EU Regulation); and
- iv. Software designed for use in nuclear/military industries (as listed in Annex VIIA to the EU Regulation).

The above EU sanctions activities can only be engaged if prior authorization (granted on a case-by-case basis) is obtained. The remaining restrictions apply to the sale, supply, transfer or export, directly or indirectly to any Iranian person/for use in Iran, as well as the provision of technical assistance, financing or financial assistance in relation to the restricted activity. Certain individuals and entities remain sanctioned and the prohibition to make available, directly or indirectly, economic resources or assets to or for the benefit of sanctioned parties remains. “Economic resources” is widely defined and it remains prohibited to provide vessels for a fixture from which a sanctioned party (or parties related to a sanctioned party) directly or indirectly benefits. It is therefore still necessary to carry out due diligence on the parties and cargoes involved in fixtures involving Iran.

Russia/Ukraine

As a result of the crisis in Ukraine and the annexation of Crimea by Russia in 2014, both the U.S. and EU have implemented sanctions against certain Russian individuals and entities.

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The EU has imposed travel bans and asset freezes on certain Russian persons and entities pursuant to which it is prohibited to make available, directly or indirectly, economic resources or assets to or for the benefit of the sanctioned parties. Certain Russian ports including Kerch Commercial Seaport; Sevastopol Commercial Seaport and Port Feodosia are subject to the above restrictions. Other entities are subject to sectoral sanctions which limit the provision of equity financing and loans to the listed entities. In addition, various restrictions on trade have been implemented which, amongst others, include a prohibition on the import into the EU of goods originating in Crimea or Sevastopol as well as restrictions on trade in certain dual-use and military items and restrictions in relation to various items of technology associated with the oil industry for use in deep water exploration and production, Arctic oil exploration and production or shale oil projects in Russia. As such, it is important to carry out due diligence on the parties and cargoes involved in fixtures relating to Russia.

The United States has imposed sanctions against certain designated Russian entities and individuals (“U.S. Russian Sanctions Targets”). These sanctions block the property and all interests in property of the U.S. Russian Sanctions Targets. This effectively prohibits U.S. persons from engaging in any economic or commercial transactions with the U.S. Russian Sanctions Targets unless the same are authorized by the U.S. Treasury Department. Similar to EU sanctions, U.S. sanctions also entail restrictions on certain exports from the United States to Russia and the imposition of Sectoral Sanctions which restrict the provision of equity and debt financing to designated Russian entities. While the prohibitions of these sanctions are not directly applicable to us, we have compliance measures in place to guard against transactions with U.S. Russian Sanctions Targets which may involve the United States or U.S. persons and thus implicate prohibitions. The United States also maintains prohibitions on trade with Crimea.

The U.S. has also taken a number of steps toward implementing aspects of the Countering America’s Adversaries Through Sanctions Act (“CAATSA”), a major piece of sanctions legislation.

Under CAATSA, the U.S. has imposed secondary sanctions relating to Russia’s energy export pipelines, investments in special Russian crude oil projects. CAATSA has a provision that requires the U.S. President to sanction persons who knowingly engage in significant transactions with parties affiliated with Russia’s defense and intelligence sectors.

Venezuela-Related Sanctions

The U.S. sanctions with respect to Venezuela prohibit dealings with designated Venezuelan government officials, and curtail the provision of financing to Petroleos de Venezuela, S.A. (PDVSA) and other government entities. EU sanctions against Venezuela are primarily governed by EU Council Regulation 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela. This includes financial sanctions and restrictions on listed persons and an, arms embargo and related prohibitions and restrictions including restrictions related to internal repression. In particular,

On August 24, 2017, by executive order 13808, the Trump Administration Imposed Additional Sanctions With Respect to Situation in Venezuela EO 13808 amended the Venezuela sanctions as follows:

1. Expanded the definition of “Government of Venezuela” to include PDVSA (Section 3); and
2. Added prohibitions on all transactions related to:
 - i. New debt with a maturity of greater than 90 days of PDVSA;
 - ii. New debt with a maturity of greater than 30 days or new equity of the Government of Venezuela, other than debt of PDVSA;
 - iii. Bonds issued by the Government of Venezuela prior to August 25, 2017, the EO’s effective date;
 - iv. Dividend payments or other distributions of profits to the Government of Venezuela from any entity directly or indirectly owned or controlled by the Government of Venezuela; or
 - v. Direct or indirect purchase by US persons or persons within the United States of securities from the Government of Venezuela, other than securities qualifying as new debt with a maturity of less than or equal to 90 or 30 days as covered by the EO (Section 1).

Additionally, all transactions related to, provision of financing for, and other dealings in, by a United States person or within the United States, any digital currency, digital coin, or digital token, that was issued by, for, or on behalf of the Government of Venezuela on or after January 9, 2018, are prohibited.

On January 25, 2019, Executive Order 13857 expanded the definition of “Government of Venezuela” to include persons that have acted, or have purported to act, on behalf of the Government of Venezuela, including members of the Maduro regime.

On January 28, 2019, the Department of the Treasury’s Office of Foreign Assets Control (i) designated PDVSA for operating in the oil sector of Venezuela; and (ii) issued eight new General Licenses.

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Other U.S. Economic Sanctions Targets

In addition to Iran and certain Russian entities and individuals, as indicated above, the United States maintains economic sanctions against Syria, Cuba, North Korea, and sanctions against entities and individuals (such as entities and individuals in the foregoing targeted countries, designated terrorists, narcotics traffickers) whose names appear on the List of SDNs and Blocked Persons maintained by the U.S. Treasury Department (collectively, "Sanctions Targets"). We are subject to the prohibitions of these sanctions to the extent that any transaction or activity we engage in involves Sanctions Targets and a U.S. person or otherwise has a nexus to the United States.

Other E.U. Economic Sanctions Targets

The EU also maintains sanctions against Syria, North Korea and certain other countries and against individuals listed by the EU. These restrictions apply to our operations and as such, to the extent that these countries may be involved in any business it is important to carry out checks to ensure compliance with all relevant restrictions and to carry out due diligence checks on counterparties and cargoes.

Compliance

Considering the aforementioned prohibitions of U.S. as well as EU sanctions and the nature of our business, there is a sanctions risk for us due to the worldwide trade of our vessels, which we seek to minimise by the implementation of our corporate Sanctions policy and our compliance with all applicable sanctions and embargo laws and regulations. Although we intend to maintain such compliance, there can be no assurance that we will be in compliance in the future, particularly as the scope of certain laws may be unclear and may be subject to changing interpretations, and the law may change. Moreover, despite, for example, relevant provisions in charter parties forbidding the use of our vessels in trade that would violate economic sanctions, our charterers may nevertheless violate applicable sanctions and embargo laws and regulations and those violations could in turn negatively affect our reputation and be imputed to us.

In addition, given our relationship with Navios Holdings and its affiliates, we cannot give any assurance that an adverse finding against Navios Holdings and/or its affiliates by a governmental or legal authority or others with respect to the matters discussed herein or any future matter related to regulatory compliance by Navios Holdings and/or its affiliates will not have a material adverse impact on our business, reputation or the market price or trading of our common stock-units.

We are constantly monitoring developments in the United States, the European Union and other jurisdictions that maintain economic sanctions against Iran, other countries, and other sanctions targets, including developments in implementation and enforcement of such sanctions programs. Expansion of sanctions programs, embargoes and other restrictions in the future (including additional designations of countries and persons subject to sanctions), or modifications in how existing sanctions are interpreted or enforced, could prevent our vessels from calling in ports in sanctioned countries or could limit their cargoes. If any of the risks described above materialize, it could have a material adverse impact on our business and results of operations.

To reduce the risk of violating economic sanctions, we have a policy of compliance with applicable economic sanctions laws and have implemented and continue to implement and diligently follow compliance procedures to avoid economic sanctions violations.

We could be materially adversely affected by violations of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and anti-corruption laws in other applicable jurisdictions.

As an international shipping company, we may operate in countries known to have a reputation for corruption. The U.S. Foreign Corrupt Practices Act of 1977 (the “FCPA”) and other anti-corruption laws and regulations in applicable jurisdictions generally prohibit companies registered with the SEC and their intermediaries from making improper payments to government officials for the purpose of obtaining or retaining business. Under the FCPA, U.S. companies may be held liable for some actions taken by strategic or local partners or representatives. Legislation in other countries includes the U.K. Bribery Act 2010 (the “U.K. Bribery Act”) which is broader in scope than the FCPA because it does not contain an exception for facilitation payments. We and our customers may be subject to these and similar anti-corruption laws in other applicable jurisdictions. Failure to comply with legal requirements could expose us to civil and/or criminal penalties, including fines, prosecution and significant reputational damage, all of which could materially and adversely affect our business and the results of operations, including our relationships with our customers, and our financial results. Compliance with the FCPA, the U.K. Bribery Act and other applicable anti-corruption laws and related regulations and policies imposes potentially significant costs and operational burdens on us. Moreover, the compliance and monitoring mechanisms that we have in place including our Code of Ethics and our anti-bribery and anti-corruption policy, may not adequately prevent or detect all possible violations under applicable anti-bribery and anti-corruption legislation. However, we believe that the procedures we have in place to prevent bribery are adequate and that they should provide a defense in most circumstances to a violation or a mitigation of applicable penalties, at least under the U.K.’s Bribery Act.

The operation of ocean-going vessels entails the possibility of marine disasters including damage or destruction of the vessel due to accident, the loss of a vessel due to piracy or terrorism, damage or destruction of cargo and similar events that may cause a loss of revenue from affected vessels and damage our business reputation, which may in turn lead to loss of business.

The operation of ocean-going vessels entails certain inherent risks that may materially adversely affect our business and reputation, including:

- damage or destruction of vessel due to marine disaster such as a collision;
- the loss of a vessel due to piracy and terrorism;
- cargo and property losses or damage as a result of the foregoing or less drastic causes such as human error, mechanical failure, grounding, fire, explosions and bad weather;
- environmental accidents as a result of the foregoing; and
- business interruptions and delivery delays caused by mechanical failure, human error, war, terrorism, political action in various countries, labor strikes or adverse weather conditions.

Any of these circumstances or events could substantially increase our costs. For example, the costs of replacing a vessel or cleaning up a spill could substantially lower our revenues by taking vessels out of operation permanently or for periods of time. The involvement of our vessels in a disaster or delays in delivery or damages or loss of cargo may harm our reputation as a safe and reliable vessel operator and cause us to lose business.

The operation of vessels, such as drybulk carriers, has certain unique risks. With a drybulk carrier, the cargo itself and its interaction with the vessel can be an operational risk. By their nature, drybulk cargoes are often heavy, dense, easily shifted, and react badly to water exposure. In addition, drybulk carriers are often subjected to battering treatment during unloading operations with grabs, jackhammers (to pry encrusted cargoes out of the hold) and small bulldozers. This treatment may cause damage to the vessel. Vessels damaged due to treatment during unloading procedures may be more susceptible to breach at sea. Hull breaches in drybulk carriers may lead to the flooding of the vessels’ holds. If a drybulk carrier suffers flooding in its forward holds, the bulk cargo may become so dense and waterlogged that its pressure may buckle the vessel’s bulkheads leading to the loss of a vessel.

The total loss or damage of any of our vessels or cargoes could harm our reputation as a safe and reliable vessel owner and operator. If we are unable to adequately maintain or safeguard our vessels, we may be unable to prevent any such damage, costs, or loss that could negatively impact our business, financial condition, results of operations, cash flows and ability to pay distributions.

Maritime claimants could arrest or attach one or more of our vessels, which could interrupt our cash flow.

Crew members, suppliers of goods and services to a vessel, shippers of cargo, and other parties may be entitled to a maritime lien against a vessel for unsatisfied debts, claims or damages against such vessel. In many jurisdictions, a maritime lien holder may enforce its lien by arresting a vessel through foreclosure proceedings. The arrest or attachment of one or more of our vessels could interrupt our cash flow and require us to pay large sums of funds to have the arrest lifted. We are not currently aware of the existence of any such maritime lien on our vessels.

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

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

Our vessels may call in ports where smugglers may attempt to hide drugs and other contraband on vessels, with or without the knowledge of crew members. To the extent our vessels are found with contraband, whether inside or attached to the hull of our vessel and whether with or without the knowledge of any of our crew, we may face reputational damage and governmental or other regulatory claims or penalties, which could have an adverse effect on our business, results of operations, cash flows, financial condition, as well as our cash flows, including cash available for distributions to our unitholders. Under some jurisdictions, vessels used for the conveyance of illegal drugs could result in forfeiture of the vessel to the government of such jurisdiction.

A failure to pass inspection by classification societies could result in one or more vessels being unemployable unless and until they pass inspection, resulting in a loss of revenues from such vessels for that period and a corresponding decrease in operating cash flows.

The hull and machinery of every commercial vessel must be inspected and approved by a classification society authorized by its country of registry. The classification society certifies that a vessel is safe and seaworthy in accordance with the applicable rules and regulations of the country of registry of the vessel and with SOLAS. Our owned fleet is currently enrolled with American Bureau of Shipping, Nippon Kaiji Kiokai, Bureau Veritas, DNVGL, and Lloyd’s Register.

A vessel must undergo an annual survey, an intermediate survey and a special survey. In lieu of a special survey, a vessel’s machinery may be on a continuous survey cycle, under which the machinery would be surveyed periodically over a five-year period. Our vessels are on special survey cycles for hull inspection and continuous survey cycles for machinery inspection. Every vessel is also required to be drydocked every two to three years for inspection of the underwater parts of such vessel.

If any vessel fails any annual survey, intermediate survey or special survey, the vessel may be unable to trade between ports and, therefore, would be unemployable, potentially causing a negative impact on our revenues due to the loss of revenues from such vessel until she is able to trade again. Further, if any vessel fails a classification survey and the condition giving rise to the failure is not cured within a reasonable time, the vessel may lose coverage under various insurance programs, including hull and machinery insurance and/or protection and indemnity insurance.

Increased inspection procedures and tighter import and export controls could increase costs and disrupt our business.

International shipping is subject to various security and customs inspections and related procedures in countries of origin and destination and trans-shipment points. Inspection procedures can result in the seizure of contents of our vessels, delays in the loading, offloading, trans-shipment or delivery and the levying of customs, duties, fines or other penalties.

It is possible that changes to inspection procedures could impose additional financial and legal obligations on us. Furthermore, changes to inspection procedures could also impose additional costs and obligations on our future customers and may, in certain cases, render the shipment of certain types of cargo uneconomical or impractical. Any such changes or developments may have a material adverse effect on our business, results of operations, cash flows, financial condition and ability to make cash distributions.

Political and government instability, terrorist attacks, increased hostilities or war could lead to further economic instability, increased costs and disruption of our business.

We are an international company and primarily conduct our operations outside the United States. Changing economic, political and governmental conditions in the countries where we are engaged in business or where our vessels are registered will affect us. Terrorist attacks, such as the attacks in the United States on September 11, 2001 and the United States’ continuing response to these attacks, and in Paris on January 7, 2015 and on November 13, 2015, the bombings in Spain on March 11, 2004 and in Brussels on March 22, 2016, and the attacks in London on July 7, 2005, the recent conflicts in Iraq, Afghanistan, Syria, Ukraine and other current and future conflicts, and the continuing response of the United States to these attacks, as well as the threat of future terrorist attacks, continue to cause uncertainty in the world financial markets, including the energy markets. Continuing hostilities in the Middle East may lead to additional refugee flows, armed conflicts or to further acts of terrorism and civil disturbance in the United States or elsewhere, which could result in increased volatility and turmoil in the financial markets and may contribute further to economic instability. Current and

future conflicts and terrorist attacks may adversely affect our business, operating results, financial condition, ability to raise capital and future growth. Terrorist attacks on vessels, such as the October 2002 attack on the M/V Limburg, a VLCC not related to us, may in the future also negatively affect our operations and financial condition and directly impact our vessels or our customers.

Furthermore, our operations may be adversely affected by changing or adverse political and governmental conditions in the countries where our vessels are flagged or registered and in the regions where we otherwise engage in business. Any disruption caused by these factors may interfere with the operation of our vessels, which could harm our business, financial condition and results of operations. Our operations may also be adversely affected by expropriation of vessels, taxes, regulation, tariffs, trade embargoes, economic sanctions or a disruption of or limit to trading activities, or other adverse events or circumstances in or affecting the countries and regions where we operate or where we may operate in the future. Adverse economic, political, social or other developments can decrease demand and prospects for growth in the shipping industry and thereby could reduce revenue significantly.

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

A government could requisition one or more of our vessels for title or for hire. Requisition for title occurs when a government takes control of a vessel and becomes its owner, while requisition for hire occurs when a government takes control of a vessel and effectively becomes its charterer at dictated charter rates. Generally, requisitions occur during periods of war or emergency, although governments may elect to requisition vessels in other circumstances. Although we may be entitled to compensation in the event of a requisition of one or more of our vessels the amount and timing of payment would be uncertain. Government requisition of one or more of our vessels could have a material adverse effect on our business, financial condition, cash flows and results of operations.

Acts of piracy on ocean-going vessels have increased in frequency and magnitude, which could adversely affect our business.

The shipping industry has historically been affected by acts of piracy in regions such as the South China Sea, the Indian Ocean, the Strait of Malacca, the Arabian Sea, the Gulf of Aden off the coast of Somalia and the Red Sea. Although the frequency of sea piracy worldwide has decreased in recent years, sea piracy incidents continue to occur, particularly in the Gulf of Aden and towards the Mozambique Channel in the North Indian Ocean and increasingly in the Gulf of Guinea. In January 2014, a vessel owned by our affiliate, Navios Maritime Acquisition Corporation, the Nave Atropos, came under attack from a pirate action group in international waters off the coast of Yemen and in February 2016, the Nave Jupiter, a vessel also owned by Navios Acquisition, came under attack from pirate action groups on her way out from her loading terminal about 50NM off Bayelsa, Nigeria. In both instances, the crew and the on-board security team successfully implemented the counter piracy action plan and standard operating procedures to deter the attack with no consequences to the vessels or their crew. These piracy attacks resulted in regions (in which our vessels are deployed) being characterized by insurers as “war risk” zones or Joint War Committee “war and strikes” listed areas. Premiums payable for such insurance coverage could increase significantly and such insurance coverage may be more difficult to obtain. Crew costs, including those due to employing onboard security guards, could increase in such circumstances. While the use of security guards is intended to deter and prevent the hijacking of our vessels, it could also increase our risk of liability for death or injury to persons or damage to personal property. In addition, while we believe the charterer remains liable for charter payments when a vessel is seized by pirates, the charterer may dispute this and withhold charter hire until the vessel is released. A charterer may also claim that a vessel seized by pirates was not “on-hire” for a certain number of days and it is therefore entitled to cancel the charter party, a claim that we would dispute. We may not be adequately insured to cover losses from these incidents, which could have a material adverse effect on us. In addition, detention hijacking as a result of an act of piracy against our vessels, or an increase in cost, or unavailability of insurance for our vessels, could have a material adverse impact on our business, financial condition, results of operations and cash flows. Acts of piracy on ocean-going vessels could adversely affect our business and operations.

The cost of vessel security measures has also been affected by the escalation in recent years in the frequency and seriousness of acts of piracy against ships, notably off the coast of Somalia, including the Gulf of Aden and Arabian Sea area. Attacks of this kind have commonly resulted in vessels and their crews being detained for several months, and being released only on payment of large ransoms. Substantial loss of revenue and other costs may be incurred as a result of such detention. Although we insure against these losses to the extent practicable, the risk remains of uninsured losses which could significantly affect our business. Costs are incurred in taking additional security measures in accordance with Best Management Practices to Deter Piracy, notably those contained in the BMP3 industry standard. A number of flag states have signed the 2009 New York Declaration, which expresses commitment to Best Management Practices in relation to piracy and calls for compliance with them as an essential part of compliance with the ISPS Code.

Disruptions in world financial markets and the resulting governmental action in the United States and in other parts of the world could have a material adverse impact on our ability to obtain financing, our results of operations, financial conditions and cost flows and could cause the market price of our common units to decline.

The refugee crisis in Europe and the Middle East, and concerns relating to the European sovereign debt crisis, the socioeconomic and political crisis in Venezuela and the United Kingdom’s pending exit from the European Union have led to increased volatility in global credit and equity markets. Several European countries, including Greece, have been affected by increasing public debt burdens and weakening economic growth prospects. In recent years, Standard and Poor’s Rating Services and Moody’s Investors Service downgraded the long-term ratings of most European countries’ sovereign debt and initiated negative outlooks. Such downgrades could negatively affect those countries’ ability to access the public debt markets at reasonable rates or at all, materially affecting the financial conditions of banks in those countries, including those with which we maintain cash deposits and equivalents, or on which we rely on to finance our vessel and new business acquisitions.

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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. We maintain cash deposits and equivalents in excess of government-provided insurance limits at banks in Greece, USA and other European banks, which may expose us to a loss of cash deposits or cash equivalents.

During the financial crisis, credit markets worldwide and in the U.S. experienced significant contraction, de-leveraging and reduced liquidity, and the U.S. federal government, state governments and foreign governments took highly significant measures in response to such events, including the enactment of the Emergency Economic Stabilization Act of 2008 in the United States, and may implement other significant responses in the future. Additionally, uncertainty regarding trade barriers, including import tariffs, tax policy and government spending in the United States have created an uncertain environment which could reduce demand for our services. Securities and futures markets and the credit markets are subject to comprehensive statutes, regulations and other requirements. The SEC, other regulators, self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of market emergencies, and may effect changes in law or interpretations of existing laws. Any changes to securities, tax, environmental, trade, or other laws or regulations, could have a material adverse effect on our results of operations, financial condition or cash flows, and could cause the market price of our common units to decline.

Within the last several years, a number of financial institutions have experienced serious financial difficulties and, in some cases, have entered bankruptcy proceedings or are in regulatory enforcement actions. These difficulties resulted, in part, from declining markets for assets held by such institutions, particularly the reduction in the value of their mortgage and asset-backed securities portfolios. These difficulties were compounded by financial turmoil affecting the world's debt, credit and capital markets, and the general decline in the willingness by banks and other financial institutions to extend credit, particularly to the shipping industry due to the historically low vessel earnings and values, and, in part, due to changes in overall banking regulations (for example, Basel III). As a result, the ability of banks and credit institutions to finance new projects, including the acquisition of new vessels in the future, were for a time uncertain. Following the stress tests run by the European Central Bank (the "ECB"), revised capital ratios have been communicated to European banks. This has reduced the uncertainty following the difficulties of the past several years, but it has also led to changes in each bank's lending policies and ability to provide financing or refinancing. A recurrence of global economic weakness may adversely affect the financial institutions that provide our credit facilities and may impair their ability to continue to perform under their financing obligations to us, which could have an impact on our ability to fund current and future obligations.

Furthermore, we may experience difficulties obtaining financing commitments, including commitments to refinance our existing debt as balloon payments come due under our credit facilities, in the future if lenders are unwilling to extend financing to us or unable to meet their funding obligations due to their own liquidity, capital or solvency issues. Because we would possibly cover all or a portion of the cost of any new vessel acquisition with debt financing, such uncertainty, combined with restrictions imposed by our current debt, could hamper our ability to finance vessels or new business acquisitions.

In addition, the economic uncertainty worldwide has markedly reduced demand for shipping services and has decreased shipping rates, which may adversely affect our results of operations and financial condition. Currently, the economies of China, Japan, other Pacific Asian countries and India are the main driving force behind the development in seaborne transportation. Reduced demand from such economies has in the past driven decreased rates and vessel values and could do so in the future.

In addition, as a result of the ongoing political and economic turmoil in Greece resulting from the sovereign debt crisis and the related austerity measures implemented by the Greek government, the operations of our managers located in Greece may be subjected to new regulations and potential shift in government policies that may require us to incur new or additional compliance or other administrative costs and may require that we pay to the Greek government new taxes or other fees. We also face the risk that strikes, work stoppages, civil unrest and violence within Greece may disrupt the shoreside operations of our managers located in Greece.

We could face risks attendant to changes in economic environments, changes in interest rates, tax policies, and instability in certain securities markets, among other factors. Major market disruptions and the uncertainty in market conditions and the regulatory climate in the U.S., Europe and worldwide could adversely affect our business or impair our ability to borrow amounts under any future financial arrangements. The current market conditions may last longer than we anticipate. These recent and developing economic and governmental factors could have a material adverse effect on our results of operations, financial condition or cash flows.

Risks Relating to Our Units

Our board of directors may not declare cash distributions in the foreseeable future.

The declaration and payment of cash distributions, if any, will always be subject to the discretion of our board of directors, restrictions contained in our credit facilities and the requirements of Marshall Islands law. The timing and amount of any cash distributions declared will depend on, among other things, our earnings, financial condition and cash requirements and availability, our ability to obtain debt and equity financing on acceptable terms as contemplated by our growth strategy, the terms of our outstanding indebtedness and the ability of our subsidiaries to distribute funds to us. The containership and drybulk sector of the shipping industry is highly volatile, and we cannot predict with certainty the amount of cash, if any, that will be available for distribution as cash distributions in any period. Also, there may be a high degree of variability from period to period in the amount of cash that is available for the payment of cash distributions.

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We may not have sufficient cash available to pay quarterly distributions or to maintain or increase distributions following the establishment of cash reserves and payment of fees and expenses. In February 2016, we announced that our board of directors decided to suspend the quarterly cash distributions to our unitholders, including the distribution for the quarter ended December 31, 2015, in order to conserve cash and improve our liquidity. In March 2018, our board of directors determined to reinstate a distribution and any continued distribution will be at the discretion of our board of directors. The amount of cash we can distribute on our common units depends principally upon the amount of cash we generate from our operations, which may fluctuate based on numerous factors including, those set forth elsewhere in this section.

The actual amount of cash we will have available for distribution also will depend on other factors, some of which are beyond our control, such as the level of capital expenditures we make (including those associated with maintaining vessels, building new vessels, acquiring existing vessels and complying with regulations), our debt service requirements and restrictions on distributions contained in our debt instruments, interest rate fluctuations, the cost of acquisitions, if any, fluctuations in our working capital needs, our ability to make working capital borrowings, and the amount of any cash reserves, including reserves for future maintenance and replacement capital expenditures, working capital and other matters, established by our board of directors in its discretion.

In addition, the amount of cash we generate from our operations may differ materially from our profit or loss for the period, which will be affected by non-cash items. As a result of this and the other factors mentioned above, we may make cash distributions during periods when we record losses and may not make cash distributions during periods when we record net income.

Any dividend payments on our common units would be declared in U.S. dollars, and any unit holder whose principal currency is not the U.S. dollar would be subject to risks of exchange rate fluctuations.

Our common units, and any cash dividends or other distributions to be declared in respect of them, if any, will be denominated in U.S. dollars. Unit holders whose principal currency is not the U.S. dollar will be exposed to foreign currency exchange rate risk. Any depreciation of the U.S. dollar in relation to such foreign currency will reduce the value of such unitholders' units and any appreciation of the U.S. dollar will increase the value in foreign currency terms. In addition, we will not offer its shareholders the option to elect to receive dividends, if any, in any other currency. Consequently, unitholders may be required to arrange their own foreign currency exchange, either through a brokerage house or otherwise, which could incur additional commissions or expenses.

The New York Stock Exchange may delist our securities from trading on its exchange, which could limit your ability to trade our securities and subject us to additional trading restrictions.

Our securities are listed on the New York Stock Exchange (the "NYSE"), a national securities exchange. The NYSE minimum listing standards, require that we meet certain requirements relating to stockholders' equity, number of round-lot holders, market capitalization, aggregate market value of publicly held shares and distribution requirements. However, on March 13, 2019, we were notified by the NYSE that we were no longer in compliance with the NYSE's continued listing standards because the average closing price of our common stock over a consecutive 30 trading-day period was less than \$1.00 per unit. Although we intend to cure this deficiency within the prescribed timeframe set out in the NYSE's Listed Company Manual, we cannot assure you that our securities will continue to be listed on NYSE in the future.

If NYSE delists our securities from trading on its exchange, we could face significant material adverse consequences, including limited availability of market quotations for our securities, limited amount of news and analyst coverage for us, decreased ability for us to issue additional securities or obtain additional financing in the future, limited liquidity for our unitholders; and the loss of our tax exemption under Section 883 of the Internal Revenue Code of 1986, as amended (the "Code"), loss of preferential capital gain tax rates for certain dividends received by certain non-corporate U.S. holders, and loss of "mark-to-market" election by U.S. holders in the event we are treated as a passive foreign investment company ("PFIC").

The price of our common units may be volatile.

The price of our common units may be volatile and may fluctuate due to various factors including:

- actual or anticipated fluctuations in quarterly and annual results;
- fluctuations in the seaborne transportation industry, including fluctuations in the containership market;
- our making of distributions;
- mergers and strategic alliances in the shipping industry;

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- changes in governmental regulations or maritime self-regulatory organization standards;
- shortfalls in our operating results from levels forecasted by securities analysts;
- announcements concerning us or our competitors;
- general economic conditions;
- terrorist acts;
- future sales of our common units or other securities;
- investors' perceptions of us and the international container shipping industry;
- the general state of the securities markets; and
- other developments affecting us, our industry or our competitors.

The containership and drybulk sector of the shipping industry has been highly unpredictable and volatile. Securities markets worldwide are experiencing significant price and volume fluctuations. The market price for our securities may also be volatile. This market volatility, as well as general economic, market or political conditions, could reduce the market price of our securities in spite of our operating performance. Consequently, you may not be able to sell our securities at prices equal to or greater than those at which you pay or paid.

Increases in interest rates may cause the market price of our common units to decline.

An increase in interest rates may cause a corresponding decline in demand for equity investments in general and in particular for yield-based equity investments such as our common units. Any such increase in interest rates or reduction in demand for our common units resulting from other relatively more attractive investment opportunities may cause the trading price of our common units to decline. In addition, our interest expense will increase, since initially our debt will bear interest at a floating rate, subject to any interest rate swaps we may enter into the future.

Substantial future sales of our common units in the public market, including through our continuous offering sales program, could cause the price of our common units to fall.

In order to raise additional capital, we may in the future offer additional common units or other securities convertible into or exchangeable for our common units, including convertible debt. For instance, in 2016 we entered into a Continuous Offering Program Sales Agreement for the offer and sale of up to \$25.0 million in aggregate amount of our common units from time to time through the sales agent. Whether we choose to affect future sales under the continuous offering program will depend upon a variety of factors, including, among others, market conditions and the trading price of our common units relative to other sources of capital.

We cannot predict the size of future issuances or sales of our common units, including those made pursuant to the continuous offering program sales agreement or in connection with future acquisitions or capital activities, or the effect, if any, that such issuances or sales may have on the market price of our common units. The issuance and sale of substantial amounts of common units, including issuance and sales pursuant to the continuous offering program sales agreement, or announcement that such issuance and sales may occur, could adversely affect the market price of our common units.

Unitholders may be liable for repayment of distributions.

Under some circumstances, unitholders may have to repay amounts wrongfully returned or distributed to them. Under the Marshall Islands Act, we may not make a distribution to unitholders if the distribution would cause our liabilities to exceed the fair value of our assets. Marshall Islands law provides that for a period of three years from the date of the impermissible distribution, limited partners who received the distribution and who knew at the time of the distribution that it violated Marshall Islands law will be liable to the limited partnership for the distribution amount. Assignees who become substituted limited partners are liable for the obligations of the assignor to make contributions to the partnership that are known to the assignee at the time it became a limited partner and for unknown obligations if the liabilities could be determined from the partnership agreement. Liabilities to partners on account of their partnership interest and liabilities that are non-recourse to the partnership are not counted for purposes of determining whether a distribution is permitted.

Common unitholders have limited voting rights and our partnership agreement restricts the voting rights of common unitholders owning more than 4.9% of our common units.

Holders of our common units have only limited voting rights on matters affecting our business. We hold a meeting of the limited partners every year to elect one or more members of our board of directors and to vote on any other matters that are properly brought before the meeting. Common unitholders may only elect four of the seven members of our board of directors. The elected directors are elected on a staggered basis and serve for three year terms. Our general partner in its sole discretion has the right to appoint the remaining three directors and to set the terms for which those directors will serve. The partnership agreement also contains provisions limiting the ability of unitholders to call meetings or to acquire information about our operations, as well as other provisions limiting the unitholders' ability to influence the manner or direction of management. Unitholders will have no right to elect our general partner and our general partner may not be removed except by a vote of the holders of at least 66 2/3% of the outstanding units, including any units owned by our general partner and its affiliates, voting together as a single class.

Our partnership agreement further restricts common unitholders' voting rights by providing that if any person or group owns beneficially more than 4.9% of the common units then outstanding, any such common units owned by that person or group in excess of 4.9% may not be voted on any matter and will not be considered to be outstanding when sending notices of a meeting of unitholders, calculating required votes, except for purposes of nominating a person for election to our board, determining the presence of a quorum or for other similar purposes, unless required by law. The voting rights of any such common unitholders in excess of 4.9% will effectively be redistributed pro rata among the other common unitholders holding less than 4.9% of the voting power of all classes of units entitled to vote. Our general partner, its affiliates and persons who acquired common units with the prior approval of our board of directors will not be subject to this 4.9% limitation except with respect to voting their common units in the election of the elected independent directors.

Risks Relating to Taxes and Other Legal Matters

In addition to the following risk factors, you should read the section entitled "Material U.S. Federal Income Tax Considerations" for a more complete discussion of the expected material U.S. federal and non-U.S. income tax considerations relating to us and the ownership and disposition of common units.

We may be subject to taxes, which may reduce our cash available for distribution to our unitholders.

We and our subsidiaries may be subject to tax in the jurisdictions in which we are organized or operate, reducing the amount of cash available for distribution. In computing our tax obligation in these jurisdictions, we are required to take various tax accounting and reporting positions on matters that are not entirely free from doubt and for which we have not received rulings from the governing authorities. We cannot assure you that upon review of these positions the applicable authorities will agree with our positions. A successful challenge by a tax authority could result in additional tax imposed on us or our subsidiaries, further reducing the cash available for distribution. In addition, changes in our operations or ownership could result in additional tax being imposed on us or our subsidiaries in jurisdictions in which operations are conducted.

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. As our Manager is located in Greece, we will have to pay these duties.

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

A non-U.S. entity treated as a corporation for U.S. federal income tax purposes will be treated as a "passive foreign investment company" ("PFIC"), for U.S. federal income tax purposes if at least 75.0% of its gross income for any taxable year consists of certain types of "passive income," or at least 50.0% of the average value of the entity's assets produce or are held for the production of those types of "passive income." For purposes of these tests, "passive income" generally includes dividends, interest, gains from the sale or exchange of investment property, and rents and royalties other than rents and royalties that are received from unrelated parties in connection with the active conduct of a trade or business. For purposes of these tests, income derived from the performance of services does not constitute "passive income." U.S. unitholders of a PFIC are subject to a disadvantageous U.S. federal income tax regime with respect to the income derived by the PFIC, the distributions they receive from the PFIC, and the gain, if any, they derive from the sale or other disposition of their units in the PFIC, as well as additional U.S. federal income tax filing obligations.

Based on our current and projected method of operation, and on opinion of counsel, we believe that we were not a PFIC for our 2018 taxable year, and we expect that we will not become a PFIC with respect to any other taxable year. Our U.S. counsel, Thompson Hine LLP, is of the opinion that (1) the income we receive from time chartering activities and the assets we own that are engaged in generating such income should not be treated as passive income or assets, respectively, and (2) so long as our income from time charters exceeds 25.0% of our gross income from all sources for each taxable year after our initial taxable year and the fair market value of our vessels contracted under time charters exceeds 50.0% of the average fair market value of all of our assets for each taxable year after our initial taxable year, we should not be a PFIC for any taxable year. This opinion is based on representations and projections provided by us to our counsel regarding our assets, income and charters, and its validity is conditioned on the accuracy of such representations and projections. We expect that all of the vessels in our fleet will be engaged in time chartering activities and intend to treat our income from those activities as non-passive income, and the vessels engaged in those activities as non-passive assets, for PFIC purposes. However, we cannot assure you that the method of our operations, or the nature or composition of our income or assets, will not change in the future and that we will not become a PFIC. Moreover, although there is legal authority for our position, there is also contrary authority and no assurance can be given that the Internal Revenue Service, or the IRS, will accept our position.

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

Under the Code, 50.0% of the gross transportation income of a vessel- owning or chartering corporation that is attributable to transportation that either begins or ends, but that does not both begin and end, in the United States is characterized as U.S. Source International Transportation Income. U.S. Source International Transportation Income generally is subject to a 4.0% U.S. federal income tax without allowance for deduction or, if such U.S. Source International Transportation Income is effectively connected with the conduct of a trade or business in the United States, U.S. federal corporate income tax (presently imposed at a 21.0% rate) as well as a branch profits tax (presently imposed at a 30.0% rate on effectively connected earnings) applies, unless the non-U.S. corporation qualifies for exemption from tax under Section 883 of the Code.

Based on an opinion of counsel, and certain assumptions and representations, we believe that we have qualified for this statutory tax exemption, and we will take this position for U.S. federal income tax return reporting purposes for our 2018 taxable year. However, there are factual circumstances, including some that may be beyond our control that could cause us to lose the benefit of this tax exemption, including the delisting of our securities from quotation on the NYSE which could cause us to lose the benefit of this tax exemption and thereby make us subject to U.S. federal income tax on our U.S. Source International Transportation Income. See “—Risks Related to Our Units—The New York Stock Exchange may delist our securities from trading on its exchange, which could limit your ability to trade our securities and subject us to additional trading restrictions”. Furthermore, our board of directors could determine that it is in our best interests to take an action that would result in this tax exemption not applying to us in the future. In addition, our conclusion that we qualify for this exemption, as well as the conclusions in this regard of our counsel, Thompson Hine LLP, is based upon legal authorities that do not expressly contemplate an organizational structure such as ours; specifically, although we have elected to be treated as a corporation for U.S. federal income tax purposes, we are organized as a limited partnership under Marshall Islands law. Therefore, we can give no assurances that the IRS will not take a different position regarding our qualification for this tax exemption.

If we were not entitled to the Section 883 exemption for any taxable year, we generally would be subject to a 4.0% U.S. federal gross income tax with respect to our U.S. Source International Transportation Income or, if such U.S. Source International Transportation Income were effectively connected with the conduct of a trade or business in the United States, U.S. federal corporate income tax as well as a branch profits tax for those years. Our failure to qualify for the Section 883 exemption could have a negative effect on our business and would result in decreased earnings available for distribution to our unitholders.

Actions taken by holders of our common units could result in our being treated as a “controlled foreign corporation,” which could have adverse U.S. federal income tax consequences to certain U.S. holders.

Although we believe that Navios Partners was not a controlled foreign corporation (a “CFC”) as of December 31, 2018, or at any time during 2018, tax rules recently enacted by the Tax Cuts and Jobs Act, including the imposition of so-called “downward attribution” for purposes of determining whether a non-U.S. corporation is a CFC, may result in Navios Partners being treated as a CFC for U.S. federal income tax purposes in the future. Through downward attribution, U.S. subsidiaries of Navios Holdings are treated as constructive owners of the equity interests of Navios Partners for purposes of determining whether Navios Partners is a CFC. If, in the future, U.S. holders (including U.S. subsidiaries of Navios Holdings, as discussed above) that each own 10.0% or more (by vote or value) of the equity of Navios Partners own in the aggregate more than 50% of the equity of Navios Partners (by vote or value), in each case, directly, indirectly or constructively, Navios Partners should become a CFC.

U.S. holders who at all times own less than 10% of our equity should not be affected. However, if we were to become a CFC, any U.S. holder owning 10% or more (by vote or value), directly, indirectly, or constructively (but not through downward attribution), of our equity could be subject to U.S. federal income tax in respect of a portion of our earnings. Any U.S. holder of Navios Partners that owns 10% or more (by vote or value), directly, indirectly or constructively, of the equity of Navios Partners should consult its own tax advisor regarding U.S. federal tax consequences that may result from Navios Partners being treated as a CFC (see *United States Federal Income Taxation of U.S. Holders – Controlled Foreign Corporation*).

You may be subject to income tax in one or more non-U.S. countries, including Greece, as a result of owning our common units if, under the laws of any such country, we are considered to be carrying on business there. Such laws may require you to file a tax return with and pay taxes to those countries.

We intend that our affairs and the business of each of our controlled affiliates will be conducted and operated in a manner that minimizes income taxes imposed upon us and these controlled affiliates or which may be imposed upon you as a result of owning our common units. However, because we are organized as a partnership, there is a risk in some jurisdictions that our activities and the activities of our subsidiaries may be attributed to our unitholders for tax purposes and, thus, that you will be subject to tax in one or more non-U.S. countries, including Greece, as a result of owning our common units if, under the laws of any such country, we are considered to be carrying on business there. If you are subject to tax in any such country, you may be required to file a tax return with and to pay tax in that country based on your allocable share of our income. We may be required to reduce distributions to you on account of any withholding obligations imposed upon us by that country in respect of such allocation to you. The United States may not allow a tax credit for any foreign income taxes that you directly or indirectly incur.

We believe we can conduct our activities in such a manner that our unitholders should not be considered to be carrying on business in one or more non-U.S. countries including Greece solely as a consequence of the acquisition, holding, disposition or redemption of our common units. However, the question of whether either we or any of our controlled affiliates will be treated as carrying on business in any particular country will be largely a question of fact to be determined based upon an analysis of contractual arrangements, including the Management Agreement and the Administrative Services Agreement we entered into with the Manager, and the way we conduct business or operations, all of which may change over time. Furthermore, the laws of Greece or any other country may change in a manner that causes that country's taxing authorities to determine that we are carrying on business in such country and are subject to its taxation laws. Any foreign taxes imposed on us or any subsidiaries will reduce our cash available for distribution.

We have been organized as a limited partnership under the laws of the Republic of the Marshall Islands, which does not have a well-developed body of partnership law; as a result, unitholders may have more difficulty in protecting their interests than would unitholders of a similarly organized limited partnership in the United States.

Our partnership affairs are governed by our partnership agreement and by the Marshall Islands Act. The provisions of the Marshall Islands Act resemble provisions of the limited partnership laws of a number of states in the United States, most notably Delaware. The Marshall Islands Act also provides that it is to be applied and construed to make it uniform with Delaware law and, so long as it does not conflict with the Marshall Islands Act or decisions of the Marshall Islands courts, interpreted according to the non-statutory law (or case law) of the State of Delaware. There have been, however, few, if any, court cases in the Marshall Islands interpreting the Marshall Islands Act, in contrast to Delaware, which has a fairly well-developed body of case law interpreting its limited partnership statute. Accordingly, we cannot predict whether Marshall Islands courts would reach the same conclusions as the courts in Delaware. For example, the rights of our unitholders and the fiduciary responsibilities of our general partner under Marshall Islands law are not as clearly established as under judicial precedent in existence in Delaware. As a result, unitholders may have more difficulty in protecting their interests in the face of actions by our officers or directors than would unitholders of a similarly organized limited partnership in the United States.

Because we are organized under the laws of the Marshall Islands and our business is operated primarily from our office in Monaco, it may be difficult to serve us with legal process or enforce judgments against us, our directors or our management.

We are organized under the laws of the Marshall Islands, and all of our assets are located outside of the United States. Our business is operated primarily from our office in Monaco. In addition, our general partner is a Marshall Islands limited liability company, and our directors and officers generally are or will be non-residents of the United States, and all or a substantial portion of the assets of these non-residents are located outside the United States. As a result, it may be difficult or impossible for you to bring an action against us or against these individuals in the United States if you believe that your rights have been infringed under securities laws or otherwise. Even if you are successful in bringing an action of this kind, the laws of the Marshall Islands, the Monaco and other jurisdictions may prevent or restrict you from enforcing a judgment against our assets or the assets of our general partner or our directors or officers.

Our partnership agreement limits our general partner's and our directors' fiduciary duties to our unitholders and restricts the remedies available to unitholders for actions taken by our general partner or our directors.

Our partnership agreement contains provisions that reduce the standards to which our general partner and directors would otherwise be held by Marshall Islands law. For example, our partnership agreement:

- permits our general partner to make a number of decisions in its individual capacity, as opposed to in its capacity as our general partner. Where our partnership agreement permits, our general partner may consider only the interests and factors that it desires, and in such cases it has no fiduciary duty or obligation to give any consideration to any interest of, or factors affecting us, our affiliates or our unitholders. Decisions made by our general partner in its individual capacity will be made by its sole owner, Navios Holdings. Specifically, pursuant to our partnership agreement, our general partner will be considered to be acting in its individual capacity if it exercises its call right, pre-emptive rights or registration rights, consents or withholds consent to any merger or consolidation of the partnership;

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- appoints any directors or votes for the election of any director, votes or refrains from voting on amendments to our partnership agreement that require a vote of the outstanding units, voluntarily withdraws from the partnership, transfers (to the extent permitted under our partnership agreement) or refrains from transferring its units, general partner interest or incentive distribution rights or votes upon the dissolution of the partnership;
- provides that our general partner and our directors are entitled to make other decisions in “good faith” if they reasonably believe that the decision is in our best interests;
- generally provides that affiliated transactions and resolutions of conflicts of interest not approved by the Conflicts Committee of our board of directors and not involving a vote of unitholders must be on terms no less favorable to us than those generally being provided to or available from unrelated third parties or be “fair and reasonable” to us and that, in determining whether a transaction or resolution is “fair and reasonable,” our board of directors may consider the totality of the relationships between the parties involved, including other transactions that may be particularly advantageous or beneficial to us; and
- provides that neither our general partner nor our officers or our directors will be liable for monetary damages to us, our limited partners or assignees for any acts or omissions unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that our general partner or directors or our officers or directors or those other persons engaged in actual fraud or willful misconduct.

In order to become a limited partner of our partnership, a common unitholder is required to agree to be bound by the provisions in the partnership agreement, including the provisions discussed above.

Our general partner has a limited call right that may require unitholders to sell their common units at an undesirable time or price.

If at any time our general partner and its affiliates, including Navios Holdings, own more than 80% of the common units, our general partner will have the right, which it may assign to any of its affiliates or to us, but not the obligation, to acquire all, but not less than all, of the common units held by unaffiliated persons at a price not less than their then-current market price. As a result, unitholders may be required to sell their common units at an undesirable time or price and may not receive any return on their investment. Unitholders may also incur a tax liability upon a sale of their units.

As of April 8, 2019, Navios Holdings directly owned 31,053,233 common units and 3,457,866 general partner units through our general partner (which Navios Holdings owns and controls), which together represent a 20.4% interest in us based on all outstanding common units and general partnership units.

Our general partner may transfer its general partner interest to, and the control of our general partner may be transferred to a third party without unitholder consent.

Our general partner may transfer its general partner interest to a third party without the consent of the unitholders. In addition, our partnership agreement does not restrict the ability of the members of our general partner from transferring their respective membership interests in our general partner to a third party. A different general partner may make decisions or operate our business in a manner that is different, and significantly less skilled and beneficial to us, and that could have a material adverse effect on our business, results of operations and financial condition, as well as our cash flows, including cash available for distributions to our unitholders.

Our partnership agreement contains provisions that may have the effect of discouraging a person or group from attempting to remove our current management or our general partner, and even if our public unitholders are dissatisfied, they will be unable to remove our general partner without Navios Holdings’ consent, unless Navios Holdings’ ownership share in us is decreased; all of which could diminish the trading price of our common units.

Our partnership agreement contains provisions that may have the effect of discouraging a person or group from attempting to remove our current management or our general partner.

- The vote of the holders of at least 66 2/3 % of all the then outstanding common units, voting together as a single class is required to remove the general partner. Navios Holdings currently owns approximately 18.3% of the total number of outstanding common units.
- Common unitholders elect only four of the seven members of our board of directors. Our general partner in its sole discretion has the right to appoint the remaining three directors.

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- Election of the four directors elected by unitholders is staggered, meaning that the members of only one of three classes of our elected directors are selected each year. In addition, the directors appointed by our general partner will serve for terms determined by our general partner.
- A director appointed by our general partner may be removed from our board of directors at any time without cause only by our general partner and with cause by either our general partner, the vote of holders of a majority of all classes of equity interests in us voting as a single class or the majority vote of the other members of our board. A director elected by our common unitholders may be removed from our board of directors at any time with cause by the vote of holders of a majority of our outstanding common units or the majority vote of the other members of our board. “Cause” is narrowly defined to mean that a court of competent jurisdiction has entered a final, non-appealable judgment finding our general partner liable for actual fraud or willful or wanton misconduct in its capacity as our general partner. Cause does not include most cases of charges of poor business decisions such as charges of poor management of our business by the directors appointed by our general partner.
- Our partnership agreement contains provisions limiting the ability of unitholders to call meetings of unitholders, to nominate directors and to acquire information about our operations as well as other provisions limiting the unitholders’ ability to influence the manner or direction of management.
- Unitholders’ voting rights are further restricted by the partnership agreement provision providing that if any person or group owns beneficially more than 4.9% of the common units then outstanding, any such common units owned by that person or group in excess of 4.9% may not be voted on any matter and will not be considered to be outstanding when sending notices of a meeting of unitholders, calculating required votes, except for purposes of nominating a person for election to our board, determining the presence of a quorum or for other similar purposes, unless required by law. The voting rights of any such common unitholders in excess of 4.9% will be redistributed pro rata among the other common unitholders holding less than 4.9% of the voting power of all classes of units entitled to vote. Our general partner, its affiliates and persons who acquired common units with the prior approval of our board of directors will not be subject to this 4.9% limitation except with respect to voting their common units in the election of the elected directors.
- We have substantial latitude in issuing equity securities without unitholder approval.

Unitholders may not have limited liability if a court finds that unitholder action constitutes control of our business.

As a limited partner in a partnership organized under the laws of the Marshall Islands, unitholders could be held liable for our obligations to the same extent as a general partner if they participate in the “control” of our business. Our general partner generally has unlimited liability for the obligations of the partnership, such as its debts and environmental liabilities, except for those contractual obligations of the partnership that are expressly made without recourse to our general partner.

We can borrow money to pay distributions, it would reduce the amount of credit available to operate our business.

Our partnership agreement will allow us to make borrowings to make distributions. Accordingly, we can make distributions on all our units even though cash generated by our operations may not be sufficient to pay such distributions. Any borrowings by us to make distributions will reduce the amount of borrowings we can make for operating our business.

Our management will have broad discretion with respect to the use of the proceeds resulting from the issuance of common units under the continuous offering program.

Our management will have broad discretion in the application of the net proceeds from continuous offering program and could spend such proceeds in ways that do not improve our results of operations or enhance the value of our common units. The failure by our management to apply these funds effectively could result in financial losses and cause the price of our common units to decline. Pending their use, we may invest the net proceeds from continuous offering program in a manner that does not produce income or that loses value.

Our general partner and its affiliates, including Navios Holdings, own a significant interest in us and have conflicts of interest and limited fiduciary and contractual duties, which may permit them to favor their own interests to the detriment of unitholders.

Navios Holdings indirectly owns an approximate 2.1% general partner interest in us through our general partner, which Navios Holdings owns and controls, and directly owns an approximate 18.3% limited partner interest in us. The general partner interest and the limited partner interest are represented in units. The general partner unit, however, does not have the same economic rights as a common unit. The general partner unit will not entitle our general partner to participate in our distributions, profits or losses. The interests of Navios Holdings may be different from your interests. This concentration of ownership may delay, deter or prevent acts that would be favored by our other unit holders or deprive unit holders of an opportunity to receive a premium for their common units as part of a sale of our business, and it is possible that the interests of the controlling unit holders may in some cases conflict with our interests and the interests of our other unit holders.

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Further, certain of our officers and/or directors are officers and/or directors of Navios Holdings and its affiliates, and our Chief Executive Officer is also the Chief Executive Officer of Navios Acquisition, Navios Containers, and Navios Holdings. As such these individuals have fiduciary duties to Navios Holdings, Navios Containers, and Navios Acquisition which may cause them to pursue business strategies that disproportionately benefit Navios Holdings, Navios Containers, and Navios Acquisition or which otherwise are not in our best interests or those of our unitholders. Conflicts of interest may arise between Navios Holdings, Navios Containers, and Navios Acquisition, and their respective affiliates including our general partner, on the one hand, and us and our unitholders on the other hand. As a result of these conflicts, our general partner and its affiliates may favor their own interests over the interests of our unitholders. These conflicts include, among others, the following situations:

- neither our partnership agreement nor any other agreement requires our general partner or Navios Holdings or its affiliates to pursue, in the operation of their businesses, a business strategy that favors us or utilizes our assets, and the officers and directors of Navios Holdings and its affiliates have a fiduciary duty to make decisions in the best interests of the stockholders and/or unitholders of Navios Holdings and its affiliates, which may be contrary to our interests;
- our general partner and our directors have limited liabilities and reduced their fiduciary duties under the laws of the Marshall Islands, while the remedies available to our unitholders are also restricted, and, as a result of purchasing common units, unitholders are treated as having agreed to the modified standard of fiduciary duties and to certain actions that may be taken by our general partner and our directors, all as set forth in the partnership agreement;
- either or both of our general partner and our board of directors are involved in determining the amount and timing of our asset purchases and sales, capital expenditures, borrowings, issuances of additional partnership securities and reserves, each of which can affect the amount of cash that is available for distribution to our unitholders;
- our general partner is authorized to cause us to borrow funds in order to permit the payment of cash distributions;
- our general partner is entitled to reimbursement of all reasonable costs incurred by it and its affiliates for our benefit;
- our partnership agreement does not restrict us from paying our general partner or its affiliates for any services rendered to us on terms that are fair and reasonable or entering into additional contractual arrangements with any of these entities on our behalf; and
- our general partner may exercise its right to call and purchase our common units if it and its affiliates own more than 80% of our common units.

Although a majority of our directors will be elected by common unitholders, our general partner will likely have substantial influence on decisions made by our board of directors.

Our officers face conflicts in the allocation of their time to our business.

Certain of our executive officers and/or directors also serve as executive officers and/or directors of Navios Holdings and its affiliates. Navios Holdings, Navios Containers, and Navios Acquisition conduct substantial businesses and activities of their own in which we have no economic interest. If these separate activities are significantly greater than our activities, there will be material competition for the time and effort of our officers, who also provide services to Navios Acquisition, Navios Holdings, Navios Containers, and their respective affiliates. Our officers are not required to work full-time on our affairs and, in the future, we may have additional officers that also provide services to Navios Holdings and its affiliates. Based solely on the anticipated relative sizes of our fleet and the fleet owned by the Navios Holdings and its affiliates over the next twelve months, we estimate that certain our officers may spend a substantial portion of their monthly business time dedicated to the business activities of the Navios Holdings and their affiliates. However, the actual allocation of time could vary significantly from time to time depending on various circumstances and needs of the businesses, such as the relative levels of strategic activities of the businesses.

Fees and cost reimbursements, which the Manager determines for services provided to us, represent significant percentage of our revenues, are payable regardless of profitability and reduce our cash available for distributions.

Under the terms of our existing Management Agreement, we pay a fixed daily fee for shipmanagement services provided to us by the Manager. This fixed daily fee covers all of our vessels' operating expenses, other than certain extraordinary fees and costs, and covers all costs incurred in providing certain commercial and technical management services. We expect that we will reimburse the Manager for all drydocking expenses it incurs in connection with the management of our fleet, which may result in significantly higher fees. The term of the Management Agreement is until December 31, 2022.

In addition, the Manager provides us with administrative services, including the services of our officers and directors, pursuant to the Administrative Services Agreement which has a term until December 31, 2022, and we reimburse the Manager for all costs and expenses reasonably incurred by it in connection with the provision of those services. The exact amount of these future costs and expenses are unquantifiable at this time.

All of the fees we are required to pay to the Manager under the Management Agreement and Administrative Services Agreement are payable regardless of our profitability. If we desire to terminate either of these agreements before its scheduled expiration, we must provide twelve months' prior notice to the Manager. As a result, our ability to make short-term adjustments to manage our costs by terminating one or both these agreements may be limited which could cause our results of operations and ability to pay cash distributions to unitholders to be materially and adversely affected.

For detailed information on the amount of management fees owed under the Management Agreement, please see the section entitled, "Item 5. Operating and Financial Review and Prospects – A. Operating results – Management fees".

Item 4. Information on the Partnership

A. History and Development of the Partnership

Navios Partners is an international owner and operator of dry cargo vessels, formed on August 7, 2007 under the laws of the Republic of the Marshall Islands. Navios GP L.L.C. (the "General Partner"), a wholly owned subsidiary of Navios Holdings, was also formed on that date to act as the general partner of Navios Partners and received a 2.0% general partner interest in Navios Partners.

Navios Partners is engaged in the seaborne transportation services of a wide range of dry cargo commodities including iron ore, coal, grain and fertilizer and also containers, chartering its vessels generally under medium to long-term charters. The operations of Navios Partners are managed by the Manager from its offices in Piraeus, Greece, Singapore and Monaco.

Pursuant to the initial public offering ("IPO") on November 16, 2007, Navios Partners entered into the following agreements:

- (a) the Management Agreement with the Manager pursuant to which the Manager provides Navios Partners commercial and technical management services;
- (b) the Administrative Services Agreement with the Manager pursuant to which the Manager provides Navios Partners administrative services; and
- (c) the Omnibus Agreement with Navios Holdings, governing, among other things, when Navios Partners and Navios Holdings may compete against each other as well as rights of first offer on certain drybulk carriers.

Financing Arrangements

On April 5, 2019, Navios Partners entered into a new credit facility with DNB Bank ASA of up to \$40.0 million (divided into two tranches) in order to refinance two Capesize vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 275 bps per annum. No amount has yet been drawn under this facility.

On February 12, 2019, Navios Partners entered into a new credit facility with DVB Bank S.E. of up to \$66.0 million (divided into four tranches) in order to refinance four Capesize vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 260 bps per annum. No amount has yet been drawn under this facility.

On April 5, 2019, Navios Partners entered into a sale and leaseback agreement with an unrelated third party of \$20.0 million, for the Navios Sol, a 2009-built Capesize vessel of 180,274 dwt. The sale and leaseback agreement has a term of 10.0 years and an average daily payment of \$6,250. This results at an implied fixed interest rate of 6.6%. Navios Partners has the option to buy the vessel starting at the end of year four which de-escalates until maturity to \$6.3 million. The purchase obligation at maturity of \$6.3 million is lower than the scrap value of the vessel. This financing structure has no financial covenants and no loan-to-value requirements.

In December 2018, Navios Partners entered into two sale and leaseback agreements with unrelated third parties of \$25.0 million in total, for the Navios Fantastiks, a 2005-built Capesize vessel and the Navios Beaufiks, a 2004-built Capesize vessel. The sale and leaseback agreements have an average term of 5.4 years and an age adjusted amortization profile of approximately 25 years. The bareboat lease provides an average daily payment of \$5,200 per vessel. This results at an implied fixed interest rate of 7.6%. Navios Partners has the option to buy the vessels starting at the end of year three which de-escalates until maturity to \$6.3 million per vessel. The purchase obligation at maturity of \$6.3 million per vessel is lower than the scrap value of the vessels. This financing structure has no financial covenants and no loan-to-value requirements.

Distributions

• Cash Distribution

In January 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended December 31, 2018 of \$0.02 per unit. The distribution was paid on February 14, 2019 to all unitholders of common and general partner units of record as of February 11, 2019, which included the unitholders of restricted common units issued on February 1, 2019. The aggregate amount of the declared distribution was \$3.5 million.

• \$4.2 million in kind Distribution

On December 3, 2018, Navios Partners distributed 855,001 units of Navios Containers to the unitholders of Navios Partners, approximately 2.5% of the Navios Containers' outstanding equity. The amount of the distribution was \$4.2 million based on the last trading price of Navios Containers' shares in the Norwegian Over-the-Counter ("N-OTC") market as of November 23, 2018. In connection with this transaction, Navios Partners recognized an other-than-temporary impairment of \$0.6 million on the units distributed, which was presented under the caption "Equity in net earnings of affiliated companies" in the Consolidated Statements of Operations. Following the distribution, Navios Partners owns approximately 33.5% of the equity in Navios Containers.

Listing Developments

On March 13, 2019, Navios Partners received notice from the New York Stock Exchange, Inc. (the "NYSE") that it was not in compliance with the NYSE's continued listing standards because the average closing price of its common stock was less than \$1.00 per unit over a consecutive 30 trading-day period. Pursuant to the NYSE's rules, Navios Partners had a six-month cure period following receipt of the notice to bring its stock price per unit and average unit price above \$1.00. Navios Partners currently intends to cure this deficiency within the prescribed timeframe set out in the NYSE's Listed Company Manual. During this time, the Company's common stock will continue to be listed and trade on the NYSE. The NYSE's notification does not affect the Company's SEC reporting requirements.

Equity Offerings and Issuances

In February 2019, Navios Partners authorized the granting of 380,952 restricted common units, which were issued on February 1, 2019, to its directors and officers, which are based solely on service conditions and vest over four years. Navios Partners also issued 7,775 general partnership units to its general partner for net proceeds of \$0.01 million.

In January 2019, the Board of Directors of Navios Partners authorized a common unit repurchase program for up to \$50.0 million of the Company's common units over a two year period. Common unit repurchases will be 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 will be determined by Navios Partners' management based upon market conditions and other factors. Repurchases may be made pursuant to a program adopted under Rule 10b5-1 under the Securities Exchange Act of 1934, as amended. The program does not require any minimum repurchase or any specific number of common units and may be suspended or reinstated at any time in Navios Partners' discretion and without notice. The Board of Directors will review the program periodically. Repurchases will be subject to restrictions under Navios Partners' credit facilities. As of April 8, 2019, Navios Partners has repurchased 3,946,156 common units, for a total cost of approximately \$3.8 million, out of which 3,407,097 common units have been cancelled.

In December 2018, Navios Partners authorized the granting of 1,464,494 restricted common units, which were issued on December 24, 2018, to its directors and officers, which are solely based on service conditions and vest over four years. Navios Partners also issued 29,888 general partnership units to its general partner for net proceeds of \$0.03 million. There were no restricted common units exercised, forfeited or expired the year ended December 31, 2018. As of December 31, 2018, no restricted common units were vested.

On February 21, 2018, Navios Partners completed a public offering of 18,422,000 common units at \$1.90 per unit and raised gross proceeds of approximately \$35.0 million, of which approximately \$5.0 million was purchased by Navios Holdings. The net proceeds of this offering, including the underwriting discount and the offering costs of \$1.6 million in total, were approximately \$33.4 million. Pursuant to this offering, Navios Partners issued 375,959 general partnership units to its general partner. The net proceeds from the issuance of the general partnership units were \$0.7 million.

Sales of Vessels

On March 21, 2019, Navios Partners agreed to sell the Navios Galaxy I, a 2001-built Panamax vessel of 74,195 dwt, to an unrelated third party for a net sale price of approximately \$6.0 million. The sale is expected to be completed by the end of April 2019.

B. Business Overview

Introduction

We are an international owner and operator of dry cargo vessels formed by Navios Holdings (NYSE: NM), a vertically integrated seaborne shipping and logistics company with over 60 years of operating history in the dry cargo shipping industry. Our vessels are generally chartered-out under medium to long-term time charters with an average remaining term of approximately two years to a strong group of counterparties, including SwissMarine Services S.A., Cargill International S.A., Kawasaki Kisen Kaisha Ltd., Uniper Global Commodities and Hyundai Merchant Marine Co., Ltd.

Our Fleet

Navios Partners controls 16 Panamax vessels, 14 Capesize vessels, three Ultra-Handymax vessels and five Containerships, including one Panamax charter-in vessel, which is expected to be delivered in the second half of 2019. Our fleet of dry cargo vessels has an average age of 10.1 years for drybulk vessels and containerships, which approximates the current industry average of about 9.8 years for drybulk vessels and 12.4 years for containerships, respectively (both industry averages as of February 1, 2019). Panamax vessels are highly flexible vessels capable of carrying a wide range of dry cargo commodities, including iron ore, coal, grain and fertilizer and being accommodated in most major discharge ports, while Capesize vessels are primarily dedicated to the carriage of iron ore and coal. Ultra-Handymax vessels are similar to Panamax vessels although with less carrying capacity and generally have self-loading and discharging gear on board to accommodate undeveloped ports. Containerships are specifically constructed to transport containerized cargo. We may from time to time purchase additional vessels, including vessels from Navios Holdings and other affiliates.

We generate revenues by charging our customers for the use of our vessels to transport their dry cargo commodities. In general, the vessels in our fleet are chartered-out under time charters, which range in length from one to twelve years at inception. From time to time, we operate vessels in the spot market until the vessels have been chartered under long-term charters.

The following table provides summary information about our fleet as of April 8, 2019:

<u>Owned Drybulk Vessels</u>	<u>Type</u>	<u>Built</u>	<u>Capacity (DWT)</u>	<u>Charter-Out Rate(1)</u>	<u>Profit Share(2)</u>	<u>Expiration Date(3)</u>
Navios Soleil	Ultra-Handymax	2009	57,337	\$ —	—	Spot
Navios La Paix	Ultra-Handymax	2014	61,485	\$ —	111% average BSI 58 10TC	September 2019
Navios Christine B	Ultra-Handymax	2009	58,058	\$ —	100% average BSI 58 10TC	January 2020
Navios Galaxy I ⁽⁶⁾	Panamax	2001	74,195	\$ 6,888	No	April 2019
Navios Hyperion	Panamax	2004	75,707	\$ —	100% average BPI 4TC	September 2019
Navios Alegria	Panamax	2004	76,466	\$ 11,875	No	April 2019
				\$ —	99.5% average BPI 4TC	April 2020
Navios Orbiter	Panamax	2004	76,602	\$ —	100% average BPI 4TC	February 2020
Navios Helios	Panamax	2005	77,075	\$ —	100% average BPI 4TC	October 2020
Navios Sun	Panamax	2005	76,619	\$ —	100% average BPI 4TC	February 2021
Navios Hope	Panamax	2005	75,397	\$ 9,240	No	June 2019
				\$ —	100% average BPI 4TC	February 2021
Navios Sagittarius	Panamax	2006	75,756	\$ 10,450	No	October 2019
Navios Harmony	Panamax	2006	82,790	\$ 12,350	No	June 2019
Navios Prosperity I	Panamax	2007	75,527	\$ 6,650	No	April 2019
Navios Libertas	Panamax	2007	75,511	\$ —	—	Spot
Navios Altair I	Panamax	2006	74,475	\$ 7,838	No	April 2019
Navios Symmetry	Panamax	2006	74,381	\$ 7,125	No	April 2019
				\$ 9,500	No	September 2019
Navios Apollon I	Panamax	2005	87,052	\$ 13,015	No	May 2019
				\$ —	113% average BPI 4TC	April 2020
Navios Sphera	Panamax	2016	84,872	\$ 10,395	No	June 2019
				\$ —	120% average BPI 4TC	March 2021
Navios Beaufiks	Capesize	2004	180,310	\$ —	100% average BCI 5TC	July 2019
Navios Symphony	Capesize	2010	178,132	\$ —	102% average BCI 5TC	August 2019
Navios Fantastiks	Capesize	2005	180,265	\$ 18,911	No	August 2023
Navios Aurora II	Capesize	2009	169,031	\$ —	99.05% average BCI C5	October 2019
Navios Pollux	Capesize	2009	180,727	\$ —	100% of pool earnings	June 2019
Navios Sol	Capesize	2009	180,274	\$ —	108% average BCI 5TC	January 2020
Navios Fulvia	Capesize	2010	179,263	\$ —	100.25% average BCI 5TC	January 2020
Navios Buena Ventura	Capesize	2010	179,259	\$ —	101% average BCI 5TC	January 2020
Navios Melodia	Capesize	2010	179,132	\$ 29,356	Profit sharing 50% above \$37,500/day based on Baltic Exchange Capesize TC Average	September 2022
Navios Luz	Capesize	2010	179,144	\$ —	100% average BCI 5TC	January 2020
Navios Ace	Capesize	2011	179,016	\$ —	107% average BCI 5TC	January 2020
Navios Aster	Capesize	2010	179,314	\$ 20,710	No	November 2019
Navios Joy	Capesize	2013	181,389	\$ 16,958	No	February 2020
Navios Mars	Capesize	2016	181,259	\$ 22,610	No	February 2022
<u>Chartered-in vessel to be delivered</u>	<u>Type</u>	<u>Built</u>	<u>Capacity (DWT)</u>	<u>Charter-Out Rate(1)</u>	<u>Profit Share(2)</u>	<u>Expiration Date(3)</u>
Navios Libra ⁽⁴⁾	Panamax	2019	81,000	—	No	—

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Owned Containerships	Type	Built	TEU	Charter-Out Rate(1)	Profit Share(2)	Expiration Date(3)(5)
Hyundai Hongkong	Container	2006	6,800	\$ 24,095	No	December 2019
				\$ 30,119	No	December 2023
Hyundai Singapore	Container	2006	6,800	\$ 24,095	No	December 2019
				\$ 30,119	No	December 2023
Hyundai Tokyo	Container	2006	6,800	\$ 24,095	No	December 2019
				\$ 30,119	No	December 2023
Hyundai Shanghai	Container	2006	6,800	\$ 24,095	No	December 2019
				\$ 30,119	No	December 2023
Hyundai Busan	Container	2006	6,800	\$ 24,095	No	December 2019
				\$ 30,119	No	December 2023

- (1) Daily charter-out rate per day, net of commissions or settlement and insurance proceeds, where applicable.
- (2) Index rates include commissions.
- (3) Expected redelivery basis midpoint of full redelivery period, excluding Navios Partners' extension options, not declared yet.
- (4) Expected to be delivered in the second half of 2019.
- (5) Upon acquisition, the vessels are fixed on ten/twelve year charters with Navios Partners' option to terminate after year seven.
- (6) Expected to be sold by the end of April 2019.

Our Competitive Strengths

We believe that our future prospects for success are enhanced by the following aspects of our business:

- *Stable cash flows.* We believe that by maintaining medium to long-term, fixed-rate nature charters will provide a stable base of revenue (during high market periods we seek to fix longer term charters and during low market periods we seek shorter period employment in order to take advantage of any market up turn). In addition, we believe that the potential opportunity to purchase additional vessels from Navios Holdings and other affiliates and through the secondary market provides future growth in our revenue and distributable cash flow. We believe that our management agreement, which has been extended until December 31, 2022 and provides for a fixed management fee until December 31, 2019, will continue to provide us with predictable expenses.
- *Strong relationship with Navios Holdings.* We believe our relationship with Navios Holdings and its affiliates provides us with numerous benefits that are key to our long-term growth and success, including Navios Holdings' expertise in commercial management and Navios Holdings' reputation within the shipping industry and its network of strong relationships with many of the world's dry cargo raw material producers, agricultural traders and exporters, industrial end-users, shipyards, and shipping companies. We also benefit from Navios Holdings' expertise in technical management through its in-house technical manager, which provides efficient operations and maintenance for our vessels at costs below the industry average for vessels of a similar age. Navios Holdings' expertise in fleet management is reflected in Navios Holdings' history of a low number of off-hire days and in its record of no material incidents giving rise to loss of life or pollution or other environmental liability.
- *High-quality, flexible fleet.* Our fleet consists of 16 Panamax vessels, 14 Capesize vessels, three Ultra-Handymax vessels and five Containerships, including one Panamax charter-in vessel which is expected to be delivered in the second half of 2019. The average age of the vessels in our fleet approximates the average age of the world drybulk fleet. Our combined fleet had an average age of 10.1 years as of April 2019 (average age of 9.9 years for drybulk fleet and 12.7 years for containers fleet), compared to a current industry average age of about 9.8 years for the drybulk fleet and 12.4 years for the containers fleet (both industry averages as of April 1, 2019). Capesize vessels are primarily dedicated to the carriage of iron ore and coal. Panamax vessels are highly flexible vessels capable of carrying a wide range of drybulk commodities, including iron ore, coal, grain and fertilizer, and of being accommodated in most major discharge ports. Ultra-Handymax vessels are similar to Panamax vessels although with less carrying capacity and generally have self-loading and discharging gear on board to accommodate undeveloped ports. Containerships are designed to carry manufactured, finished or semi-finished goods in steel shipping containers on specific routes. We believe that our high-quality, flexible fleet provides us with a competitive advantage in the dry cargo time charter market, where vessel age, flexibility and quality are of significant importance in competing for business.

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- *Operating visibility through long-term charters with strong counterparties.* Our vessels are chartered-out under time charters with average remaining charter duration of approximately two years to a diverse group of counterparties consisting of, amongst others, SwissMarine Services S.A., Cargill International S.A., Kawasaki Kisen Kaisha Ltd., Uniper Global Commodities and Hyundai Merchant Marine Co., Ltd. We believe our existing charter coverage provides us with predictable contracted revenues and operating visibility.

Business Strategies

Our primary business objective is to increase quarterly distributions per unit over time by executing the following strategies:

- *Pursue stable cash flows through long-term charters for our fleet.* We intend to utilize medium to long-term, fixed-rate charters for our existing fleet. Currently, the vessels in our fleet have average remaining charter duration of approximately two years. We will seek to opportunistically re-charter our vessels in order to add incremental stable cash flow and improve the long-term charter terms.
- *Continue to grow and diversify our fleet of owned and chartered-in vessels.* We seek to make strategic acquisitions to expand our fleet in order to capitalize on the demand for container and drybulk vessels. We have the right to purchase certain additional drybulk vessels currently owned or chartered-in by Navios Holdings when those vessels are fixed under long-term charters for a period of three or more years. In addition, we may seek to expand and diversify our fleet through the open market purchase of owned and chartered-in drybulk vessels with charters of three or more years.
- *Capitalize on our relationship with Navios Holdings and expand our charters with recognized charterers.* We believe that we can use our relationship with Navios Holdings and its established reputation in order to obtain favorable long-term time charters and attract new customers. We will continue to increase the number of vessels we charter to our existing charterers, as well as enter into charter agreements with new customers, in order to develop a portfolio that is diverse from a customer, geographic and maturity perspective.
- *Provide superior customer service by maintaining high standards of performance, reliability and safety.* Our customers seek transportation partners that have a reputation for high standards of performance, reliability and safety. We intend to use Navios Holdings' operational expertise and customer relationships to further expand a sustainable competitive advantage with consistent delivery of superior customer service.

Our Customers

We provide or will provide seaborne shipping services under long-term time charters with customers that we believe are creditworthy. For the year ended December 31, 2018, HMM represented approximately 24.5% of total revenues. For the year ended December 31, 2017, HMM and Yang Ming accounted for approximately 26.8% and 12.0%, respectively, of our total revenues. For the year ended December 31, 2016, HMM, Yang Ming and Mediterranean Shipping Co. S.A. accounted for 29.6%, 13.0% and 11.6%, respectively, of our total revenues. No other customers accounted for 10% or more of total revenues for any of the years presented.

Although we believe that if any one of our charters were terminated, we could recharter the related vessel at the prevailing market rate relatively quickly, the permanent loss of a significant customer or a substantial decline in the amount of services requested by a significant customer could harm our business, financial condition and results of operations if we were unable to recharter our vessel on a favorable basis due to then-current market conditions, or otherwise.

Competition

The drybulk shipping market is extensive, diversified, competitive and highly fragmented, divided among approximately 1,972 independent drybulk carrier owners. The world's active drybulk fleet consists of approximately 11,400 vessels, aggregating approximately 846.7 million dwt as of April 1, 2019. As a general principle, the smaller the cargo carrying capacity of a drybulk carrier, the more fragmented is its market, both with regard to charterers and vessel owner/operators. Even among the larger drybulk owners and operators, whose vessels are mainly in the larger sizes, only ten companies are known to have fleets of 100 vessels or more: China COSCO Shipping, Nippon Yusen Kaisha, Fredriksen Group, Wisdom Marine, China Merchants, Kawasaki Kisen, Pacific Basin Shipping, Mitsui O.S.K. Lines, Oldendorff Carriers and Star Bulk Carriers. There are about 40 owners known to have fleets of between 30 and 100 vessels. However, vessel ownership is not the only determining factor of fleet control. Many owners of bulk carriers charter their vessels out for extended periods, not just to end users (owners of cargo), but also to other owner/operators and to tonnage pools. Such operators may, at any given time, control a fleet many times the size of their owned tonnage. Navios Holdings is one such operator; others include Cargill, Pacific Basin Shipping, Bocimar, Zodiac Maritime, Louis Dreyfus/Cetrappa, Cobelfret, Torvald Klaveness and Swiss Marine.

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The container shipping market is extensive, diversified, competitive and fragmented, divided among approximately 635 liner operators and independent owners. The world's active containership fleet consists of approximately 5,270 vessels, aggregating approximately 22.1 million TEU as of April 1, 2019. As a general principle, the smaller the cargo carrying capacity of a containership, the more fragmented is its market, both with regard to charterers and vessel owner/operators. Even among the larger liner companies and containership owners and operators, whose vessels are mainly in the larger sizes, only ten companies are known to control fleets of 97 vessels or more: AP Moller, Mediterranean Shipping Co. (MSC), China COSCO Shipping, CMA CGM, Evergreen, Pacific International Lines, Hapag Lloyd, Seaspam, Imabari Shipbuilding and Wan Hai Lines. There are about 40 owners known to control fleets of between 26 and 83 vessels. However, vessel ownership is not the only determining factor of fleet control. Liner companies, who control the movement of containers on land and at sea, own vessels directly and charter in vessels on short and long-term charters. Many owners/managers of containerships charter their vessels out for extended periods but do not control the movement of any containers, the so called tonnage providers. Liner companies may, at any given time, control a fleet many times the size of their owned tonnage. AP Moller and MSC are such liner operators; whereas Peter Dohle, Seaspam and others including Navios Maritime Partners are tonnage providers.

It is likely that we will face substantial competition for long-term charter business from a number of experienced companies. Many of these competitors will have significantly greater financial resources than we do. It is also likely that we will face increased numbers of competitors entering into our transportation sectors, including in the container and drybulk sectors. Many of these competitors have strong reputations and extensive resources and experience. Increased competition may cause greater price competition, especially for long-term charters.

Time Charters

A time charter is a contract for the use of a vessel for a fixed period of time at a specified daily rate. Under a time charter, the vessel owner provides crewing and other services related to the vessel's operation, the cost of which is included in the daily rate and the customer is responsible for substantially all of the vessel voyage costs. All of the vessels in our fleet are hired out under time charters, and we intend to continue to hire out our vessels under time charters. The following discussion describes the material terms common to all of our time charters.

Basic Hire Rate

"Basic hire rate" refers to the basic payment from the customer for the use of the vessel. The hire rate is generally payable semi-monthly, in advance, in U.S. dollars as specified in the charter.

Expenses

The charterer generally pays the voyage expenses, which include all expenses relating to particular voyages, including any bunker fuel expenses, port fees, cargo loading and unloading expenses, canal tolls, agency fees and commissions.

Off-hire

When the vessel is "off-hire," the charterer generally is not required to pay the basic hire rate, and we are responsible for all costs. Prolonged off-hire may lead to vessel substitution or termination of the time charter. A vessel generally will be deemed off-hire if there is a loss of time due to, among other things:

- operational deficiencies; drydocking for repairs, maintenance or inspection; equipment breakdowns; or delays due to accidents, crewing strikes, certain vessel detentions or similar problems; or
- the ship owner's failure to maintain the vessel in compliance with its specifications and contractual standards or to provide the required crew.

Under some of our charters, the charterer is permitted to terminate the time charter if the vessel is off-hire for an extended period, which is generally defined as a period of 90 or more consecutive off-hire days. Under some circumstances, an event of force majeure may also permit the charterer to terminate the time charter or suspend payment of charter hire.

Termination

We are generally entitled to suspend performance under the time charters covering our vessels if the customer defaults in its payment obligations. Under some of our time charters, either party may terminate the charter in the event of war in specified countries or in locations that would significantly disrupt the free trade of the vessel. Some of our time charters covering our vessels require us to return to the charterer, upon the loss of the vessel, all advances paid by the charterer but not earned by us.

Classification, Inspection and Maintenance

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

The classification society also undertakes, on request, other surveys and checks that are required by regulations and requirements of the flag state. These surveys are subject to agreements made in each individual case or to the regulations of the country concerned. For maintenance of the class, regular and extraordinary surveys of hull, machinery (including the electrical plant) and any special equipment classed are required to be performed as follows:

- *Annual Surveys:* For seagoing ships, annual surveys are conducted for the hull and the machinery (including the electrical plant) and, where applicable, for special equipment classed, at intervals of 12 months from the date of commencement of the class period indicated in the certificate.
- *Intermediate Surveys:* Extended annual surveys are referred to as intermediate surveys and typically are conducted two and a half years after commissioning and each class renewal. Intermediate surveys may be carried out on the occasion of the second or third annual survey.
- *Class Renewal Surveys:* Class renewal surveys, also known as special surveys, are carried out for the ship’s hull, machinery (including the electrical plant), and for any special equipment classed, at the intervals indicated by the character of classification for the hull. At the special survey, the vessel is thoroughly examined, including audio-gauging, to determine the thickness of its steel structure. Should the thickness be found to be less than class requirements, the classification society would prescribe steel renewals. The classification society may grant a one-year grace period for completion of the special survey. Substantial amounts of money may have to be spent for steel renewals to pass a special survey if the vessel experiences excessive wear and tear. In lieu of the special survey every four or five years, depending on whether a grace period was granted, a ship owner has the option of arranging with the classification society for the vessel’s integrated hull or machinery to be on a continuous survey cycle, in which every part of the vessel would be surveyed within a five-year cycle.

Management of Ship Operations, Administration and Safety

Navios Holdings provides, through its wholly-owned subsidiary, Navios ShipManagement Inc., referred to as the Manager herein, expertise in various functions critical to our operations. Pursuant to the Management Agreement and the Administrative Services Agreement with the Manager, we have access to human resources, financial and other administrative functions, including:

- bookkeeping, audit and accounting services;
- administrative and clerical services;
- banking and financial services; and
- client and investor relations.

Technical management services are also provided, including:

- commercial management of the vessel;
- vessel maintenance and crewing;
- purchasing and insurance; and
- shipyard supervision.

For more information on the management agreement we have with the Manager and the Administrative Services Agreement we have with the Manager, please read “Item 7. — Unitholders and Related Party Transactions”.

Crewing

The Manager crews its vessels primarily with Filipino, Ukrainian, Polish, Russian, Indian, Georgian, Romanian and Sri Lankan officers and Filipino, Georgian, Romanian, Ethiopian, Indian and Ukrainian seamen. For these nationalities, officers and seamen are referred to the Manager by local crewing agencies. The Manager is also responsible for travel and payroll of the crew. The crewing agencies handle each seaman’s training. The Manager requires that all of its seamen have the qualifications and licenses required to comply with international regulations and shipping conventions.

Risk of Loss and Liability Insurance

General

The operation of any cargo vessel includes risks such as mechanical failure, physical damage, collision, property loss, cargo loss or damage, business interruption due to political circumstances in foreign countries, hostilities, and labor strikes. In addition, there is always an inherent possibility of marine disaster, including oil spills and other environmental mishaps, and the liabilities arising from owning and operating vessels in international trade. The OPA, which imposes virtually unlimited liability upon owners, operators and demise charterers of any vessel trading in the United States exclusive economic zone for certain oil pollution accidents in the United States, has made liability insurance more expensive for ship owners and operators trading in the U.S. market. While we believe that our present insurance coverage is adequate, not all risks can be insured, and there can be no guarantee that any specific claim will be paid, or that we will always be able to obtain adequate insurance coverage at reasonable rates.

Hull and Machinery and War Risk Insurances

We have marine hull and machinery and war risk insurance, which include coverage of the risk of actual or constructive total loss, for all of our owned vessels. Each of the owned vessels is covered up to at least fair market value, with a deductible of \$0.1 million per Handymax and Panamax vessels and \$0.2 million per Capesize vessels for the hull and machinery insurance. We have also extended our war risk insurance to include war loss of hire for any loss of time to the vessel, including for physical repairs, caused by a warlike incident and piracy seizure for up to 270 days of detention / loss of time. There are no deductibles for the war risk insurance or the war loss of hire cover.

We have arranged, as necessary, increased value insurance for our vessels. With the increased value insurance, in case of total loss of the vessel, we will be able to recover the sum insured under the increased value policy in addition to the sum insured under the hull and machinery policy. Increased value insurance also covers excess liabilities that are not recoverable in full by the hull and machinery policies by reason of underinsurance. We do not expect to maintain loss of hire insurance for our vessels. Loss of hire insurance covers business interruptions that result in the loss of use of a vessel.

Protection and Indemnity Insurance

Protection and indemnity insurance is expected to be provided by mutual protection and indemnity associations, or P&I Associations, who indemnify members in respect of discharging their tortious, contractual or statutory third-party legal liabilities arising from the operation of an entered ship. Such liabilities include but are not limited to third-party liability and other related expenses from injury or death of crew, passengers and other third parties, loss or damage to cargo, claims arising from collisions with other vessels, damage to other third-party property, pollution arising from oil or other substances, and salvage, towing and other related costs, including wreck removal. Protection and indemnity insurance is a form of mutual indemnity insurance, extended by protection and indemnity mutual associations and always provided in accordance with the applicable associations' rules and members' agreed terms and conditions.

Navios Partners' fleet is currently entered for protection and indemnity insurance with International Group associations where, in line with all International Group Clubs, coverage for oil pollution is limited to \$1.0 billion per event. The 13 P&I Associations that comprise the International Group insure approximately 95% of the world's commercial tonnage and have entered into a pooling agreement to collectively reinsure each association's liabilities. Each vessel that Navios Partners acquires will be entered with P&I Associations of the International Group. Under the International Group reinsurance program for the current policy year, each P&I club in the International Group is responsible for the first \$10.0 million of every claim. In every claim the amount in excess of \$10.0 million and up to \$80.0 million is shared by the clubs under the pooling agreement. Any claim in excess of \$80.0 million is reinsured by the International Group in the international reinsurance market under the General Excess of Loss Reinsurance Contract. This policy currently provides an additional \$2.0 billion of coverage for non-oil pollution claims. Further to this, an additional reinsurance layer has been placed by the International Group for claims up to \$1.0 billion in excess of \$2.08 billion, i.e. \$3.08 billion in total. For passengers and crew claims, the overall limit is \$3.0 billion for any one event on any one vessel with a sub-limit of \$2.0 billion for passengers. With the exception of pollution, passenger or crew claims, should any other P&I claim exceed Group reinsurance limits, the provisions of all International Group Club's overspill claim rules will operate and members of any International Group Club will be liable for additional contributions in accordance with such rules. To date, there has never been an overspill claim, or one even nearing this level.

As a member of the P&I Associations, which is a member of the International Group, Navios Partners will be subject to calls payable to the associations based on the individual fleet record, the associations' overall claim records as well as the claim records of all other members of the individual associations, and members of the pool of P&I Associations comprising the International Group. The P&I Associations' policy year commences on February 20th. Calls are levied by means of Estimated Total Premiums ("ETP") and the amount of the final installment of the ETP varies according to the actual total premium ultimately required by the club for a particular policy year. Members have a liability to pay supplementary calls which might be levied by the board of directors of the club if the ETP is insufficient to cover amounts paid out by the club.

Should a member leave or entry cease with any of the associations, at the Club's Managers discretion, they may be also be liable to pay release calls or provide adequate security for the same amount. Such calls are levied in respect of potential outstanding Club/Member liabilities on open policy years and include but are not limited to liabilities for deferred calls and supplementary calls.

Uninsured Risks

Not all risks are insured and not all risks are insurable. The principal insurable risks which nonetheless remain uninsured across our fleet are "loss of hire" and "strikes," except in cases of loss of hire due to war or a piracy event or due to presence or suspected presence of Contraband on board. Specifically, Navios Partners does not insure these risks because the costs are regarded as disproportionate. These insurances provide, subject to a deductible, a limited indemnity for hire that would not be receivable by the ship owner for reasons set forth in the policy. Should a vessel on time charter, where the vessel is paid a fixed hire day by day, suffer a serious mechanical breakdown, the daily hire will no longer be payable by the charterer. The purpose of the loss of hire insurance is to secure the loss of hire during such periods. In the case of strikes insurance, if a vessel is being paid a fixed sum to perform a voyage and the ship becomes strike bound at a loading or discharging port, the insurance covers the loss of earnings during such periods.

However, in some cases when a vessel is transiting high risk war and/or piracy areas, we arrange war loss of hire insurance to cover up to 270 days of detention/loss of time. When our charterers engage in legally permitted trading in locations which may still be subject to sanctions or boycott, such as Iran, Syria and Sudan, our insurers may be contractually or by operation of law prohibited from honoring our insurance contract for such trading, which could result in reduced insurance coverage for losses incurred by the related vessels. Furthermore, our insurers and we may be prohibited from posting or otherwise be unable to post security in respect of any incident in such locations, resulting in the loss of use of the relevant vessel and negative publicity for our Company which could negatively impact our business, results of operations, cash flows and share price.

There are no deductibles for the war loss of hire cover in case of piracy and contraband cover.

Even if our insurance coverage is adequate to cover our losses, if we suffer a loss of a vessel, we may not be able to obtain a timely replacement for any lost vessel. Furthermore, in the future, we may not be able to obtain adequate insurance coverage at reasonable rates for our fleet. For example, more stringent environmental regulations have led to increased costs for, and in the future may result in the lack of availability of, insurance against risks of environmental damage or pollution. We may also be subject to calls, or premiums, in amounts based not only on our own claim records but also on the claim records of all other members of the protection and indemnity associations through which we receive indemnity insurance coverage. A catastrophic oil spill or marine disaster could exceed our insurance coverage, which could have a material adverse effect on our business, results of operations and financial condition. Any uninsured or underinsured loss could harm our business and financial condition. In addition, the insurance may be voidable by the insurers as a result of certain actions, such as vessels failing to maintain required certification.

Credit Risk Insurance

On November 15, 2012 (as amended in March 2014), Navios Holdings and Navios Partners entered into an agreement (the "Navios Holdings Guarantee") by which Navios Holdings will provide supplemental credit default insurance with a maximum cash payment of \$20.0 million. The final settlement of the amount due will take place at any time but in no case later than December 31, 2019, in accordance with a letter of agreement effective as of December 29, 2017. During the year ended December 31, 2018, the Company did not submit any claims to Navios Holdings for charterers' default under this agreement. During the years ended December 31, 2017 and 2016, the Company submitted claims for charterers' default under this agreement to Navios Holdings for a total amount of \$7.2 million and \$9.2 million, respectively, net of applicable deductions, of which \$7.6 million and \$9.6 million was recorded as "Other income". Net of the \$2.0 million write down, the claim amounted to \$17.6 million, including accrued interest and discount unwinding of \$0.4 million for the year ended December 31, 2018, presented under the caption "Amounts due from related parties-short term" in the Consolidated Balance Sheets.

Regulation

Sources of applicable rules and standards

Shipping is one of the world's most heavily regulated industries, and, in addition, it is subject to many industry standards. Government regulation significantly affects the ownership and operation of vessels. These regulations consist mainly of rules and standards established by international conventions, but they also include national, state, and local laws and regulations in force in jurisdictions where vessels may operate or are registered, and which are commonly more stringent than international rules and standards. This is the case particularly in the United States and, increasingly, in Europe.

A variety of governmental and private entities subject vessels to both scheduled and unscheduled inspections. These entities include local port authorities (the U.S. Coast Guard, harbor masters or equivalent entities), classification societies, flag state administration (country vessel of registry), and charterers, particularly terminal operators. Certain of these entities require vessel owners to obtain permits, licenses, and certificates for the operation of their vessels. Failure to maintain necessary permits or approvals could require a vessel owner to incur substantial costs or temporarily suspend operation of one or more of its vessels.

Heightened levels of environmental and quality concerns among insurance underwriters, regulators, and charterers continue to lead to greater inspection and safety requirements on all vessels and may accelerate the scrapping of older vessels throughout the industry. Increasing environmental concerns have created a demand for vessels that conform to stricter environmental standards. Vessel owners are required to maintain operating standards for all vessels that will emphasize operational safety, quality maintenance, continuous training of officers and crews and compliance with U.S. and international regulations.

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The International Maritime Organization, or IMO, has adopted a number of international conventions concerned with ship safety and with preventing, reducing or controlling pollution from ships. These fall into two main categories, consisting firstly of those concerned generally with ship safety standards, and secondly of those specifically concerned with measures to prevent pollution.

Ship safety regulation

In the former category the primary international instrument is the Safety of Life at Sea Convention of 1974, as amended, or SOLAS, together with the regulations and codes of practice that form part of its regime. Much of SOLAS is not directly concerned with preventing pollution, but some of its safety provisions are intended to prevent pollution as well as promote safety of life and preservation of property. These regulations have been and continue to be regularly amended as new and higher safety standards are introduced with which we are required to comply.

An amendment of SOLAS introduced the International Safety Management (ISM) Code, which has been effective since July 1998. Under the ISM Code the party with operational control of a vessel is required to develop an extensive safety management system that includes, among other things, the adoption of a safety and environmental protection policy setting forth instructions and procedures for operating its vessels safely and describing procedures for responding to emergencies. The ISM Code requires that vessel operators obtain a safety management certificate for each vessel they operate. This certificate evidences compliance by a vessel's management with code requirements for a safety management system. No vessel can obtain a certificate unless its manager has been awarded a document of compliance, issued by the flag state for the vessel, under the ISM Code. Noncompliance with the ISM Code and other IMO regulations, such as the mandatory ship energy efficiency management plan ("SEEMP") which is akin to a safety management plan and came into effect on January 1, 2013, may subject a ship owner to increased liability, may lead to decreases in available insurance coverage for affected vessels, and may result in the denial of access to, or detention in, some ports. For example, the United States Coast Guard and European Union authorities have indicated that vessels not in compliance with the ISM Code will be prohibited from trading in ports in the United States and European Union.

Another amendment of SOLAS, made after the terrorist attacks in the United States on September 11, 2001, introduced special measures to enhance maritime security, including the International Ship and Port Facilities Security Code (ISPS Code).

Our owned fleet maintains ISM and ISPS certifications for safety and security of operations. Each vessel's certificate must be periodically renewed and compliance must be periodically verified. In addition, the Manager voluntarily implements and maintains certifications pursuant to the International Organization for Standardization, or ISO, for its office and ships covering both quality of services and environmental protection (ISO 9001 and ISO 14001, respectively).

International regulations to prevent pollution from ships

In the second main category of international regulation, the primary instrument is the International Convention for the Prevention of Pollution from Ships, or MARPOL, which imposes environmental standards on the shipping industry set out in Annexes I-VI of MARPOL. These contain regulations for the prevention of pollution by oil (Annex I), by noxious liquid substances in bulk (Annex II), by harmful substances in packaged forms within the scope of the International Maritime Dangerous Goods Code (Annex III), by sewage (Annex IV), by garbage (Annex V), and by air emissions (Annex VI).

These regulations have been and continue to be regularly amended as new and more stringent standards of pollution prevention are introduced with which we are required to comply. For example, MARPOL Annex VI, together with the NOx Technical Code established thereunder, sets limits on sulfur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances, such as chlorofluorocarbons. It also includes a global cap on the sulfur content of fuel oil and allows for special areas to be established with more stringent controls on emissions. Originally adopted in September 1997, Annex VI came into force in May 2005 and was amended in October 2008 (as was the NOx Technical Code) to provide for progressively more stringent limits on such emissions from 2010 onwards.

The revised Annex VI provides, in particular, for a reduction of the global sulfur cap. After considering the issue for many years, the IMO announced on October 27, 2016 that it was proceeding with a requirement for 0.5% m/m sulfur content in marine fuel (down from current levels of 3.5%) outside the ECAs starting on January 1, 2020. Under Annex VI, the 2020 date was subject to review as to the availability of the required fuel oil. Annex VI required the fuel availability review to be completed by 2018 but was ultimately completed in 2016. Therefore, by 2020, ships will be required to remove sulfur from emissions through the use of emission control equipment, or purchase marine fuel with 0.5% sulfur content, which may see increased demand and higher prices due to supply constraints. Installing pollution control equipment or using lower sulfur fuel could result in significantly increased costs to our company. Similarly Annex VI requires Tier III standards for NOx emissions to be applied to ships constructed and engines installed in ships operating in NOx ECAs from January 1, 2016. We anticipate incurring costs to comply with these more stringent standards by implementing measures such as fuel switching, vessel modification adding distillate fuel storage capacity, or addition of exhaust gas cleaning scrubbers, and may require installation and operation of further control equipment at significantly increased cost.

The revised Annex VI further allows for designation, in response to proposals from member parties, of Emission Control Areas (ECAs) that impose accelerated and/or more stringent requirements for control of sulfur oxide, particulate matter, and nitrogen oxide emissions. Thus far, ECAs have been formally adopted for the Baltic Sea area (limits SO_x emissions only); the North Sea area including the English Channel (limiting SO_x emissions only) and the North American ECA (which came into effect from August 1, 2012 limiting SO_x, NO_x and particulate matter emissions). In October 2016, the IMO approved the designation of the North Sea and Baltic Sea as ECAs for NO_x under Annex VI as well, which is scheduled for adoption in 2017 and would take effect in January 2021. The United States Caribbean Sea ECA entered into force on January 1, 2013 and has been effective since January 1, 2014, limiting SO_x, NO_x and particulate matter emissions. For the currently-designated ECAs, much lower sulfur limits on fuel oil content are being phased in (0.1% from January 1, 2015).

At its 68th session (2015), the Marine Environmental Protection Committee (the “MEPC”) amended the 2014 Guidelines on EEDI survey and certification as well as the method of calculating of EEDI for new ships, the latter of which was again amended at the 70th session (2016). At its 70th session, the MEPC also adopted mandatory requirements for ships of 5,000 gross tonnage or greater to collect fuel consumption data for each type of fuel used, and report the data to the flag State after the end of each calendar year. At the 72nd MEPC session (April 2018), the committee adopted the goal of reducing annual greenhouse gas emissions from ships by at least 50% by 2050 as compared to 2008 levels, which if implemented could significantly increase operational costs associated with equipment upgrades and fuel costs.

The revised Annex I to the MARPOL Convention entered into force in January 2007. It incorporates various amendments to the MARPOL Convention and imposes construction requirements for oil tankers delivered on or after January 1, 2010. On August 1, 2007, Regulation 12A (an amendment to Annex I) came into force imposing performance standards for accidental oil fuel outflow and requiring oil fuel tanks to be located inside the double-hull in all ships with an aggregate oil fuel capacity of 600 cubic meters and above, and which are delivered on or after August 1, 2010, including ships for which the building contract is entered into on or after August 1, 2007 or, in the absence of a contract, for which keel is laid on or after February 1, 2008. We intend that all of our newbuilt tanker vessels, if any, will comply with Regulation 12A.

Greenhouse gas emissions

In February 2005, the Kyoto Protocol to the United Nations Framework Convention on Climate Change entered into force. Pursuant to the Kyoto Protocol, adopting countries are required to implement national programs to reduce emissions of certain gases, generally referred to as greenhouse gases, which are suspected of contributing to global warming. Currently, the greenhouse gas emissions from international shipping do not come under the Kyoto Protocol.

In December 2011, UN climate change talks took place in Durban and concluded with an agreement referred to as the Durban Platform for Enhanced Action. In preparation for the Durban Conference, the International Chamber of Shipping (“ICS”) produced a briefing document, confirming the shipping industry’s commitment to cut shipping emissions by 20% by 2020, with significant further reductions thereafter. The ICS called on the participants in the Durban Conference to give the IMO a clear mandate to deliver emissions reductions through market-based measures, for example a shipping industry environmental compensation fund. Notwithstanding the ICS’s request for global regulation of the shipping industry, the Durban Conference did not result in any proposals specifically addressing the shipping industry’s role in climate change.

Although regulation of greenhouse gas emissions in the shipping industry was discussed during the 2015 UN Climate Change Conference in Paris (the “Paris Conference”), the agreement reached among the 195 nations did not expressly reference the shipping industry. Following the Paris Conference, the IMO announced it would continue its efforts on this issue at the MEPC, and at its 70th session, the MEPC approved a Roadmap for developing a comprehensive GHG emissions reduction strategy for ships, which includes the goal of adopting an initial strategy and emission reduction commitments in 2018. The Roadmap also provides for additional studies and further intersessional work, to be continued at the 71st session in 2017, with a goal of adopting a revised strategy in 2023 to include short-, mid- and long-term reduction measures and schedules for implementation. In April 2018, the committee charged with creating the reduction strategy must finalize the initial draft of the strategy and submit a report to MEPC.

On August 3, 2017, the U.S. formally submitted a notice of withdrawal from the Paris Agreement. Thus far, no other nations have withdrawn from the Paris Agreement, so it remains to be seen whether the withdrawal will significantly impact greenhouse gas developments moving forward. The United Nations’ Katowice Climate Change Conference occurred December 2-14, 2018. The key objective of the meeting was to begin adopting the implementation guidelines of the Paris Climate Change Agreement.

On June 28, 2013, the EC adopted a communication setting out a strategy for progressively including greenhouse gas emissions from maritime transport in the EU’s policy for reducing its overall GHG emissions. The first step proposed by the EC was an EU regulation (as defined below) to an EU-wide system for the monitoring, reporting and verification of carbon dioxide emissions from large ships starting in 2018. EU Regulation 2015/757 was adopted on April 29, 2015 and took effect on July 1, 2015, with monitoring, reporting and verification requirements beginning on January 1, 2018. This Regulation appears to be indicative of an intent to maintain pressure on the international negotiating process. The EC also adopted an Implementing Regulation, which entered into force in November 2016, setting templates for monitoring plans, emissions reports and compliance documents pursuant to Regulation 2015/757.

Other international regulations to prevent pollution

In addition, the IMO, the United States and states within the United States have proposed or implemented requirements relating to the management of ballast water to prevent the harmful effects of foreign invasive species. In February 2004, the IMO adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments (the "BWM Convention"). The BWM Convention's implementing regulations call for a phased introduction of mandatory ballast water exchange requirements, to be replaced in time with mandatory concentration limits, as well as other obligations including recordkeeping requirements and implementation of a Ballast Water and Sediments Management Plan. The BWM Convention entered into force on September 8, 2017. As of February 11, 2019, the BWM Convention had 79 contracting states for 80.94% of world gross tonnage. New ships constructed after September 8, 2017 must comply on delivery with the BWM Convention. For vessels constructed prior to September 8, 2017, installation of ballast water management systems must take place at the first renewal survey following September 8, 2017 (the date the BWM Convention entered into force). Ships built before September 8, 2017 must comply with IMO discharge standards by the due date for their IOPPC renewal survey under MARPOL Annex 1. All ships must meet the IMO ballast water discharge standard by September 8, 2024. The BWM Convention requires ships to manage ballast water in a manner that removes, renders harmless or avoids the update or discharge of aquatic organisms and pathogens within ballast water and sediment. Recently updated Ballast Water and Sediment Management Plan guidance includes more robust testing and performance specifications. The entry of the BWM Convention and revised guidance, as well as similar ballast water treatment requirements in certain jurisdictions (such as the United States and states within the United States), will likely result in substantial compliance costs relating to the installation of equipment on our vessels to treat ballast water before it is discharged and other additional ballast water management and reporting requirements. In the United States, the Vessel Incidental Discharge Act ("VIDA") was signed into law on December 4, 2018, which requires the U.S. Coast Guard to address the regulation of discharges incidental to the normal operation of commercial vessels into navigable waters, including management of ballast water. This change is expected to result in a simplification of the current patch-work state of ballast water regulation in the United States, which is currently variably regulated by the U.S. Environmental Protection Agency and the various states.

European regulations

European regulations in the maritime sector are in general based on international law. However, since the *Erika* incident in 1999, the European Community has become increasingly active in the field of regulation of maritime safety and protection of the environment. It has been the driving force behind a number of amendments of MARPOL (including, for example, changes to accelerate the time-table for the phase-out of single hull tankers, and to prohibit the carriage in such tankers of heavy grades of oil), and if dissatisfied either with the extent of such amendments or with the time-table for their introduction it has been prepared to legislate on a unilateral basis. It should be noted, for instance, that the EU has its own regime as far as ship emissions are concerned and whilst it does in some respects reflect the IMO regime, this is not always the case. As far as sulfur dioxide emissions are concerned, for example, the EU regulation has not just caught up with the IMO limits for sulfur in ECAs, but it continues to have certain elements that exceed IMO regulations (e.g., as of January 1, 2015, EU Member States must ensure that ships in the Baltic, the North Sea and the English Channel are using gas oils with a sulfur content of no more than 0.10%).

In some instances where it has done so, international regulations have subsequently been amended to the same level of stringency as that introduced in Europe, but the risk is well established that EU regulations may from time to time impose burdens and costs on ship owners and operators which are additional to those involved in complying with international rules and standards. In December 2016, the EU signed into law the National Emissions Ceiling ("NEC") Directive, which entered into force on December 31, 2016. The NEC must be implemented by individual member states through particular laws in each state by June 30, 2018. The NEC aims to set stricter emissions limits on SO₂, ammonia, non-methane volatile organic compounds, NO_x and fine particulate (PM_{2.5}) by setting new upper limits for emissions of these pollutants, starting in 2020. While the NEC is not specifically directed toward the shipping industry, the EU specifically mentions the shipping industry in its announcement of the NEC as a contributor to emissions of PM_{2.5}, SO₂ and NO_x. Implementation of new laws by member states to reduce emissions may ultimately result in increased costs to us to comply with the more stringent standards.

In some areas of regulation the EU has introduced new laws without attempting to procure a corresponding amendment of international law. Notably, it adopted in 2005 a directive on ship-source pollution, imposing criminal sanctions for pollution not only where this is caused by intent or recklessness (which would be an offense under MARPOL), but also where it is caused by "serious negligence." The directive could therefore result in criminal liability being incurred in circumstances where it would not be incurred under international law. Experience has shown that in the emotive atmosphere often associated with pollution incidents, retributive attitudes towards ship interests have found expression in negligence being alleged by prosecutors and found by courts. Moreover, there is skepticism that the notion of "serious negligence" is likely to prove any narrower in practice than ordinary negligence. Criminal liability for a pollution incident could not only result in us incurring substantial penalties or fines but may also, in some jurisdictions, facilitate civil liability claims for greater compensation than would otherwise have been payable.

United States environmental regulations and laws governing civil liability for pollution

Environmental legislation in the United States merits particular mention as it is in many respects more onerous than international laws, representing a high-water mark of regulation with which ship owners and operators must comply, and of liability likely to be incurred in the event of non-compliance or an incident causing pollution.

U.S. federal legislation, including notably the Oil Pollution Act of 1990, or OPA, establishes an extensive regulatory and liability regime for the protection and cleanup of the environment from oil spills, including cargo or bunker oil spills from tankers. OPA affects all owners and operators whose vessels trade in the United States, its territories and possessions or whose vessels operate in United States waters, which includes the United States' territorial sea and its 200 nautical mile exclusive economic zone. Under OPA, vessel owners, operators and bareboat charterers are "responsible parties" and are jointly, severally and strictly liable (unless the spill results solely from the act or omission of a third party, an act of God or an act of war) for all containment and clean-up costs and other damages arising from discharges or substantial threats of discharges, of oil from their vessels. In addition to potential liability under OPA as the relevant federal legislation, vessel owners may in some instances incur liability on an even more stringent basis under state law in the particular state where the spillage occurred.

Title VII of the Coast Guard and Maritime Transportation Act of 2004, or the CGMTA, amended OPA to require the owner or operator of any non-tank vessel of 400 gross tons or more, that carries oil of any kind as a fuel for main propulsion, including bunkers, to prepare and submit a response plan for each vessel on or before August 8, 2005. The implementing regulations took effect on October 30, 2013. The vessel response plans must include detailed information on actions to be taken by vessel personnel to prevent or mitigate any discharge or substantial threat of such a discharge of ore from the vessel due to operational activities or casualties.

OPA liability limits are periodically adjusted for inflation, and the U.S. Coast Guard issued a final rule on November 19, 2015 to reflect increases in the Consumer Price Index. With this adjustment, OPA currently limits liability of the responsible party for single-hull tank vessels over 3,000 gross tons to the greater of \$3,500 per gross ton or \$25.846 million (this amount is reduced to \$7.05 million if the vessel is less than 3,000 gross tons). For tank vessels over 3,000 gross tons, other than a single-hull vessel, liability is limited to \$2,200 per gross ton or \$18.8 million (or \$4.7 million for a vessel less than 3,000 gross tons), whichever is greater. Under the OPA, these liability limits do not apply if an incident was directly caused by violation of applicable United States federal safety, construction or operating regulations or by a responsible party's gross negligence or willful misconduct, or if the responsible party fails or refuses to report the incident or to cooperate and assist in connection with oil removal activities.

In response to the Deepwater Horizon incident in the Gulf of Mexico, in 2010 the U.S. Congress proposed, but did not formally adopt, legislation to amend OPA to mandate stronger safety standards and increased liability and financial responsibility for offshore drilling operations. While Congressional activity on this topic is expected to continue to focus on offshore facilities rather than on vessels generally, it cannot be known with certainty what form any such new legislative initiatives may take.

In addition, the Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA, which applies to the discharge of hazardous substances (other than oil) whether on land or at sea, contains a similar liability regime and provides for cleanup, removal and natural resource damages. Liability under CERCLA is limited to the greater of \$300 per gross ton or \$0.5 million for vessels not carrying hazardous substances as cargo or residue, unless the incident is caused by gross negligence, willful misconduct, or a violation of certain regulations, in which case liability is unlimited.

Similarly, in response to the Deepwater Horizon incident, the EU issued "Directive 2013/30/EU of the European Parliament and of the Council of June 12, 2013 on safety of offshore oil and gas operations." The objective of this Directive is to reduce as far as possible the occurrence of major accidents relating to offshore oil and gas operations and to limit their consequences, thus increasing the protection of the marine environment and coastal economies against pollution, establishing minimum conditions for safe offshore exploration and exploitation of oil and gas and limiting possible disruptions to Union indigenous energy production, and to improve the response mechanisms in case of an accident. Member states had to implement the Directive by July 19, 2015. As far as the environment is concerned, the UK has various regulations such as: the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 (OSDEF), the 2015 amendments to the Merchant Shipping (Oil Pollution Preparedness, Response and Cooperation Convention) Regulations 1998 (OPRC 1998) and other environmental Directive requirements, specifically the Environmental Management System. The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 will implement the licensing Directive requirements.

We currently maintain, for each of our owned vessels, insurance coverage against pollution liability risks in the amount of \$1.0 billion per incident. The insured risks include penalties and fines as well as civil liabilities and expenses resulting from accidental pollution. However, this insurance coverage is subject to exclusions, deductibles and other terms and conditions. If any liabilities or expenses fall within an exclusion from coverage, or if damages from a catastrophic incident exceed the \$1.0 billion limitation of coverage per incident, our cash flow, profitability and financial position could be adversely impacted.

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Under OPA, an owner or operator of a fleet of vessels is required only to demonstrate evidence of financial responsibility in an amount sufficient to cover the vessel in the fleet having the greatest maximum liability under OPA. Under the self-insurance provisions, the ship owner or operator must have a net worth and working capital, measured in assets located in the United States against liabilities located anywhere in the world, that exceeds the applicable amount of financial responsibility. We have complied with the U.S. Coast Guard regulations by providing a certificate of responsibility from third party entities that are acceptable to the U.S. Coast Guard evidencing sufficient self-insurance.

The U.S. Coast Guard's regulations concerning certificates of financial responsibility provide, in accordance with OPA, that claimants may bring suit directly against an insurer or guarantor that furnishes certificates of financial responsibility. If such insurer or guarantor is sued directly, it is prohibited from asserting any contractual defense that it may have had against the responsible party and is limited to asserting those defenses available to the responsible party and the defense that the incident was caused by the willful misconduct of the responsible party. Certain organizations, which had typically provided certificates of financial responsibility under pre-OPA laws, including the major protection and indemnity organizations, have declined to furnish evidence of insurance for vessel owners and operators if they are subject to direct actions or required to waive insurance policy defenses. This requirement may have the effect of limiting the availability of the type of coverage required by the Coast Guard and could increase our costs of obtaining this insurance as well as the costs of our competitors that also require such coverage.

OPA specifically permits individual states to impose their own liability regimes with regard to oil pollution incidents occurring within their boundaries, and some states' environmental laws impose unlimited liability for oil spills. In some cases, states which have enacted such legislation have not yet issued implementing regulations defining vessels owners' responsibilities under these laws.

The United States Clean Water Act ("CWA") prohibits the discharge of oil or hazardous substances in U.S. navigable waters and imposes strict liability in the form of penalties for unauthorized discharges. The CWA also imposes substantial liability for the costs of removal, remediation and damages and complements the remedies available under CERCLA. The EPA regulates the discharge of ballast water and other substances incidental to the normal operation of vessels in U.S. waters using a Vessel General Permit (VGP) system pursuant to the CWA, in order to combat the risk of harmful organisms that can travel in ballast water carried from foreign ports and to minimize the risk of water pollution through numerous specified effluent streams incidental to the normal operation of vessels. On March 28, 2013 the EPA adopted the 2013 VGP which took effect on December 19, 2013. The VGP imposes a numeric standard to control the release of non-indigenous invasive species in ballast water discharges. In addition, through the CWA certification provisions that allow U.S. states to place additional conditions on use of the VGP within state waters, a number of states have proposed or implemented a variety of stricter ballast water requirements including, in some states, specific treatment standards.

On December 4, 2018, the Vessel Incidental Discharge Act ("VIDA") was signed into law, which establishes a new framework for regulation of discharges incidental to the normal operation of commercial vessels into navigable waters of the United States, including management of ballast water. Under VIDA, the U.S. EPA is required to develop performance standards within two years and then requires the U.S. Coast Guard to develop regulations for the implementation and enforcement of those standards within the following two years. This change is expected to result in a simplification of the current patch-work of ballast water regulation in the United States, which is currently variably regulated by the U.S. Environmental Protection Agency and the various states. As a result of the passage of VIDA, the current VGP will remain in force until the U.S. Coast Guard finalizes its regulations under VIDA.

Coast Guard regulations require commercial ships operating in U.S. waters to manage ballast water by meeting certain requirements, which include using a U.S. type-approved Ballast Water Management System ("BWMS"), temporarily using a foreign-type BWMS that has been accepted by the Coast Guard, using ballast water obtained from a U.S. Public Water System, discharge ballast water into a shore-side facility or not discharge ballast water within 12 nautical miles. Vessel owners/operators may request an extension to the compliance deadline by showing that, despite all efforts, it cannot comply with one of the approved systems or compliance methods. There are numerous foreign-approved Ballast Water Treatment Systems ("BWTS") in the Coast Guard's list of approved Alternate Management Systems. The Coast Guard has type approved numerous Ballast Water Management Systems ("BWMS"), which claim to meet the range of requirements that most vessel owners and operators described in their extension requests in the past. Due to the increase in approvals, it will become more difficult to receive compliance extensions and thus could result in significant costs to install an approved BWTS. Failure to comply with U.S. ballast water regulations, including installation of BWTS by September 8, 2017, could result in civil or criminal fines or penalties.

The Federal Clean Air Act ("CAA") requires the EPA to promulgate standards applicable to emissions of volatile organic compounds and other air contaminants. Our vessels are subject to CAA vapor control and recovery standards ("VCS") for cleaning fuel tanks and conducting other operations in regulated port areas, and to CAA emissions standards for so-called "Category 3" marine diesel engines operating in U.S. waters. In April 2010, EPA adopted regulations implementing the provision of MARPOL Annex VI regarding

emissions from Category 3 marine diesel engines. Under these regulations, both U.S. and foreign-flagged ships must comply with the applicable engine and fuel standards of Annex VI, including the stricter North America ECA standards which took effect in August 2012, when they enter U.S. ports or operate in most internal U.S. waters including the Great Lakes. Annex VI requirements are discussed in greater detail above under “International regulations to prevent pollution from ships.” We may incur costs to install control equipment on our vessels to comply with the new standards.

Also under the CAA, since 1990 the U.S. Coast Guard has regulated the safety of VCSs that are required under EPA and state rules. Our vessels operating in regulated port areas have installed VCSs that are compliant with EPA, state and U.S. Coast Guard requirements. On July 16, 2013, the U.S. Coast Guard adopted regulations that made its VCS requirements more compatible with new EPA and State regulations, reflected changes in VCS technology, and codified existing U.S. Coast Guard guidelines. We intend to comply with all applicable state and U.S. federal regulations in the ports where our vessels call.

International laws governing civil liability for oil pollution damage

We operate a fleet of dry cargo vessels that are subject to national and international laws governing pollution from such vessels. Several international conventions impose and limit pollution liability from vessels. An owner of a tanker vessel carrying a cargo of “persistent oil” as defined by the International Convention for Civil Liability for Oil Pollution Damage (the “CLC”) is subject under the convention to strict liability for any pollution damage caused in a contracting state by an escape or discharge from cargo or bunker tanks. This liability is subject to a financial limit calculated by reference to the tonnage of the ship, and the right to limit liability may be lost if the spill is caused by the ship owner’s intentional or reckless conduct. Liability may also be incurred under the CLC for a bunker spill from the vessel even when she is not carrying such cargo, but is in ballast.

When a tanker is carrying clean oil products that do not constitute “persistent oil” that would be covered under the CLC, liability for any pollution damage will generally fall outside the CLC and will depend on other international conventions or domestic laws in the jurisdiction where the spillage occurs. The same principle applies to any pollution from the vessel in a jurisdiction which is not a party to the CLC. The CLC applies in over 100 jurisdictions around the world, but it does not apply in the United States, where the corresponding liability laws such as the OPA discussed above, are particularly stringent.

In 2001, the IMO adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage, or the Bunker Convention, which imposes strict liability on shipowners for pollution damage in jurisdictional waters of ratifying states caused by discharges of “bunker oil.” The Bunker Convention defines “bunker oil” as “any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil.” The Bunker Convention also requires registered owners of ships over a certain size to maintain insurance for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime (but not exceeding the amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims of 1976, as amended, or the 1976 Convention). The Bunker Convention became effective in contracting states on November 21, 2008 and, as of February 11, 2019, had 91 contracting states, representing 92.85% of the gross tonnage of the world’s merchant fleet. In other jurisdictions liability for spills or releases of oil from ships’ bunkers continues to be determined by the national or other domestic laws in the jurisdiction where the events or damages occur.

The Bunker Convention also provides vessel owners a right to limit their liability, depending on the applicable national or international regime. The 1976 Convention is the most widely applicable international regime limiting maritime pollution liability. Rights to limit liability under the 1976 Convention are forfeited where a spill is caused by a ship owner’s intentional or reckless conduct. Certain jurisdictions have ratified the IMO’s Protocol of 1996 to the 1976 Convention, referred to herein as the “Protocol of 1996.” The Protocol of 1996 provides for substantially higher liability limits in those jurisdictions than the limits set forth in the 1976 Convention. Finally, some jurisdictions, such as the United States, are not a party to either the 1976 Convention or the Protocol of 1996, and, therefore, a ship owner’s rights to limit liability for maritime pollution in such jurisdictions may be uncertain.

Security Regulations

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

- on-board installation of automatic information systems (“AIS”) to enhance vessel-to-vessel and vessel-to-shore communications;

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

Furthermore, additional security measures could be required in the future which could have a significant financial impact on us. The U.S. Coast Guard regulations, intended to be aligned with international maritime security standards, exempt non-U.S. vessels from MTSA vessel security measures, provided such vessels have on board a valid International Ship Security Certificate, or ISSC, that attests to the vessel's compliance with SOLAS security requirements and the ISPS Code. We will implement the various security measures addressed by the MTSA, SOLAS and the ISPS Code and take measures for the vessels to attain compliance with all applicable security requirements within the prescribed time periods. Although management does not believe these additional requirements will have a material financial impact on our operations, there can be no assurance that there will not be an interruption in operations to bring vessels into compliance with the applicable requirements and any such interruption could cause a decrease in charter revenues. Furthermore, additional security measures could be required in the future which could have a significant financial impact on us.

Taxation of the Partnership

United States Taxation

The following is a discussion of the material U.S. federal income tax considerations applicable to us. This discussion is based upon provisions of the Code, final and temporary regulations thereunder ("Treasury Regulations"), and administrative rulings and court decisions, all as in effect currently and during our year ended December 31, 2017 and all of which are subject to change, possibly with retroactive effect. Changes in these authorities may cause the tax consequences to vary substantially from the consequences described below. The following discussion is for general information purposes only and does not purport to be a comprehensive description of all of the U.S. federal income tax considerations applicable to us.

Election to be Treated as a Corporation: We have elected to be treated as a corporation for U.S. federal income tax purposes. As such, we are subject to U.S. federal income tax on our income to the extent it is from U.S. sources or otherwise is effectively connected with the conduct of a trade or business in the United States as discussed below.

Taxation of Operating Income: Substantially all of our gross income is attributable to the transportation of drybulk and related products. For this purpose, gross income attributable to transportation ("Transportation Income") includes income derived from, or in connection with, the use, the hiring for use, or the leasing for use (if any) of a vessel to transport cargo, or the performance of services directly related to the use of any vessel to transport cargo, and thus includes both time charter income and bareboat charter income (if any).

Transportation Income that is attributable to transportation that either begins or ends, but that does not both begin and end in the United States ("U.S. Source International Transportation Income") is considered to be 50.0% derived from sources within the United States. Transportation Income attributable to transportation that both begins and ends in the United States ("U.S. Source Domestic Transportation Income") is considered to be 100.0% derived from sources within the United States. Transportation Income attributable to transportation exclusively between non-U.S. destinations is considered to be 100.0% derived from sources outside the United States. Transportation Income derived from sources outside the United States generally is not subject to U.S. federal income tax.

We believe that we did not earn any U.S. Source Domestic Transportation Income for our fiscal year ended December 31, 2018 and expect that we will not earn any such income for future years. However, certain of our activities gave rise to U.S. Source International Transportation Income, and future expansion of our operations could result in an increase in the amount of U.S. Source International Transportation Income, which generally would be subject to U.S. federal income taxation, unless the exemption from U.S. federal income taxation under Section 883 of the Code (the "Section 883 Exemption") applied.

The Section 883 Exemption: In general, the Section 883 Exemption provides that if a non-U.S. corporation satisfies the requirements of Section 883 of the Code and the Treasury Regulations thereunder (the "Section 883 Regulations"), it will not be subject to the net basis and branch profit taxes or the 4.0% gross basis tax described below on its U.S. Source International Transportation Income. The Section 883 Exemption applies only to U.S. Source International Transportation Income and does not apply to U.S. Source Domestic Transportation Income. We qualify for the Section 883 Exemption if, among other matters, we meet the following three requirements:

- We are organized in a jurisdiction outside the United States that grants an equivalent exemption from tax to corporations organized in the United States with respect to the types of U.S. Source International Transportation Income that we earn (an "Equivalent Exemption");

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- We satisfy the Publicly Traded Test (as described below) or the Qualified Shareholder Stock Ownership Test (as described below); and
- We meet certain substantiation, reporting and other requirements.

We are organized under the laws of the Republic of the Marshall Islands. The U.S. Treasury Department has recognized the Republic of the Marshall Islands as a jurisdiction that grants an Equivalent Exemption with respect to the type of income we have earned and are expected to earn. Consequently, our U.S. Source International Transportation Income (including for this purpose, any such income earned by our subsidiaries, that have elected to be disregarded as entities separate from us for U.S. federal income tax purposes) will be exempt from U.S. federal income taxation provided we meet the Publicly Traded Test or the Qualified Shareholder Stock Ownership Test and we satisfy certain substantiation, reporting and other requirements.

In order to meet the “Publicly Traded Test”, the equity interests in the non-U.S. corporation at issue must be “primarily traded” and “regularly traded” on an established securities market either in the United States or in a jurisdiction outside the United States that grants an Equivalent Exemption. The Section 883 Regulations generally provide, in pertinent part, that a class of equity interests in a non-U.S. corporation will be considered to be “primarily traded” on an established securities market in a given country if the number of units of such class that are traded during any taxable year on all established securities markets in that country exceeds the number of units in such class that are traded during that year on established securities markets in any other single country. Equity interests in a non-U.S. corporation will be considered to be “regularly traded” on an established securities market under the Section 883 Regulations provided one or more classes of such equity interests representing more than 50.0% of the aggregate vote and value of all of the outstanding equity interests in the non-U.S. corporation satisfy certain listing and trading volume requirements. These listing and trading volume requirements are satisfied with respect to a class of equity interests listed on an established securities market provided trades in such class are effected, other than in de minimis quantities, on such market on at least 60 days during the taxable year and the aggregate number of units in such class that are traded on such market or markets during the taxable year are at least 10% of the average number of units outstanding in that class during the taxable year (with special rules for short taxable years). In addition, a class of equity interests traded on an established securities market in the United States will be considered to satisfy the listing and trading volume requirements if the equity interests in such class are “regularly quoted by dealers making a market” in such class (within the meaning of the Section 883 Regulations). Notwithstanding these rules, a class of equity that would otherwise be treated as “regularly traded” on an established securities market will not be so treated if, for more than half of the number of days during the taxable year, one or more “5.0% unitholders” (i.e., unitholders owning, actually or constructively, at least 5.0% of the vote and value of that class) own in the aggregate 50.0% or more of the vote and value of that class (the “Closely Held Block Exception”), unless the corporation can establish that a sufficient proportion of such 5.0% unitholders are Qualified Shareholders (as defined below) so as to preclude other persons who are 5.0% unitholders from owning 50.0% or more of the value of that class for more than half the days during the taxable year.

Because substantially all of our common units are and have been traded on the NYSE, which is considered to be an established securities market, our common units are and have been “primarily traded” on an established securities market for purposes of the Publicly Traded Test.

Further, although the matter is not free from doubt, based upon our expected cash flow and distributions on our outstanding equity interests, we believe that our common units represented more than 50.0% of the total value of all of our outstanding equity interests, and we believe that we satisfied the trading volume requirements described previously for our fiscal year ended December 31, 2018. We believe that we did not lose eligibility for the Section 883 Exemption as a result of the Closely Held Block Exception for such year, and consequently, we believe we satisfied the Publicly Traded Test for our fiscal year ended December 31, 2018.

While there can be no assurance that we will continue to satisfy the requirements for the Publicly Traded Test in the future, and our board of directors could determine that it is in our best interests to take an action that would result in our not being able to satisfy the Publicly Traded Test, we presently expect, subject to the possibility that our common units may be delisted by a qualifying exchange, to continue to satisfy the requirements for the Publicly Traded Test and the Section 883 Exemption for future years. Please see below for a discussion of the consequences in the event we do not satisfy the Publicly Traded Test or otherwise fail to qualify for the Section 883 Exemption.

Please also see the risk factor entitled “D. Risk Factors—Risks Related to Our Units—The New York Stock Exchange may delist our securities from trading on its exchange, which could limit your ability to trade our securities and subject us to additional trading restrictions”.

The Net Basis Tax and Branch Profits Tax: If we earn U.S. Source International Transportation Income and the Section 883 Exemption does not apply, the U.S. source portion of such income may be treated as effectively connected with the conduct of a trade or business in the United States (“Effectively Connected Income”) if we have a fixed place of business in the United States and substantially all of our U.S. Source International Transportation Income is attributable to regularly scheduled transportation or, in the case of bareboat charter income (if any), is attributable to a fixed place of business in the United States.

We believe that, for our fiscal year ended December 31, 2018, none of our U.S. Source International Transportation Income was attributable to regularly scheduled transportation or received pursuant to bareboat charters. As a result, we believe that none of our U.S. Source International Transportation Income for such year would be treated as Effectively Connected Income even in the event we

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did not qualify for the Section 883 Exemption. However, there is no assurance that we will not earn income pursuant to regularly scheduled transportation or bareboat charters attributable to a fixed place of business in the United States in the future, which would result in such income being treated as Effectively Connected Income. In addition, any U.S. Source Domestic Transportation Income may be treated as Effectively Connected Income. Any income we earn that is treated as Effectively Connected Income would be subject to U.S. federal corporate income tax (presently imposed at a 21.0% rate) as well as 30.0% branch profits tax imposed under Section 884 of the Code. In addition, a 30.0% branch interest tax could be imposed on certain interest paid or deemed paid by us.

On the sale of a vessel that has produced Effectively Connected Income, we could be subject to the net basis corporate income tax as well as branch profits tax with respect to the gain recognized up to the amount of certain prior deductions for depreciation that reduced Effectively Connected Income. Otherwise, we would not be subject to U.S. federal income tax with respect to gain realized on the sale of a vessel, provided the gain is not attributable to an office or other fixed place of business maintained by us in the United States under U.S. federal income tax principles.

The 4.0% Gross Basis Tax: If the Section 883 Exemption does not apply and the net basis tax does not apply, we would be subject to a 4.0% U.S. federal income tax on the U.S. source portion of our gross U.S. Source International Transportation Income, without benefit of deductions.

Marshall Islands Taxation

Based on the opinion of Reeder and Simpson, P.C., our counsel as to matters of the law of the Republic of the Marshall Islands, because we, our operating subsidiary and our controlled affiliates do not, and do not expect to, conduct business or operations in the Republic of the Marshall Islands, neither we nor our controlled affiliates will be subject to income, capital gains, profits or other taxation under current Marshall Islands law. As a result, distributions by our operating subsidiary and our controlled affiliates to us will not be subject to Marshall Islands taxation.

Other Tax Jurisdictions

Certain of Navios Partners' subsidiaries are incorporated in countries which impose taxes, such as Malta, however such taxes are immaterial to Navios Partners' operations.

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 vessel's 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.

C. Organizational Structure

Please read exhibit 8.1 to this Annual Report for a list of our significant subsidiaries as of December 31, 2018.

Affiliates included in the financial statements accounted for under the equity method:

In the consolidated financial statements of Navios Partners, Navios Europe Inc. ("Navios Europe I"), in which Navios Partners has an ownership interest of 5.0%, is included as an affiliate and is accounted for under the equity method, for such periods during which Navios Europe I was an affiliate of Navios Partners. As of December 31, 2018, Navios Partners had 0% voting interest in Navios Europe I.

In the consolidated financial statements of Navios Partners, Navios Europe (II) Inc. ("Navios Europe II"), in which Navios Partners has an ownership interest of 5.0%, is included as an affiliate and is accounted for under the equity method, for such periods during which Navios Europe II was an affiliate of Navios Partners. As of December 31, 2018, Navios Partners had 0% voting interest in Navios Europe II.

In the consolidated financial statements of Navios Partners, Navios Containers, in which Navios Partners has an ownership interest of 33.5% as of December 31, 2018, is included as an affiliate and is accounted for under the equity method, for such periods during which Navios Containers was an affiliate of Navios Partners.

D. Property, plants and equipment

Other than our vessels, we do not have any material property, plants or equipment.

Item 4A. Unresolved Staff Comments

Not applicable.

Item 5. Operating and Financial Review and Prospects

Overview

We are an international owner and operator of dry cargo vessels, formed in August 2007 by Navios Holdings, a vertically integrated seaborne shipping and logistics company with over 60 years of operating history in the dry cargo shipping industry. We have been a public company since November 2007.

In January 2019, the Board of Directors of Navios Partners authorized a common unit repurchase program for up to \$50.0 million of the Company's common units over a two year period. Common unit repurchases will be 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 will be determined by Navios Partners' management based upon market conditions and other factors. Repurchases may be made pursuant to a program adopted under Rule 10b5-1 under the Securities Exchange Act of 1934, as amended. The program does not require any minimum repurchase or any specific number of common units and may be suspended or reinstated at any time in Navios Partners' discretion and without notice. The Board of Directors will review the program periodically. Repurchases will be subject to restrictions under Navios Partners' credit facilities. As of April 8, 2019, Navios Partners has repurchased 3,946,156 common units, for a total cost of approximately \$3.8 million, out of which 3,407,097 common units have been cancelled.

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As of April 8, 2019, there were outstanding 166,028,113 common units and 3,457,866 general partnership units. Navios Holdings owns approximately 20.4% interest in Navios Partners, which includes the approximately 2.1% general partner interest.

Please see “Item 4. — Information on the Partnership”.

Fleet Development

On December 14, 2018, Navios Partners completed the sale of the Navios Libra II, a 1995-built Panamax vessel of 70,136 dwt. The vessel was sold to an unrelated third party for a net sale price of \$4.6 million.

On December 4, 2018, Navios Partners completed the sale of the Navios Felicity, a 1997-built Panamax vessel of 73,867 dwt. The vessel was sold to an unrelated third party for a net sale price of \$4.7 million.

On August 31, 2018, Navios Partners acquired from its affiliate, Navios Holdings, the Navios Sphera, a 2016-built Panamax vessel of 84,872 dwt and the Navios Mars, a 2016-built Capesize vessel of 181,259 dwt, for an acquisition cost \$79.0 million, in total.

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On July 2, 2018, Navios Partners completed the sale of the YM Unity and the YM Utmost, two 2006-built containerships of 8,204 TEU each. The vessels were sold to its affiliate, Navios Containers, for a total sale price of \$67.0 million.

On June 7, 2018, Navios Partners acquired from an unrelated third party the Navios Altair I, a 2006-built Panamax vessel of 74,475 dwt, for an acquisition cost of \$11.8 million.

On May 21, 2018, Navios Partners acquired from an unrelated third party the Navios Symmetry, a 2006-built Panamax vessel of 74,381 dwt, for an acquisition cost of \$11.8 million.

On May 9, 2018, Navios Partners acquired from an unrelated third party the Navios Apollon I, a 2005-built Panamax vessel of 87,052 dwt, for an acquisition cost of \$13.4 million.

On December 21, 2017, Navios Partners completed the sale of the Navios Gemini S, a 1994-built Panamax vessel of 68,636 dwt. The vessel was sold to an unrelated third party for a net sale price of \$4.1 million.

In November 2017, Navios Partners entered into a 10-year bareboat charter-in agreement for a Panamax vessel of approximately 81,000 dwt. Navios Partners has the option to acquire the vessel after the end of the fourth year. The vessel is expected to be delivered in the second half of 2019. As of December 31, 2018, Navios Partners has paid the amount of \$5.5 million, of which \$2.8 million was paid during the year ended December 31, 2017.

On September 20, 2017, Navios Partners acquired from an unrelated third party the Navios Symphony, a 2010-built Capesize vessel of 178,132 dwt, for an acquisition cost of \$28.0 million.

On August 21, 2017, Navios Partners acquired from an unrelated third party the Navios Aster, a 2010-built Capesize vessel of 179,314 dwt, for an acquisition cost of \$28.9 million.

On August 11, 2017, Navios Partners acquired from a related third party the Navios Christine B, a 2009-built Ultra-Handymax vessel of 58,058 dwt, for an acquisition cost of \$14.0 million.

On July 17, 2017, Navios Partners acquired from an unrelated third party the Navios Sol, a 2009-built Capesize vessel of 180,274 dwt, for an acquisition cost of \$28.6 million.

On July 10, 2017, Navios Partners acquired from an unrelated third party the Navios Libertas, a 2007-built Panamax vessel of 75,511 dwt, for an acquisition cost of \$13.7 million.

On June 9, 2017, Navios Partners acquired from an unrelated third party the Navios Ace, a 2011-built Capesize vessel of 179,016 dwt, for an acquisition cost of \$31.4 million.

On June 7, 2017, Navios Partners acquired from an unrelated third party the Navios Prosperity I, a 2007-built Panamax vessel of 75,527 dwt, for an acquisition cost of \$13.7 million.

On April 21, 2017, Navios Partners completed the sale of the Navios Apollon, a 2000-built Ultra-Handymax vessel of 52,073 dwt. The vessel was sold to an unrelated third party for a net sale price of \$4.8 million.

On January 12, 2017, Navios Partners completed the sale of the MSC Cristina, a 2011-built Containership of 13,100 TEU. The vessel was sold to an unrelated third party for a net sale price of \$125.0 million.

On December 30, 2016, Navios Partners acquired from an unrelated third party the Navios Beaufiks, a 2004-built Capesize vessel of 180,310 dwt, for an acquisition cost of \$15.4 million.

The historical results discussed below, and the historical financial statements and related notes included elsewhere in this annual report, present operating results of the fleet for the periods beginning from January 1, 2016 to December 31, 2018.

Company name	Vessel name	Country of incorporation	Statements of Operations		
			2018	2017	2016
Libra Shipping Enterprises Corporation ⁽⁵⁾	Navios Libra II	Marshall Is.	1/01 – 12/14	1/01 – 12/31	1/01 – 12/31
Alegria Shipping Corporation	Navios Alegria	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Felicity Shipping Corporation ⁽⁶⁾	Navios Felicity	Marshall Is.	1/01 – 12/04	1/01 – 12/31	1/01 – 12/31
Gemini Shipping Corporation ⁽¹⁾	Navios Gemini S	Marshall Is.	—	1/01 – 12/21	1/01 – 12/31
Galaxy Shipping Corporation	Navios Galaxy I	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Aurora Shipping Enterprises Ltd.	Navios Hope	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31

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Company name	Vessel name	Country of incorporation	Statements of Operations		
			2018	2017	2016
Palermo Shipping S.A.(2)	Navios Apollon	Marshall Is.	—	1/01 – 4/21	1/01 – 12/31
Fantastiks Shipping Corporation	Navios Fantastiks	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Sagittarius Shipping Corporation	Navios Sagittarius	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Hyperion Enterprises Inc.	Navios Hyperion	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Chilali Corp.	Navios Aurora II	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Surf Maritime Co.	Navios Pollux	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Pandora Marine Inc.	Navios Melodia	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Customized Development S.A.	Navios Fulvia	Liberia	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Kohylia Shipmanagement S.A.	Navios Luz	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Orbiter Shipping Corp.	Navios Orbiter	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Floral Marine Ltd.	Navios Buena Ventura	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Golem Navigation Limited	Navios Soleil	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Kymata Shipping Co.	Navios Helios	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Joy Shipping Corporation	Navios Joy	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Micaela Shipping Corporation	Navios Harmony	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Pearl Shipping Corporation	Navios Sun	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Velvet Shipping Corporation	Navios La Paix	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Perigiali Navigation Limited	Navios Beaufiks	Marshall Is.	1/01 – 12/31	1/01 – 12/31	12/30 – 12/31
Finian Navigation Co.	Navios Ace	Marshall Is.	1/01 – 12/31	6/09 – 12/31	—
Ammos Shipping Corp.	Navios Prosperity I	Marshall Is.	1/01 – 12/31	6/07 – 12/31	—
Wave Shipping Corp.	Navios Libertas	Marshall Is.	1/01 – 12/31	7/10 – 12/31	—
Casual Shipholding Co.	Navios Sol	Marshall Is.	1/01 – 12/31	7/17 – 12/31	—
Avery Shipping Company	Navios Symphony	Marshall Is.	1/01 – 12/31	9/20 – 12/31	—
Coasters Ventures Ltd.	Navios Christine B	Marshall Is.	1/01 – 12/31	8/11 – 12/31	—
Ianthe Maritime S.A.	Navios Aster	Marshall Is.	1/01 – 12/31	8/21 – 12/31	—
Rubina Shipping Corporation	Hyundai Hongkong	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Topaz Shipping Corporation	Hyundai Singapore	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Beryl Shipping Corporation	Hyundai Tokyo	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Cheryl Shipping Corporation	Hyundai Shanghai	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Christal Shipping Corporation	Hyundai Busan	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Fairy Shipping Corporation(3)	YM Utmost	Marshall Is.	1/01 – 7/02	1/01 – 12/31	1/01 – 12/31
Limestone Shipping Corporation(3)	YM Unity	Marshall Is.	1/01 – 7/02	1/01 – 12/31	1/01 – 12/31
Dune Shipping Corp.(4)	MSC Cristina	Marshall Is.	—	1/01 – 1/12	1/01 – 12/31
Citrine Shipping Corporation	—	Marshall Is.	—	—	—
Cavalli Navigation Inc.	—	Marshall Is.	—	—	—
Seymour Trading Limited	Navios Altair I	Marshall Is.	6/07 – 12/31	—	—
Goldie Services Company	Navios Symmetry	Marshall Is.	5/21 – 12/31	—	—
Andromeda Shiptrade Limited	Navios Apollon I	Marshall Is.	5/09 – 12/31	—	—
Esmeralda Shipping Corporation	Navios Sphera	Marshall Is.	8/31 – 12/31	—	—
Triangle Shipping Corporation	Navios Mars	Marshall Is.	8/31 – 12/31	—	—
Chartered-in vessels					
Cavos Navigation Co.	Navios Libra	Marshall Is.	—	—	—
Other					
Prosperity Shipping Corporation	—	Marshall Is.	—	—	—
Aldebaran Shipping Corporation	—	Marshall Is.	—	—	—
JTC Shipping and Trading Ltd.(7)	Holding Company	Malta	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Maritime Partners L.P.	N/A	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Maritime Operating LLC.	N/A	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Partners Finance (US) Inc.	Co-Borrower	Delaware	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Partners Europe Finance Inc.	Sub-Holding Company	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31

(1) The vessel was sold on December 21, 2017 (see Note 7 – Vessels, net).

(2) The vessel was sold on April 21, 2017 (see Note 7 – Vessels, net).

(3) The vessels were sold on July 2, 2018 (see Note 7 – Vessels, net).

(4) The vessel was sold on January 12, 2017 (see Note 7 – Vessels, net).

(5) The vessel was sold on December 14, 2018 (see Note 7 – Vessels, net).

(6) The vessel was sold on December 4, 2018 (see Note 7 – Vessels, net).

(7) Not a vessel-owning subsidiary and only holds right to charter-in contracts.

Our Charters

We generate revenues by charging our customers for the use of our vessels to transport their dry cargos. In general, the vessels in our fleet are chartered-out under time charters, which range in length from one to twelve years at inception. From time to time, we operate vessels in the spot market until the vessels have been chartered under long-term charters.

For the year ended December 31, 2018, HMM represented approximately 24.5% of total revenues. For the year ended December 31, 2017, HMM and Yang Ming accounted for approximately 26.8% and 12.0%, respectively, of our total revenues. For the year ended December 31, 2016, HMM, Yang Ming and Mediterranean Shipping Co. S.A. accounted for 29.6%, 13.0% and 11.6%, respectively, of our total revenues. No other customers accounted for 10% or more of total revenues for any of the years presented. We believe that the combination of the long-term nature of our charters (which provide for the receipt of a fixed fee for the life of the charter) and our management agreement with the Manager, a wholly-owned subsidiary of Navios Holdings (which provides for a fixed management fee until December 31, 2019), provides us with a strong base of stable cash flows.

Our revenues are driven by the number of vessels in the fleet, the number of days during which the vessels operate and our charter hire rates, which, in turn, are affected by a number of factors, including:

- the duration of the charters;
- the level of spot and long-term market rates at the time of charter;
- decisions relating to vessel acquisitions and disposals;
- the amount of time spent positioning vessels;
- the amount of time that vessels spend undergoing repairs and upgrades in drydock;
- the age, condition and specifications of the vessels; and
- the aggregate level of supply and demand in the dry cargo 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. We intend to operate our vessels in the long-term charter market. 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 our control.

We could lose a customer or the benefits of a charter if:

- the customer fails to make charter payments because of its financial inability, disagreements with us or otherwise;
- the customer exercises certain rights to terminate the charter of the vessel;
- the customer terminates the charter because we fail to deliver the vessel within a fixed period of time, the vessel is lost or damaged beyond repair, there are serious deficiencies in the vessel or prolonged periods of off-hire, or we default under the charter; or
- a prolonged force majeure event affecting the customer, including damage to or destruction of relevant production facilities, war or political unrest prevents us from performing services for that customer.

Under some of our time charters, either party may terminate the charter contract in the event of war in specified countries or in locations that would significantly disrupt the free trade of the vessel. Some of the time charters covering our vessels require us to return to the charterer, upon the loss of the vessel, all advances paid by the charterer but not earned by us.

Vessel Operations

Under our charters, our vessel manager is generally responsible for commercial, technical, health and safety and other management services related to the vessels' operation, and the charterer is responsible for bunkering and substantially all of the vessel voyage costs, including canal tolls and port charges.

Under the management agreement we entered into with the Manager, the Manager bears all of our vessel operating expenses in exchange for the payment of fees as described below. Under this agreement, the Manager is responsible for commercial, technical, health and safety and other management services related to the vessels' operation, including chartering, technical support, maintenance and insurance. On November 14, 2017, Navios Partners extended the duration of its existing Management Agreement with the

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Manager until December 31, 2022 and the fixed rate for ship management services of its owned fleet through December 31, 2019, effective from January 1, 2018. The new management fees are: (a) \$4,225 daily rate per Ultra-Handymax vessel; (b) \$4,325 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; and (d) \$6,700 daily rate per Container vessel of TEU 6,800. Costs associated with special surveys, drydocking expenses and certain extraordinary items under this agreement are reimbursed by Navios Partners at cost at occurrence.

Extraordinary costs and expenses include fees and costs resulting from:

- time spent on insurance and salvage claims;
- time spent vetting and pre-vetting the vessels by any charterers in excess of 10 days per vessel per year;
- the deductibility of any insurance claims relating to the vessels or for any claims that are within such deductible range;
- the significant increase in insurance premiums which are due to factors such as “acts of God” outside the control of the Manager;
- repairs, refurbishment or modifications, including those not covered by the guarantee of the shipbuilder or by the insurance covering the vessels, resulting from maritime accidents, collisions, other accidental damage or unforeseen events (except to the extent that such accidents, collisions, damage or events are due to the fraud, gross negligence or willful misconduct of the Manager, its employees or its agents, unless and to the extent otherwise covered by insurance);
- expenses imposed due to any improvement, upgrade or modification to, structural changes with respect to the installation of new equipment aboard any vessel that results from a change in, an introduction of new, or a change in the interpretation of, applicable laws, at the recommendation of the classification society for that vessel or otherwise;
- costs associated with increases in crew employment expenses resulting from an introduction of new, or a change in the interpretation of, applicable laws or resulting from the early termination of the charter of any vessel;
- any taxes, dues or fines imposed on the vessels or the Manager due to the operation of the vessels;
- expenses incurred in connection with the sale or acquisition of a vessel such as inspections and technical assistance; and
- any similar costs, liabilities and expenses that were not reasonably contemplated by us and the Manager as being encompassed by or a component of the fixed daily fees at the time the fixed daily fees were determined.

Payment of any extraordinary fees or expenses to the Manager could significantly increase our vessel operating expenses and impact our results of operations.

During the remaining term of the Management Agreement, we expect that we will reimburse the Manager for all of the actual operating costs and expenses it incurs in connection with the management of our fleet.

Administrative Services

Under the Administrative Services Agreement we entered into with the Manager, we reimburse the Manager for reasonable costs and expenses incurred in connection with the provision of the services under this agreement within 15 days after the Manager submits to us an invoice for such costs and expenses, together with any supporting detail that may be reasonably required. Under this agreement which expires in December 2022, the Manager provides significant administrative, financial and other support services to us.

Trends and Factors Affecting Our Future 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 Navios Holdings’ 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;

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- Navios Holdings' 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 combined and 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; and
- the level of any distribution on our common units.

Please read "Risk Factors" for a discussion of certain risks inherent in our business.

A. Operating results

Year Ended December 31, 2018 Compared to the Year Ended December 31, 2017

The following table presents consolidated revenue and expense information for the years ended December 31, 2018 and 2017. This information was derived from the audited consolidated revenue and expense accounts of Navios Partners for the respective periods.

	Year Ended December 31, 2018	Year Ended December 31, 2017
Time charter and voyage revenues (includes related party revenue of \$0.1 million and \$0.7 million for each of the years ended December 31, 2018 and 2017, respectively)	\$ 231,361	\$ 211,652
Time charter and voyage expenses	(10,024)	(4,158)
Direct vessel expenses	(6,180)	(7,172)
Management fees (entirely through related parties transactions)	(68,871)	(67,310)
General and administrative expenses	(18,458)	(17,163)
Depreciation and amortization	(58,334)	(72,760)
Vessel impairment losses	(44,344)	(32,677)
Interest expense and finance cost, net	(42,766)	(38,225)
Interest income	4,408	3,277
Gain on change in control	—	4,068
Other income	1,554	9,884
Other expense	(5,384)	(5,133)
Equity in net earnings of affiliated companies	3,957	866
Net loss	\$ (13,081)	\$ (14,851)
Less: Net income attributable to the noncontrolling interest	—	(239)
Net loss attributable to Navios Partners unitholders	\$ (13,081)	\$ (15,090)

Time charter and voyage revenues: Time charter and voyage revenues for Navios Partners for the year ended December 31, 2018 increased by \$32.1 million, or 16.1%, to \$231.4 million, as compared to \$199.3 million for the same period in 2017. The increase in time charter and voyage revenues was mainly attributable to: (i) the increase in revenue following the acquisition of seven vessels in 2017 and five vessels in 2018; and (ii) the increase in the TCE rate to \$16,458 per day for the year ended December 31, 2018, from \$16,025 per day for the year ended December 31, 2017 due to the increase in the freight market. That increase was partially mitigated by the decrease in revenue due to the sales of the MSC Cristina, the Navios Apollon and the Navios Gemini S in 2017 and the YM Unity, the YM Utmost, the Navios Felicity and the Navios Libra II in 2018. The available days of the fleet increased to 13,448 days for the year ended December 31, 2018, as compared to 12,193 days for the year ended December 31, 2017, mainly due to the increased fleet.

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Time charter and voyage revenues from Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017 amounted to \$12.4 million. Available days of the fleet were 627 days for the period from April 28, 2017 (date of inception) to August 29, 2017 and TCE rate for the period amounted to \$19,338.

Time charter and voyage expenses: Time charter and voyage expenses for the year ended December 31, 2018 increased by \$5.9 million to \$10.0 million, as compared to \$4.2 million for the year ended December 31, 2017. The increase was mainly attributable to a: (i) \$3.6 million increase in bunkers expenses; (ii) \$2.1 million increase in loading and discharging port expenses related to the freight voyages in 2018; and (iii) \$0.4 million increase in brokers' commissions due to the increased fleet and other voyage expenses. The increase was partially mitigated by a \$0.2 million time charter and voyage expenses of Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017.

Direct vessel expenses: Direct vessel expenses, comprising of the amortization of dry dock and special survey costs of certain vessels in our fleet, amounted to \$6.2 million for the year ended December 31, 2018, as compared to \$7.2 million for the year ended December 31, 2017, in total, out of which \$6.7 million related to Navios Partners' vessels and \$0.5 million related to Navios Containers' vessels.

Management fees: Management fees for the year ended December 31, 2018, increased by \$1.6 million, or 2.3%, to \$68.9 million, as compared to \$67.3 million for the year ended December 31, 2017. The increase was mainly attributable to: (i) an \$11.1 million increase in management fees paid to the Manager due to the increased number of owned vessels in Navios Partners' fleet; and (ii) a \$0.5 million increase in management fees due to the increase in daily rate pursuant to the amended management agreement in November 2017. The increase was partially mitigated by a: (i) \$2.7 million decrease in management fees due to the sale of the YM Unity and the YM Utmost in July 2018; (ii) \$0.1 million decrease in management fees due to the sale of the Navios Felicity and Navios Libra II in December 2018; (iii) \$2.0 million decrease in management fees due to the sale of three vessels in 2017; (iv) \$4.7 million management fees of Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017; and (v) \$0.4 million of management fees for the five MOL Containerships for the period from May 25, 2017 to June 8, 2017.

General and administrative expenses: General and administrative expenses increased by \$1.3 million, or 7.5%, to \$18.5 million for the year ended December 31, 2018, as compared to \$17.2 million for the year ended December 31, 2017. The increase was mainly due to a: (i) \$1.0 million increase in administrative fees paid to the Manager due to the increased number of owned vessels in Navios Partners' fleet; (ii) \$0.5 million increase in equity compensation expense; and (iii) \$0.5 million increase in compensation to the directors and/ or officers of the Company (see Note 10—Accrued Expenses). The above increase was partially mitigated by a: (i) \$0.1 million net decrease in legal and professional fees, as well as audit fees and other administrative expenses; and (ii) \$0.7 million general and administrative expenses of Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017.

For the year ended December 31, 2018 and 2017, the expenses charged by the Manager for administrative fees, including Navios Containers administrative fees for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017, were \$9.3 million and \$8.9 million, respectively.

Depreciation and amortization: Depreciation and amortization amounted to \$58.3 million for the year ended December 31, 2018 compared to \$72.8 million for the year ended December 31, 2017. The decrease of \$14.4 million was mainly attributable to a: (i) \$6.8 million decrease in amortization of the Navios Aurora II favorable lease intangible which was fully amortized during the fourth quarter of 2017; (ii) \$4.8 million amortization expense of the intangibles for the five MOL Containerships for the period from April 28, 2017 (date of inception) to August 29, 2017; (iii) \$2.9 million decrease in depreciation expense due to the sale of the YM Unity and the YM Utmost in July 2018; (iv) \$2.5 million decrease in depreciation expense of one of our vessels as a result of the impairment test performed in the fourth quarter of the fiscal year 2017; (v) \$1.8 million decrease in depreciation expense due to the sale of two vessels in 2017; (vi) \$0.8 million amortization expense of the intangibles for the five MOL Containerships for the period from May 25, 2017 to June 8, 2017; (vii) \$0.3 million decrease in amortization of the Navios Sagittarius favorable lease intangible which was fully amortized during the fourth quarter of 2018; (viii) \$0.2 million decrease in depreciation expense due to the sale of the Navios Libra II and the Navios Felicity in December 2018; and (ix) \$0.1 million depreciation expense of the Navios Containers vessels for the period from April 28, 2017 (date of inception) to August 29, 2017. The above decrease was partially mitigated by a \$5.8 million increase in depreciation expense due to the delivery of seven vessels in 2017 and five vessels in 2018. Depreciation of vessels is calculated using an estimated useful life of 25 and 30 years for drybulk vessels and containerships, respectively, from the date the vessel was originally delivered from the shipyard. Intangible assets are amortized over the contract periods, which range from one to twelve years, at inception.

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Vessel impairment losses: During the year ended December 31, 2018, Navios Partners recognized: (i) an impairment loss of \$37.9 million related to the sale of the YM Unity and the YM Utmost which was completed on July 2, 2018; (ii) an impairment loss of \$5.3 million related to the sale of the Navios Felicity which was completed on December 4, 2018; and (iii) an impairment loss of \$1.2 million related to the sale of the Navios Libra II which was completed on December 14, 2018. During the year ended December 31, 2017, Navios Partners recognized: (i) an impairment loss of \$30.3 million for one of its vessels; and (ii) an impairment loss of \$2.4 million related to the sale of the Navios Gemini S which was completed on December 21, 2017 (see Note 7 — Vessels, net).

Interest expense and finance cost, net: Interest expense and finance cost, net for the year ended December 31, 2018 increased by \$4.5 million, or 11.9%, to \$42.8 million, as compared to \$38.2 million for the year ended December 31, 2017. The increase was mainly due to a: (i) \$7.5 million increase in interest expense related to Navios Partners' credit facilities, mainly due to the increase of the weighted average interest rate for the year ended December 31, 2018 to 6.85% from 5.76% for the same period in 2017; and (ii) \$0.4 million write-off of the deferred finance fees following the repayments of the DVB Credit Facility on July 2, 2018, the BNP Credit Facility and the March 2018 Credit Facility on December 13, 2018. The above increase was partially mitigated by a: (i) \$2.3 million net decrease in the amortization of the deferred finance fees mainly due to the write-off of the deferred finance fees and discount following the refinancing of the Term Loan B Facility on March 14, 2017; (ii) \$0.5 million write-off of the deferred finance fees following the repayment of the April 2015 Credit Facility on January 12, 2017; and (iii) \$0.6 million interest expense and finance cost from Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017. Navios Partners' average loan balance amounted to \$510.1 million for the year ended December 31, 2018 as compared to \$499.8 million for the same period of 2017.

Interest income: Interest income increased by \$1.1 million to \$4.4 million for the year ended December 31, 2018, as compared to \$3.3 million for the year ended December 31, 2017.

Other income: Other income for the year ended December 31, 2018 amounted to \$1.6 million, as compared to \$9.9 million for the year ended December 31, 2017. The decrease was mainly attributable to a \$9.4 million decrease in relation to the claims submitted under the Navios Holdings Guarantee agreement. The above decrease was partially mitigated by a \$1.1 million increase in other miscellaneous income.

Other expense: Other expense for the year ended December 31, 2018 amounted to \$5.4 million as compared to \$5.1 million for the year ended December 31, 2017. The decrease of \$0.3 million was mainly attributable to a: (i) \$1.5 million allowance for doubtful accounts; and (ii) \$1.3 million loss related to the disposal of the MSC Cristina, both recognized in the first quarter of 2017. The above decrease was partially mitigated by a: (i) \$2.0 million write down of the guarantee claim receivable; and (ii) \$1.0 million increase in other miscellaneous expenses.

Equity in net earnings of affiliated companies: Equity net earnings of affiliated companies for the year ended December 31, 2018 amounted to \$4.0 million as compared to \$0.9 million for the year ended December 30, 2017. The amount of \$4.0 million mainly consisted of a \$4.5 million income related to the investment in Navios Containers partially mitigated by a \$0.6 million other-than-temporary impairment on dividend in kind (see Note 20 — Investment in Affiliates).

Net loss: Net loss for the year ended December 31, 2018 amounted to \$(13.1) million compared to \$(14.8) million for the year ended December 31, 2017. The decrease in net loss of \$1.8 million was due to the factors discussed above.

Net income attributable to the noncontrolling interest: Net income attributable to the noncontrolling interest amounted to \$(0.2) million for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017.

Operating surplus: Navios Partners generated an Operating Surplus for the year ended December 31, 2018 of \$77.9 million, as compared to \$92.6 million for the year ended December 31, 2017. Operating Surplus is a non-GAAP financial measure used by certain investors to assist in evaluating a partnership's ability to make quarterly cash distributions (See "Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA and Operating Surplus" contained herein).

Seasonality: Since Navios Partners' vessels generally operate under long-term charters, the results of operations are not generally subject to the effect of seasonable variations in demand.

Year Ended December 31, 2017 Compared to the Year Ended December 31, 2016

The following table presents consolidated revenue and expense information for the years ended December 31, 2017 and 2016. This information was derived from the audited consolidated revenue and expense accounts of Navios Partners for the respective periods.

	Year Ended December 31, 2017 (In thousands of U.S dollars)	Year Ended December 31, 2016 (In thousands of U.S dollars)
Time charter and voyage revenues (includes related party revenue of \$0.7 million and \$1.9 million for the years ended December 31, 2017 and 2016, respectively)	\$ 211,652	\$ 190,524
Time charter and voyage expenses	(4,158)	(5,673)
Direct vessel expenses	(7,172)	(6,381)
Management fees (entirely through related parties transactions)	(67,310)	(59,209)
General and administrative expenses	(17,163)	(12,351)
Depreciation and amortization	(72,760)	(92,370)
Vessel impairment losses	(32,677)	(27,201)
Loss on sale of securities	—	(19,435)
Interest expense and finance cost, net	(38,225)	(31,247)
Interest income	3,277	541
Gain on change in control	4,068	—
Other income	9,884	14,523
Other expense	(5,133)	(4,270)
Equity in net earnings of affiliated companies	866	—
Net loss	\$ (14,851)	\$ (52,549)
Less: Net income attributable to the noncontrolling interest	\$ (239)	—
Net loss attributable to Navios Partners unitholders	\$ (15,090)	\$ (52,549)

Time charter and voyage revenues: Time charter and voyage revenues from Navios Partners for the year ended December 31, 2017 increased by \$8.8 million, or 4.6%, to \$199.3 million, as compared to \$190.5 million for the same period in 2016. The increase in time charter and voyage revenues was primarily due to the increase in revenue following the acquisition of the seven drybulk vessels in 2017 and one vessel in December 2016. The above increase was partially mitigated by: (i) the decrease in revenue due to the sale of the MSC Cristina and the Navios Apollon; and (ii) the decrease in TCE to \$16,025 per day for the year ended December 31, 2017, from \$16,364 per day for the year ended December 31, 2016. The available days of the fleet increased to 12,193 days for the year ended December 31, 2017, as compared to 11,296 days for the year ended December 31, 2016, mainly due to the increased fleet.

Time charter and voyage revenues from Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017 amounted to \$12.4 million. Available days of the fleet were 627 days for the period from April 28, 2017 (date of inception) to August 29, 2017 and TCE for the period amounted to \$19,338. There were no operations in the corresponding period in 2016.

Time charter and voyage expenses: Time charter and voyage expenses for the year ended December 31, 2017 decreased by \$1.5 million, or 26.7%, to \$4.2 million, as compared to \$5.7 million for the year ended December 31, 2016. The decrease was mainly attributable to a: (i) \$1.6 million decrease in bunkers expenses due to increased consumption resulted from the freight voyages in 2016 compared to 2017 when no freight voyages existed; and (ii) \$0.1 million decrease in brokers' commissions. The decrease was partially mitigated by a \$0.2 million net increase in other voyage expenses.

Direct vessel expenses: Direct vessel expenses, comprising of the amortization of dry dock and special survey costs of certain vessels in our fleet, amounted to \$7.2 million for the year ended December 31, 2017, out of which \$6.7 million related to Navios Partners' vessels and \$0.5 million related to Navios Containers' vessels. For the year ended December 31, 2016, direct vessel expenses of Navios Partners amounted to \$6.4 million.

Management fees: Management fees for the year ended December 31, 2017, increased by \$8.1 million, or 13.7%, to \$67.3 million, as compared to \$59.2 million for the year ended December 31, 2016. The increase was mainly attributable to a: (i) \$7.3 million in management fees paid to the Manager due to the increased number of owned vessels in Navios Partners' fleet; (ii) \$4.7 million management fees of Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017; and (iii) \$0.4 million management fees for the five Containerships, first acquired by Navios Partners from Rickmers Trust. The increase was partially mitigated by \$4.2 million decrease in management fees due to the sale of the MSC Cristina in January 2017, the Navios Apollon in April 2017 and the Navios Gemini S in December 2017.

General and administrative expenses: General and administrative expenses increased by \$4.8 million, or 39.0%, to \$17.2 million for the year ended December 31, 2017, as compared to \$12.4 million for the year ended December 31, 2016. The increase was mainly due to a: (i) \$1.8 million increase in compensation to the directors and/ or officers of the Company (see Note 10—Accrued Expenses); (ii) \$1.8 million related to equity compensation expense; (iii) \$0.6 million increase in administrative fees paid to the Manager due to the increased number of vessels in Navios Partners' fleet; and (iv) \$0.7 million general and administrative expenses from Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017. The above increase was partially mitigated by a \$0.1 million decrease in legal and professional fees, as well as audit and recurring directors' fees.

For the year ended December 31, 2017 and 2016, the expenses charged by the Manager for administrative fees, including Navios Containers administrative fees for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017 were \$8.9 million and \$7.8 million, respectively.

Depreciation and amortization: Depreciation and amortization amounted to \$72.8 million for the year ended December 31, 2017 compared to \$92.4 million for the year ended December 31, 2016. The decrease of \$19.6 million was mainly attributable to a: (i) \$20.5 million accelerated amortization and \$3.5 million decrease in amortization of the Navios Luz and the Navios Buena Ventura favorable lease intangibles which were written off during the third quarter of 2016; and (ii) \$3.2 million decrease in depreciation expense due to the sale of the MSC Cristina in January 2017, the Navios Apollon in April 2017 and the Navios Gemini S in December 2017. The above decrease was partially mitigated by a: (i) \$4.8 million amortization expense of Navios Containers intangibles for the period from April 28, 2017 (date of inception) to August 29, 2017; (ii) \$0.6 million increase in depreciation expense due to the delivery of the Navios Beaufiks in the fourth quarter of 2016; (iii) \$1.0 million increase in depreciation expense due to the delivery of the Navios Prosperity I and the Navios Ace in the second quarter of 2017; (iv) \$1.8 million increase in depreciation expense due to the delivery of the Navios Libertas, the Navios Sol, the Navios Christine B, the Navios Aster and the Navios Symphony in the third quarter of 2017; (v) \$0.8 million increase in amortization of the intangibles for the five Containerships, first acquired by Navios Partners from Rickmers Trust; and (vi) \$0.1 million depreciation expense of the Navios Containers vessels for the period from April 28, 2017 (date of inception) to August 29, 2017. Depreciation of vessels is calculated using an estimated useful life of 25 and 30 years for drybulk and container vessels, respectively, from the date the vessel was originally delivered from the shipyard. Intangible assets are amortized over the contract periods, which range from one to twelve years, at inception.

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Vessel impairment losses: During the year ended December 31, 2017, Navios Partners recognized: (i) an impairment loss of \$30.3 million for one of its vessels; and (ii) an impairment loss of \$2.4 million related to the sale of the Navios Gemini S which was completed on December 21, 2017. During the year ended December 31, 2016, Navios Partners recognized: (i) an impairment loss of \$17.2 million related to the sale of the MSC Cristina, which was held for sale as of December 31, 2016; and (ii) an impairment loss of \$10.0 million related to the sale of the Navios Apollon which was completed on April 21, 2017 (see Note 7 — Vessels, net).

Loss on sale of securities: A loss of \$19.4 million was recorded in relation to the loss on sale of the HMM securities as of December 31, 2016 (see Note 19 — Notes Receivable).

Interest expense and finance cost, net: Interest expense and finance cost, net for the year ended December 31, 2017 increased by \$7.0 million, or 22.3%, to \$38.2 million, as compared to \$31.2 million for the year ended December 31, 2016. The increase was mainly due to: (i) the increase in the Navios Partners' weighted average interest rate of 5.76% for the year ended December 31, 2017 as compared to 4.67% for the same period in 2016; and (ii) \$0.6 million interest expense and finance cost, net from Navios Containers. The increase was partially mitigated by the decrease of the Navios Partners' average loan balance to \$478.1 million for the year ended December 31, 2017 as compared to \$558.1 million for the same period of 2016. As of December 31, 2017 and 2016, the outstanding loan balance under Navios Partners' credit facilities was \$499.8 million and \$526.6 million, respectively.

Interest income: Interest income increased by \$2.7 million to \$3.3 million for the year ended December 31, 2017, as compared to \$0.5 million for the year ended December 31, 2016. The increase of \$2.7 million was mainly attributable to a: (i) \$1.3 million increase of the interest income accrued under the loans granted to Navios Europe I and Navios Europe II; (ii) \$0.2 million increase in 3.0% interest in relation to the HMM notes receivable (see Note 19 — Notes Receivable); (iii) \$1.0 million increase in 6.0% interest in relation to the MSC Cristina note receivable (see Note 19 — Notes Receivable); and (iv) \$0.2 million increase of the interest income accrued under the long-term note receivable from Navios Holdings in relation to the transfer of its rights on the Navios Europe I Navios Term Loans I and Navios Revolving Loans I to Navios Partners (see Note 18 — Transactions with related parties and affiliates).

Gain on change in control: A gain on change in control amounted to \$4.1 million for the year ended December 31, 2017 which is equal to the fair value of the Company's investment in Navios Containers of \$30.0 million (including the cash paid for retaining a 39.9%) less the Company's 59.7% interest in Navios Containers' net assets of approximately \$43.5 million on August 29, 2017 (see Note 3 — Acquisition/Deconsolidation).

Other income: Other income for the year ended December 31, 2017 amounted to \$9.9 million compared to \$14.5 million for the year ended December 31, 2016. The decrease was mainly attributable to a: (i) \$2.0 million decrease in relation to the claims submitted under the Navios Holdings Guarantee agreement; and (ii) \$2.1 million gain on debt repayment in relation to the prepayment of the July 2012 Credit Facility on November 10, 2016.

Other expense: Other expense increased by \$0.9 million to \$5.1 million for the year ended December 31, 2017, as compared to \$4.3 million for the year ended December 31, 2016. The increase of \$0.9 million was mainly attributable to: (i) \$1.5 million allowance for doubtful accounts; and (ii) \$1.3 million loss related to the disposal of the MSC Cristina. The increase was partially mitigated by a \$1.9 million decrease in other miscellaneous expenses.

Equity in net earnings of affiliated companies: Equity net earnings of affiliated companies amounted to \$0.9 million for the year ended December 31, 2017. The amount of \$0.9 million mainly consisted of: a (i) \$0.1 million loss related to the investment in Navios Europe I; (ii) a \$0.1 million income related to the investment in Navios Europe II; and (iii) a \$0.9 million income related to the investment in Navios Containers.

Net loss: Net loss for the year ended December 31, 2017 amounted to \$14.8 million compared to \$52.5 million for the year ended December 31, 2016. The decrease in net loss of \$37.7 million was due to the factors discussed above.

Net income attributable to the noncontrolling interest: Net income attributable to the noncontrolling interest amounted to \$0.2 million for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017.

Operating surplus: Navios Partners generated an Operating Surplus for the year ended December 31, 2017 of \$92.6 million, as compared to \$85.0 million for the year ended December 31, 2016. Operating Surplus is a non-GAAP financial measure used by certain investors to assist in evaluating a partnership's ability to make quarterly cash distributions (See "Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA and Operating Surplus" contained herein).

Seasonality: Since Navios Partners' vessels generally operate under long-term charters, the results of operations are not generally subject to the effect of seasonable variations in demand.

B. Liquidity and Capital Resources

Credit facilities

As of December 31, 2018, the total borrowings, net of deferred finance fees and discount under the Navios Partners' credit facilities were \$507.5 million.

Term Loan B Facility: In June 2013, Navios Partners completed the issuance of the \$250.0 million Term Loan B Facility. On October 31, 2013 and November 1, 2013, Navios Partners completed the issuance of a \$189.5 million add-on to its existing Term Loan B Facility.

During 2016, Navios Partners prepaid \$25.0 million of the Term Loan B Facility. The prepayment was fully applied to the balloon payment. Following the prepayment of May 2016, an amount of \$0.2 million was written-off from the deferred finance fees.

On March 14, 2017, Navios Partners completed the issuance of a new \$405.0 million Term Loan B Facility. The new Term Loan B Facility bears an interest rate of LIBOR plus 500 bps, it is set to mature on September 14, 2020 and is repayable in equal quarterly installments of 1.25% of the initial principal amount. Navios Partners used the net proceeds of the Term Loan B Facility to: (i) refinance the existing Term Loan B; and (ii) pay fees and expenses related to the Term Loan B. Following the refinancing of the Term Loan B Facility, an amount of \$1.9 million and \$1.3 million was written-off from the deferred finance fees and discount, respectively. On August 10, 2017, Navios Partners completed the issuance of a \$53.0 million add-on to its existing Term Loan B Facility. The add-on to the Term Loan B Facility bore the same terms as the Term Loan B Facility. Navios Partners used the net proceeds to partially finance the acquisition of three vessels.

The Term Loan B Facility is secured by first priority mortgages covering certain vessels owned by subsidiaries of Navios Partners, in addition to other collateral and guaranteed by each subsidiary of Navios Partners. During the year ended December 31, 2018, four drybulk vessels were released from security of the Term Loan B Facility and in exchange, five drybulk vessels and \$2.0 million in cash substituted the released vessels, as collateral to the Term Loan B Facility.

The Term Loan B Facility requires maintenance of a loan to value ratio of 0.8 to 1.0, and other restrictive covenants customary for facilities of this type (subject to negotiated exceptions and baskets), including restrictions on indebtedness, liens, acquisitions and investments, restricted payments and dispositions. The Term Loan B Facility also provides for customary events of default, prepayment and cure provisions.

As of December 31, 2018, the outstanding balance of the Term Loan B Facility was \$411.9 million, net of discount of \$6.6 million, and is repayable in six quarterly installments of \$5.7 million with a final payment of \$384.1 million, including the last installment on the last repayment date. The final maturity date is September 14, 2020.

BNP Credit Facility: On June 26, 2017, Navios Partners entered into a new credit facility with BNP PARIBAS (the "BNP Credit Facility") of up to \$32.0 million (divided into two tranches) in order to finance a portion of the purchase price of the Navios Ace and the Navios Sol. On June 28, 2017, the first tranche of BNP Credit Facility of \$17.0 million was drawn. On July 18, 2017, the second tranche of BNP Credit Facility of \$15.0 million was drawn. On December 13, 2018, Navios Partners repaid the outstanding balance of the first tranche in the amount of \$15.1 million. Following this repayment, an amount of \$0.1 million was written-off from the deferred finance fees as of December 31, 2018. As of December 31, 2018, the outstanding balance of the second tranche of the BNP Credit Facility was \$12.9 million, and is repayable in eleven equal consecutive quarterly installments of \$0.4 million each, with a final balloon payment of \$8.3 million to be repaid on the last repayment date. The facility matures in the third quarter of 2021 and bears interest at LIBOR plus 300 bps per annum.

DVB Credit Facilities: On January 8, 2016, Navios Partners prepaid the 2016 installments in the amount of \$16.2 million of the Commerzbank/DVB Credit Facility (the "July 2012 Credit Facility"). On November 10, 2016, Navios Partners prepaid \$28.1 million in cash for the settlement of a nominal amount of \$30.2 million of the July 2012 Credit facility achieving a \$2.1 million gain on debt repayment. The prepayments of 2016 of this facility were accounted for as debt modification in accordance with ASC470 *Debt*. Following these prepayments, an amount of \$0.2 million was written-off from the deferred finance fees.

On June 28, 2017, Navios Partners entered into a new credit facility with DVB Bank S.E. (the "DVB Credit Facility") of up to \$39.0 million (divided into four tranches) in order to refinance the existing July 2012 Credit Facility and an additional amount of \$7.0 million to partially finance the acquisition of the Navios Prosperity I. The amounts of \$7.0 million and \$32.0 million were drawn on June 30, 2017 and November 3, 2017, respectively. On July 2, 2018, Navios Partners repaid the outstanding balance of the three tranches in the amount of \$20.2 million.

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Following this repayment, an amount of \$0.2 million was written-off from the deferred finance fees as of June 30, 2018. As of December 31, 2018, the outstanding balance of the DVB Credit Facility was \$13.0 million and is repayable in one quarterly installment of \$0.75 million and seven consecutive quarterly installments of \$0.57 million each, with a final balloon payment of \$8.25 million to be repaid on the last repayment date. The facility matures in the fourth quarter of 2020 and bears interest at LIBOR plus 310 bps per annum.

On July 31, 2018, Navios Partners entered into a new credit facility with DVB Bank S.E. (the “DVB \$44m Credit Facility”) of up to \$44.0 million (divided into two tranches) in order to finance the acquisition of the Navios Sphera and the Navios Mars. The amounts of \$17.5 million and \$26.5 million were drawn on August 30, 2018, respectively. As of December 31, 2018, the outstanding balance of the DVB \$44m Credit Facility was \$43.2 million and is repayable in 19 consecutive quarterly installments of \$0.8 million, with a final balloon payment of \$28.1 million to be repaid on the last repayment date. The facility matures in the third quarter of 2023 and bears interest at LIBOR plus 290 bps per annum.

On February 12, 2019, Navios Partners entered into a new credit facility with DVB Bank S.E. (the “February 2019 Credit Facility”) of up to \$66.0 million (divided into four tranches) in order to refinance four Capesize vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 260 bps per annum. As of April 8, 2019, no amount has been drawn under this facility.

Nordea/Skandinaviska Enskilda/NIBC Credit Facility: On March 26, 2018, Navios Partners entered into a new credit facility with Nordea Bank AB, Skandinaviska Enskilda Bank AB and NIBC Bank N.V. (the “March 2018 Credit Facility”) of up to \$14.3 million (divided into two tranches) in order to finance a portion of the purchase of the Navios Symmetry and the Navios Altair I. On May 18, 2018, the first tranche of the March 2018 Credit Facility of \$7.15 million was drawn. On June 1, 2018 the second tranche of the March 2018 Credit Facility of \$7.15 million was drawn. On December 13, 2018, Navios Partners repaid the outstanding balance of the second tranche in the amount of \$6.6 million. Following this repayment, an amount of \$0.1 million was written-off from the deferred finance fees as of December 31, 2018. As of December 31, 2018, the outstanding balance of the March 2018 Credit Facility was \$6.6 million and is repayable in 18 equal consecutive quarterly installments of \$0.3 million, with a final balloon payment of \$1.2 million to be repaid on the last repayment date. The facility matures in the second quarter of 2023 and bears interest at LIBOR plus 300 bps per annum.

ABN AMRO Credit Facility: On June 23, 2016, Navios Partners entered into the “June 2016 Credit Facility” of up to \$30.0 million to be used for the general corporate purposes of the Borrower. The June 2016 Credit Facility bore interest at LIBOR plus 400 bps per annum. The final maturity date was January 30, 2017. On January 12, 2017, Navios Partners fully repaid the June 2016 Credit Facility. As of December 31, 2018, there was no outstanding amount under this facility.

HSH Credit Facility: On April 16, 2015, Navios Partners, through certain of its wholly-owned subsidiaries, entered into a term loan facility agreement of up to \$164.0 million (divided into two tranches) with HSH Nordbank AG (the “April 2015 Credit Facility”), in order to finance a portion of the purchase price payable in connection with the acquisition of the MSC Cristina and one more super-postpanamax 13,100 TEU container vessel. On September 30, 2015, the second tranche of April 2015 Credit Facility of \$83.0 million was cancelled. The final maturity date was April 20, 2022. On January 12, 2017, Navios Partners fully repaid the April 2015 Credit Facility. Following the repayment, an amount of \$0.5 million was written-off from the deferred finance fees. As of December 31, 2018, there was no outstanding amount under this facility.

The Navios Holdings Credit Facility: In May 2015, Navios Partners entered into a term loan facility with Navios Holdings of up to \$60.0 million (the “Navios Holdings Credit Facility”). The Navios Holdings Credit Facility bore interest at LIBOR plus 300 bps. The final maturity date was January 2, 2017. In April 2016, the Company drew down \$21.0 million from Navios Holdings Credit Facility, which was fully repaid during April 2016. Following this prepayment, an amount of \$0.6 million was written off from the deferred finance fees. As of December 31, 2018, there was no outstanding amount under this facility.

NIBC Credit Facility: On December 26, 2018, Navios Partners entered into a new credit facility with NIBC Bank N.V. (the “December 2018 Credit Facility”) of up to \$28.5 million (divided into three tranches) in order to refinance three Ultra-Handymax vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 275 bps per annum. As of December 31, 2018, no amount has been drawn under this facility.

DNB Credit Facility: On April 5, 2019, Navios Partners entered into a new credit facility with DNB Bank ASA (the “April 2019 Credit Facility”) of up to \$40.0 million (divided into two tranches) in order to refinance two Capesize vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 275 bps per annum. As of April 8, 2019, no amount has been drawn under this facility.

Financial Liabilities: In December 2018, the Company entered into two sale and leaseback agreements of \$25.0 million in total, with unrelated third parties for the Navios Fantastiks and the Navios Beaufiks. Navios Partners has a purchase obligation to acquire the vessels at the end of the lease term and under ASC 842-40, the transfer of the vessels was determined to be a failed sale. In accordance with ASC 842-40, the Company did not derecognize the respective vessels from its balance sheet and accounted for the amounts received under the sale and leaseback agreements as a financial liability. Navios Partners is obligated to make 69 and 60 consecutive average monthly payments of approximately \$0.16 million each. As of December 31, 2018, the outstanding balance under the sale and leaseback agreements of the Navios Fantastiks and Navios

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Beaufiks was \$24.8 million in total. The agreements mature in the third quarter of 2024 and fourth quarter of 2023, respectively, with a purchase obligation of \$6.3 million per vessel on the last repayment date.

On April 5, 2019, the Company entered into a new sale and leaseback agreement of \$20.0 million, with an unrelated third party for the Navios Sol, a 2009-built Capesize vessel of 180,274 dwt. Navios Partners has a purchase obligation to acquire the vessel at the end of the lease term and under ASC 842-40, the transfer of the vessel was determined to be a failed sale. Navios Partners is obligated to make 120 consecutive monthly payments of approximately \$0.01 million each. The agreement matures in the second quarter of 2029, with a purchase obligation of \$6.3 million on the last repayment date. As of April 8, 2019, no amount has been drawn under this agreement.

Amounts drawn under the credit facilities are secured by first preferred mortgages on certain Navios Partners' vessels and other collateral and are guaranteed by the respective vessel-owning subsidiaries. The credit facilities contain a number of restrictive covenants that prohibit or limit Navios Partners from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions; charging, pledging or encumbering the vessels; changing the flag, class, management or ownership of Navios Partners' vessels; changing the commercial and technical management of Navios Partners' vessels; selling or changing the beneficial ownership or control of Navios Partners' vessels; not maintaining Navios Holdings' (or its affiliates) ownership in Navios Partners of at least 15.0%; and subordinating the obligations under the credit facilities to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the management agreement.

The credit facilities require compliance with a number of financial covenants, including: (i) maintain a required security amount ranging over 120% to 140%; (ii) minimum free consolidated liquidity in an amount equal to at least \$650 per owned vessel; (iii) maintain a ratio of EBITDA to interest expense of at least 2.00:1.00; (iv) maintain a ratio of total liabilities or total debt to total assets (as defined in our credit facilities) ranging of less than 0.75; and (v) maintain a minimum net worth to \$135.0 million.

The Financial Liabilities have no financial covenants.

It is an event of default under the credit facilities if such covenants are not complied with in accordance with the terms and subject to the prepayments or cure provisions of the facilities.

As of December 31, 2018, Navios Partners was in compliance with the financial covenants and/or the prepayment and/or the cure provisions as applicable in each of its credit facilities.

The credit facilities prohibit us from paying distributions to our unitholders or making new investments if, before and after giving effect to such distribution or investment we are not in compliance with the financial covenants described above or upon the occurrence of an event of default. Events of default under our credit facilities include:

- failure to pay any principal, interest fees, expenses or other amounts when due;
- breach of certain undertakings, negative covenants and financial covenants contained in the credit facilities, any related security document or guarantee, including failure to maintain unencumbered title to any of the vessel-owning subsidiaries or any of the assets of the vessel-owning subsidiaries and failure to maintain proper insurance and in some cases subject to certain grace and due periods;
- default under other indebtedness;
- any representation, warranty or statement made by us in the credit facilities or any drawdown notice thereunder or related security document or guarantee is untrue or misleading when made;
- any of our or our subsidiaries' assets are subject to any form of execution, attachment, arrest, sequestration or distress in that is not discharged within a specified period of time;
- an event of insolvency or bankruptcy;
- a material adverse change in the financial position or prospects of us or our General Partner;
- unlawfulness, non-effectiveness or repudiation of any material provision of our credit facilities, of any of the related finance and guarantee documents;
- failure of effectiveness of security documents or guarantee;
- instability affecting a country where the vessels are flagged; and
- failure of Navios Holdings or its affiliates (as defined in the credit facilities agreements) to own at least 15% of us.

Liquidity and Capital Resources

In addition to distributions on our units, our primary short-term liquidity needs are to fund general working capital requirements, cash reserve requirements including those under our credit facilities and debt service, 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 drydocking expenditures and expenditures to replace vessels in order to maintain the operating capacity of or revenue generated by our fleet. Investment capital

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expenditures are those capital expenditures that are neither maintenance capital expenditures nor expansion capital expenditures. We anticipate that our primary sources of funds for our short-term liquidity needs will be cash flows from our equity offerings, operations, proceeds from asset sales, long-term bank borrowings and other debt raisings. As of December 31, 2018, Navios Partners' current assets totaled \$111.1 million, while current liabilities totaled \$52.3 million, resulting in a positive working capital position of \$58.8 million. Generally, our long-term sources of funds derive from cash from operations, long-term bank borrowings and other debt or equity financings to fund acquisitions and expansion and investment capital expenditures, including opportunities we may pursue under the Omnibus Agreement. We cannot assure you that we will be able to secure adequate financing or to obtain additional funds on favorable terms, to meet our liquidity needs.

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 Partners does maintain cash deposits and equivalents in excess of government provided insurance limits. Navios Partners also minimizes exposure to credit risk by dealing with a diversified group of major financial institutions.

Navios Partners' cash forecast indicates that it will generate sufficient cash to make the required principal and interest payments on its indebtedness, provide for the normal working capital requirements of the business and remain in a positive working capital position through twelve months from April 8, 2019.

Please See "Item 4.A — History and Development of the Partnership" for further discussion of Navios Partners' Liquidity and Capital Resources.

Cash flows for the year ended December 31, 2018 compared to the year ended December 31, 2017:

The following table presents cash flow information for the years ended December 31, 2018 and 2017. This information was derived from the audited Consolidated Statements of Cash Flows of Navios Partners for the respective periods.

	Year Ended December 31, 2018	Year Ended December 31, 2017
	(In thousands of U.S. dollars)	
Net cash provided by operating activities	\$ 68,319	\$ 53,499
Net cash used in investing activities	(67,888)	(187,211)
Net cash provided by financing activities	31,091	138,557
Net increase in cash, cash equivalents and restricted cash	\$ 31,522	\$ 4,845

Cash provided by operating activities for the year ended December 31, 2018 as compared to the cash provided by operating activities for the year ended December 31, 2017:

Net cash provided by operating activities increased by \$14.8 million to \$68.3 million inflow for the year ended December 31, 2018, as compared to \$53.5 million inflow for the same period in 2017.

Net loss decreased by \$1.8 million to a net loss of \$(13.1) million for the year ended December 31, 2018, from a net loss of \$(14.8) million for the year ended December 31, 2017. In determining net cash provided by operating activities for the year ended December 31, 2018, net loss was adjusted for the effects of certain non-cash items, including \$58.3 million depreciation and amortization, \$37.9 million impairment loss in relation to the sale of the YM Unity and the YM Utmost, \$5.3 million impairment loss in relation to the sale of the Navios Felicity, \$1.2 million impairment loss in relation to the sale of the Navios Libra II, \$12.5 million non-cash accrued interest income and amortization of deferred revenue, \$0.3 million non-cash interest income from receivable from affiliates, \$7.3 million amortization and write-off of deferred finance costs and discount, \$6.2 million amortization of deferred drydock and special survey costs, \$4.0 million equity in net earnings of affiliated companies and \$2.5 million equity compensation expense. For the year ended December 31, 2017, net loss was adjusted for the effects of certain non-cash items, including \$72.8 million depreciation and amortization, \$32.7 million impairment loss for two of our vessels, \$12.5 million non-cash accrued interest income and amortization of deferred revenue, \$0.2 million non-cash interest income from receivable from affiliates, \$9.7 million amortization and write-off of deferred finance costs and discount, \$6.7 million amortization of deferred drydock and special survey costs, \$0.9 million equity in net earnings of affiliated companies, \$1.9 million equity compensation expense, \$1.5 million allowance for doubtful accounts, \$1.3 million loss related to the disposal of the MSC Cristina and \$4.1 million gain on change in control.

Accounts receivable increased by \$0.3 million, from \$14.1 million at December 31, 2017, to \$14.4 million at December 31, 2018 due to the increase in amounts due from charterers.

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Accounts payable increased by \$1.1 million, from \$3.7 million at December 31, 2017, to \$4.8 million at December 31, 2018. The increase was mainly attributable to an increase in legal and professional payables by \$0.2 million, an increase in brokers' payable by \$0.3 million and an increase in other payables by \$0.6 million.

Accrued expenses decreased by \$3.4 million, from \$8.8 million at December 31, 2017 to \$5.4 million at December 31, 2018. The decrease was mainly attributable to a decrease in accrued bonus, legal and professional fees by \$4.7 million, partially mitigated by an increase in accrued voyage expenses by \$1.0 million and an increase in accrued loan interest by \$0.3 million.

Deferred revenue primarily related to cash received from charterers prior to it being earned. Deferred revenue, net of commissions related to Navios Partners increased by \$0.1 million from \$3.0 million at December 31, 2017, to \$3.2 million at December 31, 2018.

Amounts due from related parties consisted of management fees and drydocking expenses including amounts needed for compliance with IMO regulations prepaid to Navios Holdings in accordance with the Management and Administrative Service agreements and the Navios Holdings Guarantee of up to \$20.0 million. Amounts due from related parties increased by \$12.0 million from \$45.4 million at December 31, 2017, to \$57.4 million at December 31, 2018.

Payments for drydock and special survey costs incurred for certain vessels of the fleet in the twelve month period ended December 31, 2018 and 2017 were \$4.3 million and \$3.3 million, respectively.

Cash used in investing activities for the year ended December 31, 2018 as compared to the cash used in investing activities for the year ended December 31, 2017:

Net cash used in investing activities decreased by \$119.3 million to \$67.9 million outflow for the year ended December 31, 2018, as compared to \$187.2 million outflow for the same period in 2017.

Cash used in investing activities of \$67.9 million for the year ended December 31, 2018 was mainly due to: (i) a \$79.0 million paid for the acquisition of the Navios Mars and the Navios Sphera delivered on August 31, 2018; (ii) a \$36.9 million paid for the acquisition of the Navios Apollon I, the Navios Symmetry and the Navios Altair I delivered in the second quarter of 2018; (iii) a \$14.5 million investment in Navios Containers on March 13, 2018; (iv) a \$5.6 million loan granted to Navios Europe II; (v) a \$10.0 million loan granted to Navios Europe I; and (vi) a \$2.9 million deposit and capital expenses for the option to acquire the newbuilding Panamax vessel expected to be delivered in the second half of 2019. The above decrease was partially mitigated by: (i) a \$67.0 million proceeds from the sale of the YM Unity and the YM Utmost on July 2, 2018; (ii) a \$4.7 million proceeds from the sale of the Navios Felicity; (iii) a \$4.6 million proceeds from the sale of the Navios Libra II; and (iv) a \$4.7 million of proceeds from the note receivable related to the sale of the MSC Cristina.

Cash used in investing activities of \$187.2 million for the year ended December 31, 2017 was mainly due to: (i) a \$158.2 million acquisition of the seven drybulk vessels in 2017; (ii) a \$115.9 million acquisition of the 14 Containerships from Rickmers Trust, net of cash; (iii) a \$19.8 million decrease in cash balance representing the cash held by Navios Containers on the date of its deconsolidation; (iv) a \$10.0 million investment in Navios Containers on November 9, 2017; (v) an \$8.5 million loan granted to Navios Europe II and a \$0.5 million loan granted to Navios Europe I; (vi) a \$4.1 million payment for the transfer to Navios Partners the rights of Navios Holdings on the Navios Europe I Navios Term Loans I and Navios Revolving Loans I; and (vii) a \$2.8 million deposit for the option to acquire the newbuilding Panamax vessel expected to be delivered in the second half of 2019. The above decrease was partially mitigated by: (i) \$113.8 million of proceeds from the sale of the MSC Cristina, the Navios Apollon and the Navios Gemini S; (ii) \$14.0 million of proceeds from Navios Containers in relation to the seller's credit; and (iii) \$4.7 million of proceeds from the note receivable related to the sale of the MSC Cristina.

Cash provided by financing activities for the year ended December 31, 2018 as compared to the cash provided by financing activities for the year ended December 31, 2017:

Net cash provided by financing activities decreased by \$107.5 million to \$31.1 million inflow for the year ended December 31, 2018, as compared to \$138.6 million inflow for the same period in 2017.

Cash provided by financing activities of \$31.1 million for the year ended December 31, 2018 was due to: (i) \$34.1 million of proceeds from the issuance of 18,422,000 common units and 375,959 additional general partner units, net of offering costs, related to the public offering on February 21, 2018; (ii) \$0.1 million of proceeds from the issuance of 57,848 general partner units related to the issuance of 1,464,494 restricted common units in December 2018 and 1,370,044 restricted common units, in January 2018; (iii) \$14.3 million of proceeds from the March 2018 Credit Facility; (iv) \$44.0 million of proceeds from the DVB \$44m Credit Facility; and (v) \$25.0 million proceeds from the sale and leaseback agreement. This overall increase was partially offset by: (i) loan and financial liability repayments of \$74.9 million; (ii) a payment of a total cash distribution of \$10.3 million; and (iii) a payment of \$1.2 million of deferred finance fees relating to the March 2018 Credit Facility, the DVB \$44m Credit Facility and the sale and leaseback transaction.

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Cash provided by financing activities of \$138.6 million for the year ended December 31, 2017 was due to: (i) \$514.7 million of proceeds from the new Term Loan B Facility including the add-on, net of discount and the new credit facilities; (ii) \$98.0 million of proceeds from the issuance of 47,795,000 common units and 975,408 additional general partner units, net of offering costs, related to the public offering in March 2017; (iii) \$2.3 million of proceeds from the issuance of 1,200,442 common units and 24,498 additional general partner units related to the Continuous Offering Program Sales Agreement; (iv) \$0.5 million of proceeds from the issuance of 266,876 additional general partner units relating to the transfer of Navios Europe I Loans; (v) \$0.6 million of proceeds from the issuance of 361,444 restricted common units and 12,244 additional general partner units related to the acquisition of the vessels from Rickmers Trust; (vi) proceeds of \$60.1 million from the credit facilities of Navios Containers, net of discount; and (vii) \$17.3 million of proceeds from noncontrolling interest. This overall increase was partially offset by: (i) loan repayments of \$546.5 million; (ii) payment of \$7.8 million of deferred finance fees related to the refinancing of the Term Loan B Facility and the new credit facilities; and (iii) a \$0.7 million issuance cost relating to the transfer of Navios Europe I Loans.

Cash flows for the year ended December 31, 2017 compared to the year ended December 31, 2016:

The following table presents cash flow information for the years ended December 31, 2017 and 2016. This information was derived from the audited consolidated statements of cash flows of Navios Partners for the respective periods.

	Year Ended December 31, 2017	Year Ended December 31, 2016
	(In thousands of U.S. dollars)	
Net cash provided by operating activities	\$ 53,499	\$ 61,813
Net cash (used in)/ provided by investing activities	(187,211)	5,051
Net cash provided by/ (used in) financing activities	138,557	(76,315)
Increase/ (decrease) in cash, cash equivalents and restricted cash	\$ 4,845	\$ (9,451)

Cash provided by operating activities for the year ended December 31, 2017 as compared to the cash provided by operating activities for the year ended December 31, 2016:

Net cash provided by operating activities decreased by \$8.3 million to \$53.5 million for the year ended December 31, 2017, as compared to \$61.8 million for the same period in 2016.

Net loss decreased by \$37.7 million to a net loss of \$14.8 million for the year ended December 31, 2017, from a net loss of \$52.5 million for the year ended December 31, 2016. In determining net cash provided by operating activities for the year ended December 31, 2017, net loss was adjusted for the effects of certain non-cash items, including \$72.8 million depreciation and amortization, \$32.7 million impairment loss for two of our vessels, \$12.5 million non-cash accrued interest income and amortization of deferred revenue, \$0.2 million non-cash interest income from receivable from affiliates, \$9.7 million amortization and write-off of deferred finance costs and discount, \$6.7 million amortization of deferred drydock and special survey costs, \$0.9 million equity in net earnings of affiliated companies, \$1.9 million equity compensation expense, \$1.5 million allowance for doubtful accounts, \$1.3 million loss related to the disposal of the MSC Cristina and \$4.1 million gain on change in control. For the year ended December 31, 2016, net loss was adjusted for the effects of certain non-cash items, including \$92.4 million depreciation and amortization, \$17.2 million impairment loss in relation to the committed sale of the MSC Cristina held for sale, \$10.0 million impairment loss on the sale of the Navios Apollon, \$19.4 million loss in relation to the sale of the HMM securities, \$2.1 million non-cash gain on debt repayment, \$5.7 million non-cash accrued interest income and amortization of deferred revenue, \$4.0 million amortization and write-off of deferred finance costs, \$6.4 million amortization of deferred drydock and special survey costs, \$0.1 million equity in net earnings of affiliated companies and \$0.1 million equity compensation expense.

Accounts payable increased by \$1.6 million. The amount consisted of \$0.1 million from Navios Partners and \$1.5 million from Navios Containers. The increase was mainly attributable to an increase in legal and professional payables by \$0.8 million, an increase in brokers' payable by \$0.4 million and an increase in other payables by \$0.4 million.

Accrued expenses increased by \$6.6 million. The amount consisted of \$5.6 million from Navios Partners and \$1.0 million from Navios Containers. The increase was mainly attributable to an increase in accrued legal and professional fees by \$2.7 million, an increase in accrued loan interest by \$1.7 million and an increase in accrued voyage expenses by \$2.3 million.

Deferred revenue primarily related to cash received from charterers prior to it being earned decreased by \$2.2 million. Deferred revenue, net of commissions related to Navios Partners decreased by \$1.9 million while deferred revenue, net of commissions related to Navios Containers decreased by \$0.3 million.

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Amounts due to related parties decreased by \$11.1 million, from \$11.1 million at December 31, 2016 to \$0 at December 31, 2017. The decrease was mainly due to payments for drydock and special survey costs payable as of December 31, 2016.

Amounts due from related parties consisted of management fees and drydocking expenses prepaid to Navios Holdings in accordance with the Management and Administrative service agreements and the Navios Holdings Guarantee of up to \$20.0 million. Amounts due from related parties increased by \$26.1 million during the year ended December 31, 2017. The increase related to Navios Partners amounted to \$26.4 million, which was partially mitigated by a decrease of \$0.3 million from Navios Containers.

Payments for drydock and special survey costs incurred for certain vessels of the fleet at December 31, 2017 were \$3.3 million. There were no such costs at December 31, 2016.

Cash used in investing activities for the year ended December 31, 2017 as compared to the cash provided by investing activities for the year ended December 31, 2016:

Net cash used in investing activities increased by \$192.3 million to \$187.2 million outflow for the year ended December 31, 2017, as compared to \$5.1 million inflow for the same period in 2016.

Cash used in investing activities of \$187.2 million for the year ended December 31, 2017 was mainly due to: (i) a \$158.2 million acquisition of the seven drybulk vessels in 2017; (ii) a \$115.9 million acquisition of the 14 Containerships from Rickmers Trust, net of cash; (iii) a \$19.8 million decrease in cash balance representing the cash held by Navios Containers on the date of the deconsolidation; (iv) a \$10.0 million investment in Navios Containers on November 9, 2017; (v) an \$8.5 million loan granted to Navios Europe II and a \$0.5 million loan granted to Navios Europe I; (vi) a \$4.1 million payment for the transfer to Navios Partners the rights of Navios Holdings on the Navios Europe I Navios Term Loans I and Navios Revolving Loans I; and (vii) a \$2.8 million deposit for the acquisition of a bulk carrier vessel expected to be delivered in the second half of 2019. The above decrease was partially mitigated by: (i) \$113.8 million of proceeds from the sale of the MSC Cristina, the Navios Apollon and the Navios Gemini S; (ii) \$14.0 million of proceeds from Navios Containers in relation to the seller's credit; and (iii) \$4.7 million of proceeds from the note receivable related to the sale of the MSC Cristina.

Cash provided by investing activities of \$5.1 million for the year ended December 31, 2016 was mainly due to: (i) \$20.8 million of proceeds from the sale of the HMM securities; (ii) \$15.3 million paid for the acquisition of the Navios Beaufiks, which was delivered in December 2016; and (iii) a \$0.5 million loan granted to Navios Europe II.

Cash provided by financing activities for the year ended December 31, 2017 as compared to the cash used in financing activities for the year ended December 31, 2016:

Net cash provided by financing activities increased by \$214.9 million to \$138.6 million inflow for the year ended December 31, 2017, as compared to \$76.3 million outflow for the same period in 2016.

Cash provided by financing activities of \$138.6 million for the year ended December 31, 2017 was due to: (i) \$514.7 million of proceeds from the new Term Loan B Facility including the add-on, net of discount and the new credit facilities; (ii) \$98.0 million of proceeds from the issuance of 47,795,000 common units and 975,408 additional general partner units, net of offering costs, related to the public offering in March 2017; (iii) \$2.3 million of proceeds from the issuance of 1,200,442 common units and 24,498 additional general partner units related to the Continuous Offering Program Sales Agreement; (iv) \$0.5 million of proceeds from the issuance of 266,876 additional general partner units relating to the transfer of Navios Europe I Loans; (v) \$0.6 million of proceeds from the issuance of 361,444 restricted common units and 12,244 additional general partner units related to the acquisition of the vessels from Rickmers Trust; (vi) proceeds of \$60.1 million from the credit facilities of Navios Containers, net of discount; and (vii) \$17.3 million of proceeds from noncontrolling interest. This overall increase was partially offset by: (i) loan repayments of \$546.5 million; (ii) payment of \$7.8 million of deferred finance fees related to the refinancing of the Term Loan B Facility and the new credit facilities; and (iii) a \$0.7 million issuance cost relating to the transfer of Navios Europe I Loans.

Cash used in financing activities of \$76.3 million for the year ended December 31, 2016 was due to: (i) loan repayments of \$104.6 million; and (ii) a payment of \$1.1 million of deferred financing costs relating to the June 2016 Credit Facility and the Navios Holdings Credit Facility. This overall decrease was partially offset by: (i) proceeds of \$29.0 million on June 23, 2016, under the June 2016 Credit Facility; and (ii) \$0.4 million of proceeds from the issuance of 244,201 common units and additional general partner units in November 2016, net of offering costs.

Reconciliation of EBITDA and Adjusted EBITDA to Net Cash from Operating Activities, EBITDA and Operating Surplus

	Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
	(In thousands of U.S. dollars)		
Net cash provided by operating activities	\$ 68,319	\$ 53,499(2)	\$ 61,813(2)
Net increase in operating assets	19,926	35,532(2)	31,847(2)
Increase/ (decrease) in operating liabilities	2,542	5,033	(4,524)
Net interest cost	38,358	34,949	30,706
Amortization and write-off of deferred financing cost	(7,258)	(9,744)	(4,003)
Non cash accrued interest income and amortization of deferred revenue	12,522	12,512	5,717
Equity compensation expense	(2,450)	(1,904)	(93)
Gain on change in control	—	4,068	—
Vessel impairment losses	(44,344)	(32,677)	(27,201)
Non cash accrued interest income from receivable from affiliates	272	204	—
Loss on sale of securities	—	—	(19,435)
Gain on debt repayment	—	—	2,140
Allowance for doubtful accounts	—	(1,495)	—
Loss on vessel disposal	(53)	(1,260)	—
Noncontrolling interest	—	(239)	—
Write down of guarantee claim receivable	(2,000)	—	—
Equity in earnings of affiliates, net of dividends received	3,957	866	(59)
EBITDA(1)	\$ 89,791	\$ 99,344	\$ 76,908
Allowance for doubtful accounts	—	1,495	—
Loss on vessel disposal	—	1,260	—
Equity compensation expense	2,450	1,904	—
Reactivation cost	—	447	—
Gain on change in control	—	(4,068)	—
Vessel impairment losses	44,344	32,677	27,201
Loss on sale of securities	—	—	19,435
Other than temporary impairment on dividend in kind	560	—	—
Write down of guarantee claim receivable	2,000	—	—
Adjusted EBITDA	\$ 139,145	\$ 133,059	\$ 123,544
Cash interest income	739	1,045	7
Cash interest paid	(35,244)	(26,630)	(26,694)
Maintenance and replacement capital expenditures	(26,787)	(14,859)	(11,899)
Operating Surplus	\$ 77,853	\$ 92,615	\$ 84,958

(1)

	Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
	(In thousands of U.S. dollars)		
Net cash provided by operating activities	\$ 68,319	\$ 53,499	\$ 61,813
Net cash (used in)/ provided by investing activities	\$ (67,888)	\$ (187,211)	\$ 5,051
Net cash provided by/ (used in) financing activities	\$ 31,091	\$ 138,557	\$ (76,315)

(2) The net cash provided by operating activities and net increase in operating assets presented in this table have been revised to reflect the adoption of ASU 2016-18, which was effective beginning the first quarter ended March 31, 2018 and applied retrospectively to the years ended December 31, 2017 and 2016.

EBITDA and Adjusted EBITDA

EBITDA represents net income/ (loss) attributable to Navios Partners' unitholders before interest and finance costs, before depreciation and amortization (including intangible accelerated amortization) and income taxes. Adjusted EBITDA represents EBITDA before equity compensation expense, loss on vessel disposal, vessel impairment losses, allowance for doubtful accounts, reactivation costs, gain on change in control, other-than-temporary impairment on dividend in kind and write-down of a guarantee claim receivable. Navios Partners uses Adjusted EBITDA as a liquidity measure and reconcile EBITDA and Adjusted EBITDA to net

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cash provided by/(used in) operating activities, the most comparable U.S. GAAP liquidity measure. EBITDA in this document is calculated as follows: net cash provided by/(used in) operating activities adding back, when applicable and as the case may be, the effect of: (i) net (increase)/decrease in operating assets; (ii) net (decrease)/increase in operating liabilities; (iii) net interest cost; (iv) amortization and write-off of deferred finance charges and other related expenses; (v) allowance for doubtful accounts; (vi) equity in net earnings of affiliated companies; (vii) payments for drydock and special survey costs; (viii) gain/(loss) on sale of assets/subsidiaries; (ix) impairment charges; (x) non-cash accrued interest income and amortization of deferred revenue; (xi) gain/(loss) on debt repayments; (xii) equity compensation expense; (xiii) gain on change in control; (xiv) noncontrolling interest; (xv) non-cash accrued interest income from receivable from affiliates; and (xvi) write-down of a guarantee claim receivable. Navios Partners believes that EBITDA and Adjusted EBITDA are each the basis upon which liquidity can be assessed and presents useful information to investors regarding Navios Partners' ability to service and/or incur indebtedness, pay capital expenditures, meet working capital requirements and make cash distributions. Navios Partners 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 Partners' 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 Partners' 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.

EBITDA of Navios Partners for the year ended December 31, 2018 was negatively affected by the accounting effect of a: (i) \$37.9 million impairment loss on the sale of the YM Unity and the YM Utmost; (ii) \$5.3 million impairment loss on the sale of the Navios Felicity; (iii) \$2.5 million equity compensation expense; (iv) \$2.0 million write down of a guarantee claim receivable; (v) \$1.2 million impairment loss on the sale of the Navios Libra II; and (vi) \$0.6 million other-than-temporary impairment on dividend in kind. EBITDA of Navios Partners for the year ended December 31, 2017 was negatively affected by the accounting effect of a: (i) \$4.1 million gain on change in control from Navios Containers' deconsolidation; (ii) \$30.3 million impairment loss on the Navios Hope; (iii) \$2.4 million impairment loss on the sale of the Navios Gemini S; (iv) \$1.5 million allowance for doubtful accounts; (v) \$1.3 million loss related to the sale of the MSC Cristina; and (vi) \$1.9 million equity compensation expense. Excluding these items, Adjusted EBITDA increased by \$12.6 million to \$139.1 million for the year ended December 31, 2018, as compared to \$126.6 million for the same period in 2017. The increase in Adjusted EBITDA was primarily due to a: (i) \$32.1 million increase in revenue; and (ii) \$3.7 million increase in equity in net earnings of affiliated companies. The above increase was partially mitigated by a: (i) \$6.1 million increase in time charter and voyage expenses; (ii) \$6.3 million increase in management fees; (iii) \$1.4 million increase in general and administrative expenses; (iv) \$8.3 million decrease in other income; and (v) \$1.0 million increase in other expenses.

EBITDA of Navios Partners for the year ended December 31, 2017 was affected by the accounting effect of a: (i) \$4.1 million gain on change in control from Navios Containers' deconsolidation; (ii) \$30.3 million impairment loss for one of our vessels; (iii) \$2.4 million impairment loss on the sale of the Navios Gemini S; (iv) \$1.5 million allowance for doubtful accounts; (v) \$1.3 million loss related to the disposal of the MSC Cristina; and (vi) \$1.9 million equity compensation expense. EBITDA for the year ended December 31, 2016 was negatively affected by the accounting effect of a: (i) \$27.2 million impairment loss on the sale of the MSC Cristina and the Navios Apollon; and (ii) \$19.4 million loss on the sale of the HMM securities. Excluding these items, Adjusted EBITDA increased by \$3.0 million to \$126.6 million for the year ended December 31, 2017, as compared to \$123.5 million for the same period in 2016. The increase in Adjusted EBITDA was primarily due to: (i) an \$8.8 million increase in revenue; (ii) a \$1.8 million decrease in time charter and voyage expenses; (iii) a \$1.9 million decrease in other expenses; and (iv) a \$0.9 million increase in equity in net earnings of affiliated companies. The above increase was partially mitigated by a: (i) \$3.4 million increase in management fees due to the increased fleet; (ii) \$2.2 million increase in general and administrative expenses; and (iii) \$4.6 million decrease in other income.

EBITDA of Navios Containers for the period from April 28, 2017 (date of inception) to August 29, 2017 was negatively affected by the accounting effect of \$0.4 million relating to the reactivation costs of four laid-up vessels. Excluding this item, Adjusted EBITDA was \$6.7 million for the period from April 28, 2017 to August 29, 2017.

Operating Surplus

Operating Surplus represents net income adjusted for depreciation and amortization expense, non-cash interest expense, non-cash interest income, equity compensation expense, estimated maintenance and replacement capital expenditures and one-off items. Maintenance and replacement capital expenditures are those capital expenditures required to maintain over the long term the operating capacity of, or the revenue generated by, Navios Partners' capital assets.

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Operating Surplus is a quantitative measure used in the publicly-traded partnership investment community to assist in evaluating a partnership's ability to make quarterly cash distributions. Operating Surplus is not required by accounting principles generally accepted in the United States and should not be considered a substitute for net income, cash flow from operating activities and other operations or cash flow statement data prepared in accordance with accounting principles generally accepted in the United States or as a measure of profitability or liquidity.

Borrowings

Navios Partners' long-term third party borrowings are presented under the captions "Long-term financial liability, net", "Long-term debt, net", "Financial liability short-term, net" and "Current portion of long-term debt, net". As of December 31, 2018 and December 31, 2017, total borrowings, net amounted to \$507.5 million and \$493.5 million, respectively. The current portion of long-term borrowings, net amounted to \$26.8 million at December 31, 2018 and \$26.6 million at December 31, 2017.

Capital Expenditures

Navios Partners finances its capital expenditures with cash flow from operations, equity raisings, long term bank borrowings and other debt raisings. Capital expenditures for the years ended December 31, 2018, 2017 and 2016 amounted to \$118.8 million, \$276.9 million and \$15.3 million, respectively. For the year ended December 31, 2018, expansion capital expenditures of \$118.8 million related to the \$2.9 million second deposit and other expenses for the acquisition of a Panamax vessel expected to be delivered in the second half of 2019 and \$115.9 million paid for the acquisition of the five drybulk vessels in 2018. For the year ended December 31, 2017, expansion capital expenditures of \$276.9 million related to the \$115.9 million for the acquisition of the 14 Containerships from Rickmers Trust, net of cash, \$158.2 million paid for the acquisition of the seven drybulk vessels in 2017 and \$2.8 million deposit for the acquisition of a Panamax vessel expected to be delivered in the second half of 2019. For the year ended December 31, 2016, expansion capital expenditures of \$15.3 million related to the acquisition of the Navios Beaufiks in December 2016. The reserves for estimated maintenance and replacement capital expenditures for the years ended December 31, 2018, 2017 and 2016 amounted to \$26.8 million, \$14.9 million and \$11.9 million, respectively.

Maintenance for our vessels and expenses related to drydocking expenses are reimbursed at cost by Navios Partners to our Manager under the amended management agreement. In October 2011, Navios Partners extended the duration of its existing Management Agreement with the Manager until December 31, 2017. In each of October 2013, August 2014, February 2015 and February 2016, Navios Partners amended its existing Management Agreement with the Manager to fix the fees for ship management services of its owned fleet, excluding drydocking expenses, which are reimbursed at cost by Navios Partners at: (a) \$4,100 daily rate per Ultra-Handymax vessel; (b) \$4,200 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Container vessel of TEU 6,800; (e) \$7,400 daily rate per Container vessel of more than TEU 8,000; and (f) \$8,750 daily rate per very large Container vessel of more than TEU 13,000 through December 31, 2017. In November 2017, Navios Partners extended the duration of its existing Management Agreement with the Manager until December 31, 2022 and the fixed rate for ship management services of its owned fleet through December 31, 2019, effective from January 1, 2018. The management fees, excluding drydocking expenses are: (a) \$4,225 daily rate per Ultra-Handymax vessel; (b) \$4,325 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Container vessel of TEU 6,800; (e) \$7,400 daily rate per Container vessel of more than TEU 8,000; and (f) \$8,750 daily rate per very large Containers vessel of more than TEU 13,000.

Maintenance and Replacement Capital Expenditures Reserve

Our annual maintenance and replacement capital expenditures reserve for the years ended December 31, 2018 and 2017 was \$26.8 million and \$14.9 million, respectively, for replacing our vessels at the end of their useful lives.

The amount for estimated replacement capital expenditures attributable to future vessel replacement was based on the following assumptions: (i) current market price to purchase a five year old vessel of similar size and specifications; (ii) a 25-year useful life for drybulk vessels and a 30-year useful life for containerships; and (iii) a relative net investment rate.

The amount for estimated maintenance capital expenditures attributable to future vessel drydocking and special survey was based on certain assumptions including the remaining useful life of the owned vessels of our fleet, market costs of drydocking and special survey and a relative net investment rate.

Our Board of Directors, with the approval of the Conflicts Committee, may determine that one or more of our assumptions should be revised, which could cause our Board of Directors to increase or decrease the amount of estimated maintenance and replacement capital expenditures. The actual cost of replacing the vessels in our fleet will depend on a number of factors, including prevailing market conditions, charter hire rates and the availability and cost of financing at the time of replacement. We may elect to finance some or all of our maintenance and replacement capital expenditures through the issuance of additional common units which could be dilutive to existing unitholders.

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Vessels to be delivered

In November 2017, Navios Partners entered into a 10-year bareboat charter-in agreement for a Panamax vessel of approximately 81,000 dwt. Navios Partners has the option to acquire the vessel after the end of the fourth year. The vessel is expected to be delivered in the second half of 2019.

Although we do not currently have in place any other agreements relating to acquisitions of other vessels, we assess potential acquisition opportunities on a regular basis. Pursuant to our Omnibus Agreement with Navios Holdings, as amended in June 2009, we will have the opportunity to purchase additional drybulk vessels from Navios Holdings when those vessels are fixed under charters of three or more years upon their expiration of their current charters or upon completion of their construction. Subject to the terms of our loan agreements, we could elect to fund any future acquisitions with equity or debt or cash on hand or a combination of these forms of consideration. Any debt incurred for this purpose could make us more leveraged and increase our debt service obligations or could subject us to additional operational or financial restrictive covenants.

C. Research and development, patents and licenses, etc.

Not applicable.

D. Trend information

Our results of operations depend primarily on the charter hire rates that we are able to realize for our vessels, which depend on the demand and supply dynamics characterizing the drybulk market at any given time. For other trends affecting our business please see other discussions in “Item 5 — Operating and Financial Review and Prospects”.

E. Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements that have or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

F. Contractual Obligations and Contingencies

The following table summarizes our long-term contractual obligations as of December 31, 2018:

	Payments due by period (Unaudited)				Total
	Less than 1 year	1-3 years	3-5 years	More than 5 years	
Loan obligations ⁽¹⁾⁽²⁾	\$33,392	\$430,527	\$47,892	\$ 7,240	\$519,051
Operating Lease Obligations (Time Charters) for vessel to be delivered ⁽³⁾	\$ 547	\$ 4,350	\$ 4,229	\$ 11,691	\$ 20,817
Total contractual obligations	\$33,939	\$434,877	\$52,121	\$ 18,931	\$539,868

- (1) Represents principal payments and repayments on amounts drawn on our credit facilities that bear interest at applicable fixed interest rates ranging from 2.9% to 5.0% plus LIBOR per annum. The amounts in the table exclude expected interest payments of \$38.2 million (less than 1 year), \$30.7 million (1-3 years), \$5.4 million (3-5 years) and \$0.4 million (more than 5 years). Expected interest payments are based on outstanding principal amounts, applicable currently effective interest rates and margins as of December 31, 2018, timing of scheduled payments and the term of the debt obligations.
- (2) Does not include the new credit facility agreement with NIBC N.V. of up to \$28.5 million dated on December 28, 2018 (see Note 11 — Borrowings).
- (3) In November 2017, Navios Partners agreed to charter-in, under a ten-year bareboat contract, from an unrelated third party, a newbuilding Panamax vessel of approximately 81,000 dwt, expected to be delivered in the second half of 2019. Navios Partners has agreed to pay in total \$5.54 million, representing a deposit for the option to acquire the vessel after the end of the fourth year, of which the first half amounted to \$2.77 million was paid during the year ended December 31, 2017 and the second half amounted to \$2.77 million was paid during the year ended December 31, 2018, both presented under the caption “Other long-term assets” in the Consolidated Balance Sheets.

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Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe I revolving loans of up to \$24.1 million to fund working capital requirements (collectively, the “Navios Revolving Loans I”). In December 2018, the amount of funds available under the Navios Revolving Loans I was increased by \$30.0 million. As of December 31, 2018, the amount undrawn under the Navios Revolving Loans I was \$12.0 million, of which Navios Partners may be required to fund an amount ranging from \$0 to \$12.0 million (see Note 18 — Transactions with related parties and affiliates).

Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe II revolving loans of up to \$43.5 million to fund working capital requirements (collectively, the “Navios Revolving Loans II”). In March 2017, the amount of funds available under the Navios Revolving Loans II was increased by \$14.0 million. As of December 31, 2018, the amounts undrawn from the Navios Revolving Loans II were \$4.5 million, of which Navios Partners may be required to fund an amount ranging from \$0 to \$4.5 million (see Note 18 — Transactions with related parties and affiliates).

Navios Partners 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.

Critical Accounting Policies

Our consolidated financial statements have been prepared in accordance with US GAAP. The preparation of these financial statements requires us to make estimates in the application of our accounting policies based on the best assumptions, judgments and opinions of management. Following is a discussion of the accounting policies that involve a higher degree of judgment and the methods of their application that affect the reported amount of assets and liabilities, revenues and expenses and related disclosure of contingent assets and liabilities at the date of our financial statements. 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. For a description of all of our significant accounting policies, see Note 2 — Summary of significant accounting policies to the notes to the consolidated financial statements, included elsewhere in this Annual Report.

Fair Value of Vessels: As of December 31, 2018, Navios Partners owned a fleet of 37 vessels, with an aggregate carrying value of \$1,058.4 million, including the carrying value of existing time charters on its fleet of vessels. On a vessel-by-vessel basis, as of December 31, 2018, the carrying value of Navios Partners’ vessels (including the carrying value of the time charter and the unamortized portion of deferred drydock and special survey costs, if any, on the specified vessel) exceeded the estimated fair value of those same vessels (including the estimated fair value of the time charter, if any, on the specified vessel) by approximately \$168.9 million in the aggregate (the unrealized loss).

A vessel-by-vessel summary as of December 31, 2018, follows (with an * indicating those individual vessels whose carrying value exceeds its estimated fair value, including the related time charter, if any):

<u>Vessel name</u>	<u>Date of Acquisition</u>	<u>Purchase Price⁽¹⁾</u>	<u>Carrying Value as of December 31, 2018⁽¹⁾</u>
	(In millions of U.S. dollars)		
Navios Alegria	11/16/2007	38.9	19.5*
Navios Galaxy I	11/16/2007	30.7	13.8*
Navios Hope	07/01/2008	80.0	14.9*
Navios Fantastiks	05/02/2008	87.7	48.9*
Navios Sagittarius	01/12/2010	59.4	20.6*
Navios Hyperion	01/08/2010	63.0	18.7*
Navios Aurora II	03/18/2010	110.3	46.7*
Navios Pollux	05/21/2010	110.0	49.6*
Navios Melodia	11/15/2010	78.8	51.2*
Navios Fulvia	11/15/2010	98.2	48.2*
Navios Luz	05/19/2011	78.0	41.0*
Navios Orbiter	05/19/2011	52.0	19.2*
Navios Buena Ventura	06/15/2012	67.5	36.1*
Navios Soleil	07/24/2012	21.1	16.1*
Navios Helios	07/27/2012	21.1	15.1*
Navios Joy	09/11/2013	47.5	40.0*
Navios Harmony	10/11/2013	18.0	14.3*
Hyundai Hongkong	12/04/2013	55.2	45.4
Hyundai Tokyo	12/10/2013	55.1	45.5

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Vessel name	Date of Acquisition	Purchase Price ⁽¹⁾	Carrying Value as of December 31, 2018 ⁽¹⁾
(In millions of U.S. dollars)			
Hyundai Singapore	12/04/2013	55.2	45.5
Hyundai Shanghai	12/13/2013	55.2	45.3
Hyundai Busan	12/16/2013	55.8	45.9
Navios La Paix	01/08/2014	28.5	23.6
Navios Sun	01/17/2014	16.2	12.7*
Navios Beaufiks	12/30/2016	15.4	16.6
Navios Prosperity I	06/07/2017	13.7	13.7
Navios Ace	06/09/2017	31.4	29.6
Navios Libertas	07/10/2017	13.7	12.8
Navios Sol	07/17/2017	28.6	26.8*
Navios Christine B	08/11/2017	14.0	13.2
Navios Aster	08/21/2017	28.9	27.3
Navios Symphony	09/20/2017	28.0	26.6
Navios Apollon I	05/09/2018	13.4	13.0*
Navios Symmetry	05/21/2018	11.8	11.5*
Navios Altair I	06/07/2018	11.8	11.5*
Navios Sphera	08/31/2018	30.0	29.6
Navios Mars	08/31/2018	49.0	48.4
Totals		<u>\$1,673.1</u>	<u>\$ 1,058.4</u>

- (1) All amounts include related time charter, if any. Although the aforementioned excess of carrying value over fair value represents an estimate of the loss that Navios Partners would sustain on a hypothetical disposition of those vessels as of December 31, 2018, the recognition of the unrealized loss absent a disposition (i.e., as an impairment) would require, among other things, that a triggering event had occurred and that the undiscounted cash flows attributable to the vessel for its remaining useful life are also less than the carrying value of the vessel (including the carrying value of the time charter and the unamortized portion of deferred drydock and special survey costs, if any, on the specified vessel).

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

Stock-based Compensation: In December 2018, 2017 and 2016, Navios Partners granted restricted common units to its directors and officers, which are based solely on service conditions and vest over four, four and three years, respectively. The fair value of the restricted common units was determined by reference to the quoted common unit price on the date of grant. Compensation expense, net of estimated forfeitures, is recognized based on a graded expense model over the vesting period. Compensation expense for the awards that vest upon achievement of the performance criteria is recognized when it is probable that the performance criteria will be met and are being accounted for as equity. There were no restricted common units exercised, forfeited or expired during the years ended December 31, 2018, 2017 and 2016. As of December 31, 2018, 1,720,426 restricted common units were vested, cumulatively.

Impairment of Long Lived Assets: Vessels, other fixed assets and other long lived assets held and used by Navios Partners are reviewed periodically for potential impairment whenever events or changes in circumstances indicate that the carrying amount of a particular asset may not be fully recoverable. Navios Partners' management evaluates the carrying amounts and periods over which long-lived assets are depreciated to determine if events or changes in circumstances have occurred that would require modification to their carrying values or useful lives. Measurement of the impairment loss is based on the fair value of the asset. Navios Partners determines the fair value of its assets on the basis of management estimates and assumptions by making use of available market data and taking into consideration third party valuations performed on an individual vessel basis. In evaluating useful lives and carrying values of long-lived assets, certain indicators of potential impairment, are reviewed such as undiscounted projected operating cash flows, vessel sales and purchases, business plans and overall market conditions.

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Undiscounted projected net operating cash flows are determined for each asset group and compared to the carrying value of the vessel, the unamortized portion of deferred drydock and special survey costs related to the vessel and the related carrying value of the intangible assets with respect to the time charter agreement attached to that vessel. Within the shipping industry, vessels are customarily bought and sold with a charter attached. The value of the charter may be favorable or unfavorable when comparing the charter rate to then current market rates. The loss recognized either on impairment (or on disposition) will reflect the excess of carrying value over fair value (selling price) for the vessel asset group.

During the fourth quarter of fiscal year 2018, the Company concluded that events occurred and circumstances had changed, which indicated that potential impairment of Navios Partners' long-lived assets may exist. These indicators included volatility in the spot market and the related impact of the current drybulk and container sector has on management's expectation for future revenues. As a result, Navios Partners performed step one of the impairment assessment of the Company's long-lived assets by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel and the carrying value of the related intangible assets, if applicable. The significant factors and assumptions the Company used in the undiscounted projected net operating cash flow analysis included: determining the projected net operating cash flows by considering the charter revenues from existing time charters for the fixed fleet days (Navios Partners' remaining charter agreement rates) and an estimated daily time charter equivalent for the unfixed days (based on a combination of one-year average historical time charter rates for the first year and 10-year average historical one-year time charter rates for the remaining period, adjusted for outliers) over the remaining economic life of each vessel, net of brokerage and address commissions, excluding days of scheduled off-hires, management fees fixed until December 2019 and thereafter assuming an increase of 1.0% every second year and utilization rate of 98.6% based on the fleet's historical performance.

As of December 31, 2018, our assessment concluded that step two of the impairment analysis was not required for our vessels held and used, as the undiscounted projected net operating cash flows exceeded the carrying value.

As of December 31, 2017, our assessment concluded that step two of the impairment analysis was required for one of our vessels held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, the Company recorded an impairment loss of \$30.3 million for this vessel, being the difference between the fair value and the vessel's carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel, presented under the caption "Vessel impairment losses" in the Consolidated Statements of Operations (see Note 7 — Vessels, net). The assessment performed for 2016 did not indicate a step two was necessary for the Company's other vessels held and used.

As of December 31, 2018, the 10-year historical average rates for its vessels (which naturally vary by type of vessel) used in determining future cash flows for purposes of its impairment analysis were 10.4% lower than the Company's average daily time charter equivalent rate achieved in fiscal year 2018 of \$16,458 per day.

In addition, the Company compared the 10-year historical average (of the one-year charter rate for similar vessels), with the five-year, three-year and one-year historical averages (of the one-year charter rate for similar vessels). The table below compares the 10-year historical average (of the one-year charter rate) and the five-year, three-year and one-year historical averages (of the one-year charter rate for similar vessels), each as of December 31, 2018:

	Historical Average of One-year Charter Rates (over Various Periods) vs. the 10-year Historical Average (of the One-Year Charter Rate)		
	Five-Year Average	Three-Year Average	One-Year Average
	(% above (below) the 10-year average)		
Ultra-Handymax	(15.9%)	(16.6%)	10.0%
Panamax	(16.3%)	(14.1%)	13.4%
Capesize	(16.9%)	(22.6%)	4.6%
Container 6,800 TEU	n/a*	(17.4%)	(3.5%)

* For the vessels with capacity of 6,800 TEU and above, the average daily rates were only available for the years from 2013 to 2018.

If testing for impairment using the five-year, three-year and one-year historical averages (of the one-year charter rate for similar vessels) in lieu of the 10-year historical average (of the one-year charter rate for similar vessels), Navios Partners estimates that 1, 2 and 0 of its vessels, respectively, would have carrying values in excess of their projected undiscounted future cash flows. As disclosed elsewhere, as of December 31, 2018, the Company's fleet includes 22 vessels for which the carrying value (including the carrying value of the time charter, if any, on the specified vessel) exceeds the estimated fair value of those same vessels (including the estimated fair value of the time charter and the unamortized portion of deferred drydock and special survey costs, if any, on the specified vessel) by approximately \$168.9 million in the aggregate (the unrealized loss).

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In connection with its annual impairment testing on its vessels as of December 31, 2018, the Company performs sensitivity analysis on the most sensitive and/or subjective assumptions that have the potential to affect the outcome of the test, principally the projected charter rate used to forecast future cash flows for unfixed days. In that regard, there would continue to be no impairment required to be recognized on any of the Company's vessels when assuming a decline in the 10-year average (of the one-year charter rate for similar vessels), which is the rate that the Company uses to forecast future cash flows for unfixed days, ranging from 9.0% to 54.2% (depending on the vessel).

As of December 31, 2018, an impairment loss of \$44.3 million was recognized in connection with the committed sale of the YM Unity and the YM Utmost in July 2018, the Navios Felicity and the Navios Libra II in December 2018, as the carrying amount of each asset group was not recoverable and exceeded its fair value less costs to sell (see Note 7 — Vessels, net). As of December 31, 2017, an impairment loss of \$2.4 million was recognized in connection with the committed sale of the Navios Gemini S as the carrying amount of the asset group was not recoverable and exceeded its fair value less costs to sell (see Note 7 — Vessels, net). As of December 31, 2016, an impairment loss of \$27.2 million was recognized in connection with the committed sale of the MSC Cristina and the Navios Apollon as the carrying amount of each asset group was not recoverable and exceeded its fair value less costs to sell.

The total impairment loss recognized amounted to \$44.3 million, \$32.7 million and \$27.2 million for the years ended December 31, 2018, 2017 and 2016, respectively, and was presented under the caption "Vessel impairment losses" in the Consolidated Statements of Operations.

Vessels, Net: Vessels are stated at historical cost, which consists of the contract price and any material expenses incurred upon acquisition (improvements and delivery expenses). Vessels acquired in an asset acquisition or in a business combination are recorded at fair value. Subsequent expenditures for major improvements and upgrades are capitalized, provided they appreciably extend the life, increase the earnings capacity or improve the efficiency or safety of the vessels. The cost and related accumulated depreciation of assets retired or sold are removed from the accounts at the time of sale or retirement and any gain or loss is included in the accompanying Consolidated Statements of Operations.

Expenditures for routine maintenance and repairs are expensed as incurred.

Depreciation is computed using the straight line method over the useful life of the vessels, after considering the estimated residual value. Management estimates the residual values of our drybulk and container vessels based on a scrap value cost of steel times the weight of the ship noted in lightweight ton ("LWT"). Residual values are periodically reviewed and revised to recognize changes in conditions, new regulations or other reasons. Revisions of residual values affect the depreciable amount of the vessels and affects depreciation expense in the period of the revision and future periods. The management after considering current market trends for scrap rates and 10-year average historical scrap rates of the residual values of the Company's vessels, estimates scrap value at a rate of \$340 per LWT.

Management estimates the useful life of our vessels to be 25 and 30 years from the drybulk and container vessel's original construction, respectively. However, when regulations place limitations over the ability of a vessel to trade on a worldwide basis, its useful life is re-estimated to end at the date such regulations become effective. An increase in the useful life of a vessel or in its residual value would have the effect of decreasing the annual depreciation charge and extending it into later periods. A decrease in the useful life of a vessel or in its residual value would have the effect of increasing the annual depreciation charge.

Deferred Drydock and Special Survey Costs: Navios Partners' vessels are subject to regularly scheduled drydocking and special surveys which are generally carried out every 30 or 60 months, depending on the vessels' ages to coincide with the renewal of the related certificates issued by the classification societies, unless a further extension is obtained in rare cases and under certain conditions. The cost of drydocking and special surveys are deferred and amortized over the above periods or to the next drydocking or special survey date if such date has been determined.

Costs capitalized as part of the drydocking or special survey consist principally of the actual costs incurred at the yard, and expenses relating to spare parts, paints, lubricants and services incurred solely during the drydocking or special survey period.

Revenue and Expense Recognition: On January 1, 2018, the Company adopted the provisions of ASC 606 "Revenue from Contracts with Customers". 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. Revenue is recognized when (or as) the Company transfers promised goods or services to its customers in amounts that reflect the consideration to which the company expects to be entitled to in exchange for those goods or services, which occurs when (or as) the Company satisfies its contractual obligations and transfers control of the promised goods or services to its customers. 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 contract; (ii) determination of whether the promised goods or services are performance obligations, including whether they are distinct in the

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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.

The Company's contract revenues from time chartering and pooling arrangements are governed by ASU 2016-02 (ASC 842) "Leases". 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 Operations.

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. Estimated losses on voyages are provided for in full at the time such losses become evident. 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 has recognized 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 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.

Revenues from time chartering of vessels are accounted for as operating leases and are thus recognized on a straight line basis as the average lease 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. Short period charters for less than three months are referred to as spot-charters. Charters extending three months to a year are generally referred to as medium-term charters. All other charters are considered long-term. Under time charters, operating costs such as for crews, maintenance and insurance are typically paid by the owner of the vessel.

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 sharing elements, these are accounted for on the actual cash settlement or when such revenue becomes determinable.

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 points 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 when an agreement with the pool exists, price is fixed, service is provided and the collectability is reasonably assured. The allocation of such net revenue may be subject to future adjustments by the pool however, such changes are not expected to be material. 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.

Investments in Equity Securities: Navios Partners evaluates its investments in Navios Europe I, Navios Europe II and Navios Containers for other-than-temporary impairment on a quarterly basis. Consideration is given to (i) the length of time and the extent to which the fair value has been less than the carrying value, (ii) the financial condition and near-term prospects of Navios Europe I, Navios Europe II and Navios Containers, and (iii) the intent and ability of the Company to retain its investment in Navios Europe I, Navios Europe II and Navios Containers, for a period of time sufficient to allow for any anticipated recovery in fair value.

Navios Partners considers whether the fair values of its equity method investments have declined below their carrying values whenever adverse events or changes in circumstances indicate that the carrying value may not be recoverable. If we consider any such decline to be "other-than-temporary" (based on various factors, including historical financial results, economic and industry events resulting in changes in the affiliate's trading performance and the overall health of the affiliate's industry), then we would write down the carrying amount of the investment to its estimated fair value.

Recent Accounting Pronouncements

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 nonlease 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 did not have a material impact on the Company’s disclosures to the 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 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 Company is currently assessing the impact that adopting this new accounting guidance will have on its disclosures to the 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 Company is currently assessing the impact that adopting this new accounting guidance will have on its disclosures to the consolidated financial statements.

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.

On January 1, 2018, the Company adopted Accounting Standards Update No. 2014-09, “Revenue from Contracts with Customers” (“ASU 2014-09”) and the related amendments (“ASC 606” or “the new revenue standard”) using the modified retrospective method, requiring to recognize the cumulative effect of adopting this guidance as an adjustment to the 2018 opening balance of retained earnings and not retrospectively adjusting prior periods.

Under the new guidance, there is a five-step model to apply to revenue recognition. The five-steps consist of: (1) determination of whether a contract, an agreement between two or more parties that creates legally enforceable rights and obligations, exists; (2) identification of the performance obligations in the contract; (3) determination of the transaction price; (4) allocation of the transaction price to the performance obligations in the contract; and (5) recognition of revenue when (or as) the performance obligation is satisfied.

As a result of adoption, there was no cumulative impact to the Company’s retained earnings at January 1, 2018. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those periods. The Company expects the impact of the adoption of the new standard to be immaterial to its net income on an ongoing basis.

In January 2017, FASB issued Accounting Standard Update No. 2017-03 “Accounting Changes and Error Corrections (Topic 250) and Investments-Equity Method and Joint Ventures (Topic 323).” The ASU amends the Codification for SEC staff announcements made at recent Emerging Issues Task Force (EITF) meetings. The SEC guidance that specifically relates to our Consolidated Financial Statements was from the September 2016 meeting, where the SEC staff expressed its expectations about the extent of disclosures registrants should make about the effects of the new FASB guidance as well as any amendments issued prior to adoption, on revenue (ASU 2014-09), leases (ASU 2016-02) and credit losses on financial instruments (ASU 2016-13) in accordance with SAB Topic 11.M. Registrants are required to disclose the effect that recently issued accounting standards will have on their financial statements when adopted in a future period. In cases where a registrant cannot reasonably estimate the impact of the adoption, then additional qualitative disclosures should be considered. The ASU incorporates these SEC staff views into ASC 250 and adds references to that guidance in the transition paragraphs of each of the three new standards. The adoption of this new accounting guidance did not have a material effect on the Company’s Consolidated Financial Statements.

In August 2016, the FASB issued Accounting Standards Update No. 2016-15, “Statement of Cash Flows: Classification of Certain Cash Receipts and Cash Payments” (“ASU 2016-15”). This Update addresses eight specific cash flow issues with the objective of reducing the existing diversity in practice. The Company adopted the new guidance on January 1, 2018 and it did not have a material impact on the consolidated results of operations, financial condition, or cash flows.

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.

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The Company has elected to early adopt the requirements of ASU 2016-02 effective January 1, 2018, through application of the alternative transition method, which is consistent, with the approach the Company has elected under the new revenue standard, and has elected to adopt the practical expedient for lessors to combine lease and non-lease components of revenue earned by its vessels under time charter agreements classified as operating leases.

The Company believes that combining the lease and non-lease components provides for more meaningful financial reporting as it is more reflective of the predominant component in the time charter contracts that is the lease component.

As a result of adoption, there was no cumulative impact to the Company's retained earnings at January 1, 2018. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those periods.

Item 6. Directors, Senior Management and Employees

A. Directors and Senior Management

The following table sets forth information regarding our current directors and senior management:

Name	Age	Position
Angeliki Frangou	53	Chairman of the Board, Chief Executive Officer and Director
Efstratios Desypris	45	Chief Financial Officer
George Achniotis	54	Executive Vice President-Business Development and Director
Shunji Sasada	60	Director
Serafeim Kriempardis	70	Director (Class III)
Orthodoxia Zisimatou	56	Director (Class II)
Kunihide Akizawa	59	Director (Class I)
Alexander Kalafatides	55	Director (Class I)
Vasiliki Papaefthymiou	50	Secretary

Biographical information with respect to each of our current directors and our executive officers is set forth below. The business address for our directors and executive officers is 7 Avenue de Grande Bretagne, Monte Carlo, MC 98000 Monaco.

Angeliki Frangou has been our Chairman of the Board of Directors and Chief Executive Officer since our inception. Ms. Frangou has also been Chairman and Chief Executive Officer of Navios Holdings (NYSE: NM) since August 2005. In addition, Ms. Frangou has been the Chairman and Chief Executive Officer of Navios Acquisition (NYSE: NNA), an affiliated corporation, since March 2008 and Chairman and Chief Executive Officer of Navios Containers (Nasdaq: NMCI), an affiliated limited partnership, since April 2017. Ms. Frangou has been the Chairman of the Board of Directors of Navios South American Logistics Inc. since its inception in December 2007. Ms. Frangou is the Chairman of IRF European Finance Investments Ltd., listed on the SFM of the London Stock Exchange, and is also a Member of the Board of the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited. Since 2015, she has also been a Board Member of the Union of Greek Shipowners, as well as on the Board of Trustees of Fairleigh Dickinson University. Since 2013, Ms. Frangou has been a Member of the Board of Visitors of the Columbia University School of Engineering and Applied Science. Ms. Frangou also acts as Vice Chairman of the China Classification Society Mediterranean Committee, and is a member of the International General Committee and of the Hellenic and Black Sea Committee of Bureau Veritas, and is also a member of the Greek Committee of Nippon Kaiji Kyokai. Ms. Frangou received a Bachelor's degree in Mechanical Engineering, summa cum laude, from Fairleigh Dickinson University and a Master's degree in Mechanical Engineering from Columbia University.

Efstratios Desypris has been the Chief Financial Officer of Navios Maritime Partners L.P. since January 2010. In addition, Mr. Desypris is the Chief Financial Controller of Navios Holdings, Navios Partners' sponsor, since May 2006. Mr. Desypris has also been a Director of Navios Containers since November 2018. He also serves as a Director and the SVP- Strategic Planning of Navios South American Logistics Inc. and as a Director of Navios Europe. Before joining Navios Group, Mr. Desypris worked in the accounting profession, most recently as manager of the audit department at Ernst & Young in Greece. Mr. Desypris started his career as an auditor with Arthur Andersen & Co. in 1997. He holds a Bachelor of Science degree in Economics from the University of Piraeus.

George Achniotis was appointed to our Board of Directors in August 2007 and he has been our Executive Vice President-Business Development since February 2008. Mr. Achniotis has been Navios Holdings' Chief Financial Officer since April 12, 2007. Prior to being appointed Chief Financial Officer of Navios Holdings, Mr. Achniotis served as Senior Vice President — Business Development

of Navios Holdings from August 2006 to April 2007. Prior to joining Navios Holdings, Mr. Achiotis was a partner at PricewaterhouseCoopers from 1999 to August 2006. Mr. Achiotis holds a Bachelor of Science degree in engineering from the University of Manchester and he is a member of the institute of chartered accountants in England and Wales. Mr. Achiotis is also a member of the institute of certified accountants in Cyprus.

Shunji Sasada was appointed to our Board of Directors in August 2007. Mr. Sasada has also served as a director of Navios Holdings and President of Navios Corporation since January 2015. Mr. Sasada started his shipping career in 1981 in Japan with Mitsui O.S.K. Lines, Ltd. (“MOSK”). In 1991, Mr. Sasada joined Trinity Bulk Carriers as its chartering manager as well as subsidiary board member representing MOSK as one of the shareholders. After an assignment in Norway, Mr. Sasada moved to London and started MOSK’s own Ultra Handymax operation as its General Manager. Mr. Sasada joined Navios Holdings in May 1997. Mr. Sasada was Senior Vice President — Fleet Development of Navios Holdings from October 1, 2005 to July 2007 and Chief Operating Officer until December 2014. Mr. Sasada has been a member of the North American Committee of Nippon Kaiji Kyokai since inception. Mr. Sasada is a graduate of Keio University, Tokyo, with a B.A. degree in business and he is a member of Board of Trustees of Keio Academy of New York.

Serafeim Kriempardis was appointed to our Board of Directors in December 2009. Mr. Kriempardis previously served as the Head of Shipping of Piraeus Bank from 2007 to 2009 and as the Head of Shipping of Emporiki Bank of Greece from 1999 to 2007. Prior to serving as Head of Shipping at Emporiki Bank, Mr. Kriempardis served in the Project Finance and Corporate and Feasibility departments of the bank. Mr. Kriempardis is an accountant by training and holds a Bachelor’s degree in Economics from the Athens University of Economics and Business and a Diploma in Management from the McGill University of Canada. Mr. Kriempardis also serves as chairman of the Audit Committee and chairman of the Compensation Committee. Mr. Kriempardis is an independent director.

Orthodoxia Zisimatou was appointed to our Board of Directors in June 2017. Mrs. Zisimatou has been a practicing maritime lawyer since 1988, focusing on S&P contracts and contracts of affreightment. She has been a member of the Permanent Committee of Maritime Policy, Security and Protection of the Environment and of the Legal Committee of the Hellenic Chamber of Shipping since 2007. She has also served as a Maritime Arbitrator for the Hellenic Chamber of Shipping since 2007. Since 2009, Mrs. Zisimatou has acted as the Secretary General of the Union of Piraeus Shipping Lawyers. She earned a bachelor’s degree in Law from the faculty of Law of the University of Athens. Mrs. Zisimatou also serves on our Audit and Conflicts Committees and is an independent director.

Kunihide Akizawa has over 35 years of experience in shipping and logistics. Mr. Akizawa started his shipping career in 1982 in Japan with Mitsui O.S.K. Lines, Ltd. He worked in the accounting department, the export department focusing on the Red Sea and Mediterranean areas, the bulk department, and a chartering manager of Skaarup Shipping International Corporation, which was a joint-venture company with Mitsui O.S.K. Lines, Ltd. In 1995, Mr. Akizawa joined ITOCHU Corporation in the logistics division. In 2011, he became President of MarineNet, a subsidiary of ITOCHU Corporation as well as five other major Japanese trading houses. In 2016 until present day, he was appointed as President of IMECS Co., Ltd, the ship-owning arm of ITOCHU and full subsidiary. Mr. Akizawa is a graduate of Gakushuin University, Tokyo with a B.A. degree in Economics.

Alexander Kalafatides has been a member of our board of directors since 2019. Mr. Kalafatides has nearly 30 years of experience in general management and marketing. Mr. Kalafatides holds the position of global sales and marketing director of IUC International LLC, a designer and importer of consumer products, and he also serves as an adjunct professor in International Business at Drexel University. He has been involved in considerable turnarounds in various sectors including the marine sector, where he served as Partner and Vice President of CCSI, Inc., a company acting as the sales agent of the Chevron/Texaco joint venture. Following its successful turnaround, the company was acquired by the Chevron/Texaco group. Mr. Kalafatides received his M.B.A. in marketing and international business from the New York University, his B.S.E. in computer engineering & science at the University of Pennsylvania and a Certificate of Director Education from Drexel University’s Gupta Governance Institute. Mr. Kalafatides also serves as chairman of the Conflicts Committee and he is an independent director.

Vasiliki Papaefthymiou was appointed our Secretary in August 2007. Ms. Papaefthymiou has been Executive Vice President — Legal and a member of Navios Holdings’ board of directors since August 25, 2005, and prior to that was a member of the board of directors of ISE. Ms. Papaefthymiou has served as general counsel for Maritime Enterprises Management S.A. since October 2001, where she has advised the company on shipping, corporate and finance legal matters. Ms. Papaefthymiou provided similar services as general counsel to Franser Shipping from October 1991 to September 2001. Ms. Papaefthymiou received her undergraduate degree from the Law School of the University of Athens and a Master degree in Maritime Law from Southampton University in the United Kingdom. Ms. Papaefthymiou is admitted to practice law before the Bar in Piraeus, Greece.

B. Compensation

Reimbursement of Expenses of Our General Partner

Our General Partner does not receive any management fee or other compensation for services from us, although it will be entitled to reimbursement for expenses incurred on our behalf. In addition, we reimburse the Manager and certain affiliates for expenses incurred pursuant to the Management Agreement and Administrative Services Agreement we entered into with the Manager. Our General Partner and its other affiliates are reimbursed for expenses incurred on our behalf. These expenses include all expenses necessary or appropriate for the conduct of our business and allocable to us, as determined by our General Partner. For the years ended December 31, 2018, 2017 and 2016 no amounts were paid to the General Partner.

Officers' Compensation

We and our General Partner were formed in August 2007. Because our officers, including our Chief Executive Officer and our Chief Financial Officer, are employees of Navios Holdings, their compensation is set and paid by Navios Holdings, and we reimburse Navios Holdings for time they spend on Company's matters pursuant to the Administrative Services Agreement. Under the terms of the administrative agreement, we reimburse Navios Holdings for the actual costs and expenses it incurs in providing administrative support services to us. The amount of our reimbursements to Navios Holdings for the time of our officers depends on an estimate of the percentage of time our officers spent on our business and is based on a percentage of the salary and benefits that Navios Holdings pays to such officers. Our officers, and officers and employees of affiliates of our General Partner, may participate in employee benefit plans and arrangements sponsored by Navios Holdings, our General Partner or their affiliates, including plans that may be established in the future. Our board of directors may establish such plans without the approval of our limited partners. For the years ended December 31, 2018, 2017 and 2016, the fees charged by the Manager for administrative services, including Navios Containers administrative fees for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017, was \$9.3 million, \$8.9 million and \$7.8 million, respectively.

Compensation of Directors

Our officers or officers of Navios Holdings who also serve as our directors do not receive additional compensation for their service as directors. Each non-management director receives compensation for attending meetings of our board of directors, as well as committee meetings. Non-management directors receive a director fee of \$0.05 million per year. Ms. Frangou receives a fee of \$0.15 million per year for acting as a director and as our Chairman of the Board. The Chairman of our Audit Committee, our Conflicts Committee and our Compensation Committee receives an additional fee of \$0.04 million per year. In addition, each director is reimbursed for out-of-pocket expenses in connection with attending meetings of the board of directors or committees. Each director is fully indemnified by us for actions associated with being a director to the extent permitted under Marshall Islands law.

For the year ended December 31, 2018, the aggregate annual fees paid to our non-management directors were \$0.2 million and \$0.15 million was paid to Ms. Frangou for acting as a director and as our Chairman of the Board.

In December 2018, the Compensation Committee of Navios Partners authorized and approved a cash payment of \$2.2 million for which all service conditions had been met as of December 31, 2018. Also, the Compensation Committee of Navios Partners authorized and approved an additional \$2.2 million cash payment to the directors and officers of the Company subject to fulfillment of certain service conditions in 2019.

In December 2018, 2017 and 2016, Navios Partners authorized the granting of 1,464,494, 1,370,044 and 2,040,000 restricted common units, respectively, which were issued on December 24, 2018, January 11, 2018 and January 31, 2017, respectively, to its directors and officers. These awards of restricted common units are based solely on service conditions and vest ratably over a period of four, four and three years, respectively. There were no restricted common units exercised, forfeited or expired during the years ended December 31, 2018, 2017 and 2016. As of December 31, 2018, 1,720,426 restricted common units were vested, cumulatively.

C. Board Practices

Our partnership agreement provides that our General Partner has delegated to our board of directors the authority to oversee and direct our operations, management and policies on an exclusive basis and such delegation will be binding on any successor general partner of the partnership. Our General Partner, Navios GP L.L.C., is wholly owned by Navios Holdings. Our executive officers manage our day-to-day activities consistent with the policies and procedures adopted by our board of directors. All of our executive officers and three of our directors also are executive officers, directors and/or affiliates of Navios Holdings and our Chief Executive Officer is also the Chairman and Chief Executive Officer of Navios Acquisition and Navios Holdings.

Following our first annual meeting of unitholders in 2008, our board of directors consisted of seven members, three persons who were appointed by our General Partner in its sole discretion and four who were elected by the common unitholders. Directors appointed by our general partner serve as directors for terms determined by our general partner. Directors elected by our common unitholders are divided into three classes serving staggered three-year terms. One of the four directors elected by our common unitholders was designated as the Class II elected director and will serve until our annual meeting of unitholders in 2019; one director was designated as our Class III elected director and will serve until our annual meeting of unitholders in 2020; and the remaining two directors were designated as the Class I elected directors and will serve until our annual meeting of unitholders in 2021. At each subsequent annual meeting of unitholders, directors will be elected to succeed the class of directors whose terms have expired by a plurality of the votes of the common unitholders. Directors elected by our common unitholders will be nominated by the board of directors or by any limited partner or group of limited partners that holds at least 10% of the outstanding common units.

With respect to our corporate governance, there are several significant differences between us and a domestic issuer in that the New York Stock Exchange does not require a listed limited partnership like us to have a majority of independent directors on our board of directors or to establish a Compensation Committee, although we do have one, or a nominating/corporate governance committee.

We have three committees: an Audit Committee, a Conflicts Committee and a Compensation Committee. Three independent members of our board of directors serve on a Conflicts Committee to review specific matters that the board believes may involve potential conflicts of interest. The Conflicts Committee determines if the resolution of the conflict of interest is fair and reasonable to us. The members of the Conflicts Committee may not be officers or employees of our general partner or directors, officers or employees of its affiliates, and must meet the independence standards established by the New York Stock Exchange to serve on an Audit Committee of a board of directors and certain other requirements. Any matters approved by the Conflicts Committee are conclusively deemed to be fair and reasonable to us, approved by all of our partners, and not a breach by our directors, our general partner or its affiliates of any duties any of them may owe us or our unitholders. The members of our Conflicts Committee are Messrs. Alexander Kalafatides, Serafeim Kriempardis and Mrs. Orthodoxia Zisimatou.

In addition, we have an Audit Committee of three independent directors. One of the members of the Audit Committee is an “audit committee financial expert” for purposes of SEC rules and regulations. The Audit Committee, among other things, reviews our external financial reporting, engages our external auditors and oversees our internal audit activities and procedures and the adequacy of our internal accounting controls. Our Audit Committee is comprised of Messrs. Serafeim Kriempardis and Alexander Kalafatides and Mrs. Orthodoxia Zisimatou, and our Audit Committee financial expert is Mr. Serafeim Kriempardis.

Lastly, we have a Compensation Committee consisting of two independent directors, Mrs. Orthodoxia Zisimatou and Mr. Serafeim Kriempardis. The Compensation Committee is governed by a written charter, which was approved by our board of directors. The Compensation Committee is responsible for reviewing and approving the compensation of the Company’s executive officers and for establishing, reviewing and evaluating the long-term strategy of our compensation plan.

Employees of the Manager, a subsidiary of Navios Holdings, provide assistance to us and our operating subsidiaries pursuant to the Management Agreement and the Administrative Services Agreement.

Our Chief Executive Officer, Ms. Angeliki Frangou, and our Chief Financial Officer, Mr. Efstratios Desypris, allocate their time between managing our business and affairs and the business and affairs of Navios Holdings, and our Chief Executive Officer is also the Chief Executive Officer of Navios Acquisition, Navios Holdings, Navios Midstream and Navios Containers. While the amount of time each of them allocate between our business and the business of Navios Holdings, Navios Acquisition, Navios Midstream and Navios Containers varies from time to time depending on various circumstances and the respective needs of the business, such as their relative levels of strategic activities, we anticipate that each of them will allocate approximately one quarter of their time to our business.

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Our officers and other individuals providing services to us or our subsidiaries may face a conflict regarding the allocation of their time between our business and the other business interests of Navios Containers, Navios Midstream, Navios Holdings and Navios Acquisition. We intend to cause our officers to devote as much time to the management of our business and affairs as is necessary for the proper conduct of our business and affairs.

Our General Partner owes a fiduciary duty to our unitholders, subject to limitations. Our General Partner is liable, as General Partner, for all of our debts (to the extent not paid from our assets), except for indebtedness or other obligations that are expressly non-recourse to it. Whenever possible, the partnership agreement directs that we should incur indebtedness or other obligations that are non-recourse to our General Partner.

Whenever our General Partner makes a determination or takes or declines to take an action in its individual capacity rather than in its capacity as our General Partner, it is entitled to make such determination or to take or decline to take such other action free of any fiduciary duty or obligation whatsoever to us or any limited partner, and is not required to act in good faith or pursuant to any other standard imposed by our partnership agreement or under the Marshall Islands Act or any other law. Specifically, our General Partner will be considered to be acting in its individual capacity if it exercises its call right, pre-emptive rights or registration rights, consents or withholds consent to any merger or consolidation of the partnership, appoints any directors or votes for the appointment of any director, votes or refrains from voting on amendments to our partnership agreement that require a vote of the outstanding units, voluntarily withdraws from the partnership, transfers (to the extent permitted under our partnership agreement) or refrains from transferring its units, general partner interest or incentive distribution rights or votes upon the dissolution of the partnership. Actions of our General Partner, which are made in its individual capacity, are made by Navios Holdings as sole member of our General Partner.

D. Employees

Employees of the Manager provide assistance to us and our operating subsidiaries pursuant to the Management Agreement and the Administrative Services Agreement; therefore Navios Partners does not employ additional staff.

The Manager crews its vessels primarily with Ukrainian, Polish, Filipino, Russian, Indian, Georgian, Romanian and Sri Lankan officers and Filipino, Georgian, Romanian, Ethiopian, Indian and Ukrainian seamen. For these nationalities, officers and seamen are referred to the Manager by local crewing agencies. The crewing agencies handle each seaman's training while the Manager handles their travel and payroll. Navios Holdings requires that all of its seamen have the qualifications and licenses required to comply with international regulations and shipping conventions.

The Manager also provides on-shore advisory, operational and administrative support to us pursuant to service agreements. Please see "Item 7. — Major Unitholders and Related Party Transactions".

E. Unit Ownership

The following table sets forth certain information regarding beneficial ownership, as of April 8, 2019, of our units by each of our officers and directors and by all of our directors and officers as a group. The information is not necessarily indicative of beneficial ownership for any other purposes. Under SEC rules, a person or entity beneficially owns any units that the person or entity has the right to acquire as of June 7, 2019 (60 days after April 8, 2019) through the exercise of any unit option or other right. The percentage disclosed under "Common Units Beneficially Owned" is based on all outstanding common units (166,028,113), not including general partner units (3,457,866). Unless otherwise indicated, each person or entity has sole voting and investment power (or shares such powers with his or her spouse) with respect to the units set forth in the following table. Information for certain holders is based on information delivered to us.

Identity of Person or Group

	Common Units Owned	Percentage of Common Units Owned
Angeliki Frangou ⁽¹⁾	5,214,538	3.1%
Efstratios Desypris	—	—
George Achiotis	*	*
Shunji Sasada	*	*
Serafeim Kriempardis	*	*
Kunihide Akizawa	*	*
Alexander Kalafatides	—	—
Orthodoxia Zisimatou	*	*
Vasiliki Papaefthymiou	—	—
All directors and officers as a group (9 persons) ⁽²⁾	5,334,538	3.2%

* Less than 1%

- (1) Excludes units owned by Navios Holdings, on the board of which our Chief Executive Officer, Angeliki Frangou and our Secretary Vasiliki Papaefthymiou, as well as one of our directors, Shunji Sasada, all serve. In addition, Ms. Frangou is Navios Holdings’ President and Chief Executive Officer, Ms. Papaefthymiou is Navios Holdings’ Executive Vice President Legal and Mr. Achnotis is Navios Holdings’ Chief Financial Officer.
- (2) Each director, executive officer and key employee beneficially owns less than one percent of the outstanding common units, other than Angeliki Frangou.

Item 7. Major Unitholders and Related Party Transaction

A. Major Unitholders

The following table sets forth the beneficial ownership as of April 8, 2019, of our common units by each person we know to beneficially own more than 5% of the common units. The number of units beneficially owned by each person is determined under SEC rules and the information is not necessarily indicative of beneficial ownership for any other purpose. Under SEC rules, a person beneficially owns any units as to which the person has or shares voting or investment power. In addition, a person beneficially owns any units that the person or entity has the right to acquire as of June 7, 2019 (60 days after April 8, 2019) through the exercise of any unit option or other right. The percentage disclosed under “Common Units Beneficially Owned” is based on all outstanding common units (169,485,979), which include the general partner units (3,457,866).

Name of Beneficial Owner	Common Units Beneficially Owned	
	Number	Percentage
Navios Holdings ⁽¹⁾⁽²⁾	31,053,233	18.3%
Evermore Global Advisors, LLC ⁽³⁾	10,792,588	6.4%

- (1) Excludes the 2.1% general partner interest held by our general partner, a wholly owned subsidiary of Navios Holdings. The number of common units beneficially owned is based on the information disclosed on the Schedule 13D/A filed with the SEC on April 4, 2018.
- (2) Navios Holdings is a U.S. public company controlled by its board of directors, which consists of the following seven members: Angeliki Frangou, Vasiliki Papaefthymiou, Shunji Sasada, Spyridon Magoulas, John Stratakis, George Malanga and Efstathios Loizos.
- (3) The business address of the reporting person is offices at 89 Summit Avenue Summit NJ 07901. The foregoing information was derived from a Schedule 13G, filed with the SEC on February 11, 2019.

Our majority unitholders have the same voting rights as our other unitholders except as follows: each outstanding common unit is entitled to one vote on matters subject to a vote of common unitholders. However, to preserve our ability to be exempt from U.S. federal income tax under Section 883 of the Code, if at any time, any person or group owns beneficially more than 4.9% of any class of units then outstanding, any such units owned by that person or group in excess of 4.9% may not be voted. The voting rights of any such unitholders in excess of 4.9% will effectively be redistributed pro rata among the other unitholders holding less than 4.9% of the voting power of such class of units. Our General Partner, its affiliates and persons who acquired common units with the prior approval of our board of directors will not be subject to this 4.9% limitation except with respect to voting their common units in the election of the elected directors.

B. Related Party Transactions

As of December 31, 2018, Navios Holdings, the sole member of our General Partner, owned 31,053,233 common units, which represented an 18.0% limited partner interest in us based on the then outstanding common units (20.0% including the 2.0% general partner interest). Navios Holdings’ ability, as sole member of our General Partner, to control the appointment of three of the seven members of our board of directors and to approve certain significant actions we may take, means that Navios Holdings, together with its affiliates, has the ability to exercise influence regarding our management.

Navios Europe I

Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe I revolving loans of up to \$24.1 million to fund working capital requirements (collectively, the “Navios Revolving Loans I”). In December 2018, the amount of funds available under the Navios Revolving Loans I was increased by \$30.0 million (see Note 20 — Investment in Affiliates). The Navios Revolving Loans I and the Navios Term Loans I earn interest and an annual preferred return at 12.7% per annum, on a quarterly compounding basis and are repaid from free cash flow (as defined in the loan agreement) to the fullest extent possible at the end of each quarter. There are no covenant requirements or stated maturity dates.

As of December 31, 2018, Navios Partners’ portion of the outstanding amount relating to the portion of the investment in Navios Europe I (5.0% of the \$10.0 million) was \$0.5 million, under the caption “Investment in affiliates” and the outstanding amount relating to the Navios Revolving Loans I capital was \$11.2 million (December 31, 2017: \$1.2 million), under the caption “Loans receivable from affiliates”. The accrued interest income earned under the Navios Revolving Loans I was \$0.7 million (December 31, 2017: \$0.5 million) under the caption “Balance due from related parties” and the accrued interest income earned under the Navios Term Loans I was \$0.4 million (December 31, 2017: \$0.3 million) under the caption “Loans receivable from affiliates”. As of December 31, 2018, the amount undrawn under the Navios Revolving Loans I was \$12.0 million, of which Navios Partners may be required to fund an amount ranging from \$0 to \$12,000.

On March 17, 2017, Navios Holdings transferred to Navios Partners its rights to the fixed 12.7% interest on the Navios Europe I’s Navios Term Loans I and Navios Revolving Loans I (including the respective accrued receivable interest) in the amount of \$33.5 million, which included a cash consideration of \$4.1 million and 13,076,923 newly issued common units of Navios Partners. At the date of this transaction, the Company recognized a receivable at the fair value of its newly issued common units totaling \$29.4 million based on the closing price of \$2.25 per unit as of March 16, 2017 given as consideration (see Note 18 — Transactions with related parties and affiliates). The receivable relating to the consideration settled with the issuance of 13,076,923 Navios Partners’ common units in the amount of \$29.4 million has been classified contra equity within the Consolidated Statements of Changes in Partners’ Capital as “Note receivable.” The receivable from Navios Holdings is payable on maturity in December 2023 and Navios Partners will receive approximately \$50.9 million. Interest will accrue through maturity and will be recognized within “Interest income” for the receivable relating to the cash consideration of \$4.1 million. As of December 31, 2018, the long-term note receivable from Navios Holdings amounted to \$4.5 million (including the non-cash interest income of \$0.5 million) and was included within “Note receivable from affiliates”. Navios Partners may require Navios Holdings, under certain conditions, to repurchase the loans after the third anniversary of the date of the transaction based on the then outstanding balance of the loans.

Navios Europe II

Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe II revolving loans of up to \$43.5 million to fund working capital requirements (collectively, the “Navios Revolving Loans II”). In March 2017, the amount of funds available under the Navios Revolving Loans II was increased by \$14.0 million (see Note 20 — Investment in Affiliates). The Navios Revolving Loans II and the Navios Term Loans II earn interest and an annual preferred return at 18% per annum, on a quarterly compounding basis and are repaid from free cash flow (as defined in the loan agreement) to the fullest extent possible at the end of each quarter. There are no covenant requirements or stated maturity dates.

As of December 31, 2018, Navios Partners’ portion of the outstanding amount relating to the portion of the investment in Navios Europe II (5.0% of the \$14.0 million) was \$0.7 million, under the caption “Investment in affiliates” and the outstanding amount relating to the Navios Revolving Loans II capital was \$15.4 million (December 31, 2017: \$9.8 million), under the caption “Loans receivable from affiliates”. The accrued interest income earned under the Navios Revolving Loans II was \$4.5 million (December 31, 2017: \$1.8 million) under the caption “Balance due from related parties” and the accrued interest income earned under the Navios Term Loans II was \$0.6 million (December 31, 2017: \$0.4 million) under the caption “Loans receivable from affiliates”. As of December 31, 2018, the amount undrawn under the Navios Revolving Loans II was \$4.5 million, of which Navios Partners may be required to fund an amount ranging from \$0 to \$4.5 million.

Navios Containers

On June 8, 2017, Navios Containers closed its private placement and issued 10,057,645 shares for \$50.3 million of gross proceeds at a subscription price of \$5.00 per share. Navios Partners invested \$30.0 million and received 6,000,000 shares, and Navios Holdings invested \$5.0 million and received 1,000,000 shares. Each of Navios Partners and Navios Holdings also received warrants, with a five-year term, for 6.8% and 1.7% of the equity, respectively. On August 29, 2017, Navios Containers closed its private placement and issued 10,000,000 shares for \$50.0 million of gross proceeds at a subscription price of \$5.00 per share. Navios Partners invested \$10.0 million and received 2,000,000 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the equity. On November 9, 2017, Navios Containers closed a private placement of 9,090,909 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$50.0 million. Navios Partners invested \$10.0 million and received 1,818,182 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the newly issued equity. On March 13, 2018, Navios

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Containers closed a private placement of 5,454,546 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$30.0 million. Navios Partners invested \$14.5 million and received 2,629,095 shares and Navios Holdings invested \$0.5 million and received 90,909 shares. Navios Partners and Navios Holdings also received 9,273 warrants, with a five-year term, respectively.

On December 3, 2018, Navios Partners distributed 855,001 units of Navios Containers to the unitholders of Navios Partners, approximately 2.5% of the Navios Containers' outstanding equity. The amount of the distribution was \$4.2 million based on the last trading price of Navios Containers' shares in the N-OTC market as of November 23, 2018. In connection with this transaction, Navios Partners recognized an other-than-temporary impairment of \$0.6 million on the units distributed, which was presented under the caption "Equity in net earnings of affiliated companies" in the Consolidated Statements of Operations. Following the distribution, Navios Partners owns approximately 33.5% of the equity in Navios Containers.

As of December 31, 2018, Navios Partners held 11,592,276 common units and received 33.5% of the equity, and Navios Holdings held 1,263,276 common units and received 3.7% of the equity of Navios Containers. Investment income of \$4.0 million and \$0.7 million was recognized in the Consolidated Statements of Operations under the caption of "Equity in net earnings of affiliated companies" for each of the years ended December 31, 2018 and 2017, respectively.

The fair value of Navios Partners' equity investment in Navios Containers is based on unadjusted quoted prices in active markets for Navios Containers' common units. The fair value of Navios Partners' equity investment in Navios Containers as at December 31, 2018 and 2017 was \$32.8 million and \$57.6 million, respectively, compared with its carrying value of \$65.1 million and \$50.9 million, respectively. Based on Navios Partners' evaluation of the duration and magnitude of the fair value decline, Navios Containers' financial condition and near-term prospects, and Navios Partners' intent and ability to hold its investment in Navios Containers until recovery, Navios Partners concluded that the decline in fair value of its investment in Navios Containers below its carrying value is temporary and, therefore, no impairment was recorded.

Registration Rights Agreements

On February 4, 2015, we completed a private placement to Navios Holdings of 1,120,547 common units and 22,868 general partner units, raising gross proceeds of \$15.0 million and in connection with such private placement, we entered into a registration rights agreement with Navios Holdings pursuant to which we provide Navios Holdings with certain rights relating to the registration of the common units.

Omnibus Agreement

At the closing of the IPO, we entered into the Omnibus Agreement with Navios Holdings, our General Partner and our operating subsidiary. The following discussion describes certain provisions of the Omnibus Agreement.

Noncompetition

Under the Omnibus Agreement, Navios Holdings agreed, and caused its controlled affiliates (other than us, our General Partner and our subsidiaries) to agree, not to acquire or own Panamax or Capesize drybulk carriers under charter for three or more years. This restriction does not prevent Navios Holdings or any of its controlled affiliates (other than us and our subsidiaries) from:

- (1) acquiring or owning Panamax or Capesize drybulk carriers under charters for less than three years;
- (2) acquiring a Panamax or Capesize drybulk carrier under charter for three or more years after the closing of the IPO if Navios Holdings offers to sell to us the vessel for fair market value or (y) putting a Panamax or Capesize drybulk carrier that Navios Holdings owns under charter for three or more years if Navios Holdings offers to sell the vessel to us for fair market value at the time it is chartered for three or more years and, in each case, at each renewal or extension of that charter for three or more years;
- (3) acquiring a Panamax or Capesize drybulk carrier under charter for three or more years as part of the acquisition of a controlling interest in a business or package of assets and owning those vessels; provided, however, that:
 - (a) if less than a majority of the value of the total assets or business acquired is attributable to those Panamax or Capesize drybulk carriers and related charters, as determined in good faith by the board of directors of Navios Holdings, Navios Holdings must offer to sell such Panamax or Capesize drybulk carriers and related charters to us for their fair market value plus any additional tax or other similar costs to Navios Holdings that would be required to transfer the Panamax and Capesize drybulk carriers and related charters to us separately from the acquired business; and
 - (b) if a majority or more of the value of the total assets or business acquired is attributable to the Panamax or Capesize drybulk carriers and related charters, as determined in good faith by the board of directors of Navios Holdings, Navios Holdings shall notify us in writing of the proposed acquisition. We shall, not later than the 15th calendar day

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following receipt of such notice, notify Navios Holdings if we wish to acquire such Panamax or Capesize drybulk carriers and related charters forming part of the business or package of assets in cooperation and simultaneously with Navios Holdings acquiring the non-Panamax or non-Capesize drybulk carriers and related charters forming part of that business or package of assets. If we do not notify Navios Holdings of our intent to pursue the acquisition within 15 calendar days, Navios Holdings may proceed with the acquisition as provided in (a) above.

- (4) acquiring a non-controlling interest in any company, business or pool of assets;
- (5) acquiring or owning any Panamax or Capesize drybulk carrier and related charter if we do not fulfill our obligation, under any existing or future written agreement, to purchase such vessel in accordance with the terms of any such agreement;
- (6) acquiring or owning Panamax or Capesize drybulk carriers under charter for three or more years subject to the offers to us described in paragraphs (2) and (3) above pending our determination whether to accept such offers and pending the closing of any offers we accept;
- (7) providing ship management services relating to any vessel whatsoever, including to Panamax or Capesize drybulk carriers owned by the controlled affiliates of Navios Holdings; or
- (8) acquiring or owning Panamax or Capesize drybulk carriers under charter for three or more years if we have previously advised Navios Holdings that we consent to such acquisition, operation or charter.

Under the Omnibus Agreement, Navios Holdings will not be prohibited from operating chartered-in Panamax or Capesize drybulk carriers under charter-out contracts for three or more years, so long as immediately prior to the time such vessel is proposed to be put under such charter-out contract, Navios Holdings offers such charter-out opportunity to us in the event that (i) we have a Panamax or Capesize drybulk carrier that is available and comparable to Navios Holdings' chartered-in vessel and (ii) it is acceptable to the charter customer.

If Navios Holdings or any of its controlled affiliates (other than us or our subsidiaries) acquires or owns Panamax or Capesize drybulk carriers pursuant to any of the exceptions described above, it may not subsequently expand that portion of its business other than pursuant to those exceptions.

In addition, under the Omnibus Agreement we agreed, and caused our subsidiaries to agree, to acquire, own, operate or charter Panamax or Capesize drybulk carriers with charters of three or more years only (any vessels that are not Panamax or Capesize drybulk carriers will in the following be referred to as the "Non-Panamax and Non-Capesize Drybulk Carriers"). This restriction will not:

- (1) prevent us or any of our subsidiaries from acquiring a Non-Panamax or Non-Capesize Drybulk Carrier and any related charters as part of the acquisition of a controlling interest in a business or package of assets and owning and operating or chartering those vessels, provided, however, that:
 - (a) if less than a majority of the value of the total assets or business acquired is attributable to a Non-Panamax or Non-Capesize Drybulk Carrier and related charter, as determined in good faith by us; we must offer to sell such Non-Panamax or Non-Capesize Drybulk Carrier and related charter to Navios Holdings for their fair market value plus any additional tax or other similar costs to us that would be required to transfer the Non-Panamax and Non-Capesize Drybulk Carrier and related charter to Navios Holdings separately from the acquired business; and
 - (b) if a majority or more of the value of the total assets or business acquired is attributable to a Non-Panamax or Non-Capesize Drybulk Carrier and related charter, as determined in good faith by us; we shall notify Navios Holdings in writing of the proposed acquisition. Navios Holdings shall, not later than the 15th calendar day following receipt of such notice, notify us if it wishes to acquire the Non-Panamax or Non-Capesize Drybulk Carrier forming part of the business or package of assets in cooperation and simultaneously with us acquiring the Panamax or Capesize Drybulk Carrier under charter for three or more years forming part of that business or package of assets. If Navios Holdings does not notify us of its intent to pursue the acquisition within 15 calendar days, we may proceed with the acquisition as provided in (a) above.
- (2) prevent us or any of our subsidiaries from owning, operating or chartering a Non-Panamax or Non-Capesize Drybulk Carrier subject to the offer to Navios Holdings described in paragraph (2) above, pending its determination whether to accept such offer and pending the closing of any offer it accepts; or
- (3) prevent us or any of our subsidiaries from acquiring, operating or chartering a Non-Panamax or Non-Capesize Drybulk Carrier if Navios Holdings has previously advised us that it consents to such acquisition, operation or charter.

If we or any of our subsidiaries owns, operates and charters Non-Panamax or Non-Capesize Drybulk Carriers pursuant to any of the exceptions described above, neither we nor such subsidiary may subsequently expand that portion of our business other than pursuant to those exceptions.

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Upon a change of control of us or our General Partner, the noncompetition provisions of the Omnibus Agreement will terminate immediately. Upon a change of control of Navios Holdings, the noncompetition provisions of the Omnibus Agreement will terminate at the time that is the later of one year following the change of control and the date on which all of our outstanding subordinated units have converted to common units; provided, however, that in no event will the noncompetition provisions of the Omnibus Agreement terminate upon a change of control of Navios Holdings prior to the date that is four years following the date of the Omnibus Agreement.

On June 9, 2009, Navios Holdings relieved Navios Partners from its obligation to purchase the Capesize vessel Navios Bonavis upon its delivery to Navios Holdings. Navios Holdings was released from the Omnibus Agreement restrictions for two years until June 29, 2011 in connection with acquiring vessels from third parties (but not from the requirement to offer to sell to Navios Partners qualifying vessels in Navios Holdings' existing fleet). Pursuant to our release from the Omnibus Agreement restrictions, in June 2009, we waived our rights of first refusal with Navios Acquisition with respect to an acquisition opportunity until the earlier of: (a) the consummation of a business combination by Navios Acquisition; (b) the liquidation of Navios Acquisition; and (c) June 2011.

In addition, concurrently with the successful consummation of the initial business combination by Navios Acquisition, on May 28, 2010, because of the overlap between Navios Acquisition, Navios Holdings and us, with respect to possible acquisitions under the terms of our Omnibus Agreement, we entered into a business opportunity right of first refusal agreement which provides the types of business opportunities in the marine transportation and logistics industries, we, Navios Holdings and Navios Acquisition must share with each other.

Rights of First Offer

Under the Omnibus Agreement, we and our subsidiaries will grant to Navios Holdings a right of first offer on any proposed sale, transfer or other disposition of any of our Panamax or Capesize drybulk carriers and related charters or any Non-Panamax or Non-Capesize Drybulk Carriers and related charters owned or acquired by us. Likewise, Navios Holdings agreed (and caused its subsidiaries to agree) to grant a similar right of first offer to us for any Panamax or Capesize drybulk carrier under charter for three 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.

Prior to engaging in any negotiation regarding any vessel disposition with respect to a Panamax or Capesize drybulk carrier under charter for three or more years with a non-affiliated third-party or any Non-Panamax or Non-Capesize Drybulk Carrier and related charter, we or Navios Holdings, as the case may be, will deliver a written notice to the other party setting forth the material terms and conditions of the proposed transaction. During the 15-day period after the delivery of such notice, we and Navios Holdings will negotiate in good faith to reach an agreement on the transaction. If we do not reach an agreement within such 15-day period, we or Navios Holdings, as the case may be, will be able within the next 180 calendar days to sell, transfer, dispose or re-charter the vessel to a third party (or to agree in writing to undertake such transaction with a third party) on terms generally no less favorable to us or Navios Holdings, as the case may be, than those offered pursuant to the written notice.

Upon a change of control of us or our general partner, the right of first offer provisions of the Omnibus Agreement will terminate immediately. Upon a change of control of Navios Holdings, the right of first offer provisions of the Omnibus Agreement will terminate at the time that is the later of one year following the change of control and the date on which all of our outstanding subordinated units have converted to common units; provided, however, that in no event will the right of first offer provisions of the Omnibus Agreement terminate upon a change of control of Navios Holdings prior to the date that is four years following the date of the Omnibus Agreement.

Indemnification

Navios Holdings will also indemnify us for liabilities related to certain income tax liabilities attributable to the operation of the assets contributed to us prior to the time they were contributed.

Amendments

The Omnibus Agreement may not be amended without the prior approval of the Conflicts Committee of our board of directors if the proposed amendment will, in the reasonable discretion of our board of directors, adversely affect holders of our common units.

Similar Agreement with Navios Maritime Acquisition Corporation

In connection with the initial public offering of Navios Acquisition, because of the overlap between Navios Acquisition, Navios Holdings and us, with respect to possible acquisitions under the terms of our Omnibus Agreement, we had entered into a business opportunity right of first refusal agreement, which provided that, commencing on June 25, 2008 and extending until the earlier of the consummation of an initial business combination by Navios Acquisition or its liquidation, we, Navios Holdings and Navios Acquisition would share business opportunities in the marine transportation and logistics industries.

On June 9, 2009, Navios Holdings relieved Navios Partners from its obligation to purchase the Capesize vessel Navios Bonavis upon its delivery to Navios Holdings. Navios Holdings was released from the Omnibus Agreement restrictions for two years in connection with acquiring vessels from third parties until June 29, 2011 (but not from the requirement to offer to sell to Navios Partners qualifying vessels in Navios Holdings' existing fleet). Pursuant to our release from the Omnibus Agreement restrictions, in June 2009, we had waived our rights of first refusal with Navios Acquisition with respect to an acquisition opportunity until the earlier of: (a) the consummation of a business combination by Navios Acquisition; (b) the liquidation of Navios Acquisition; and (c) June 2011. Such waiver ended with the successful consummation of the initial business combination by Navios Acquisition, on May 28, 2010, when we entered into the business opportunity right of first offer agreement.

The Acquisition Omnibus Agreement

Navios Partners entered into an omnibus agreement with Navios Acquisition and Navios Holdings (the "Acquisition Omnibus Agreement") 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 containerships 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 drybulk carriers subject to specific exceptions. Under the Acquisition Omnibus Agreement, Navios Acquisition and its subsidiaries granted 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 it might own. These rights of first offer will not apply to a (i) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the terms of any charter or other agreement with a counterparty, or (ii) merger with or into, or sale of substantially all of the assets to, an unaffiliated third party.

The Navios Midstream Omnibus Agreement

In connection with the Navios Midstream initial public offering and effective November 18, 2014, Navios Partners entered into the Omnibus Agreement with Navios Midstream, Navios Acquisition and Navios Holdings pursuant to which Navios Acquisition, Navios Holdings and Navios Partners have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under time charters of five or more years and also providing rights of first offer on certain tanker vessels.

The Navios Containers Omnibus Agreement

In connection with the Navios Containers private placement and listing on the N-OTC market effective June 8, 2017, Navios Partners entered into an omnibus agreement with Navios Containers, Navios Holdings, Navios Acquisition and Navios Midstream, pursuant to which Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream have granted to Navios Containers a right of first refusal over any containerships to be sold or acquired in the future. The omnibus agreement contains significant exceptions that will allow Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream to compete with Navios Containers under specified circumstances.

Management Agreement

At the closing of the IPO, we entered into a management agreement, as amended, with the Manager, a subsidiary of Navios Holdings, pursuant to which the Manager has agreed to provide certain commercial and technical management services to us. These services are provided in a commercially reasonable manner in accordance with customary ship management practice and under our direction. The Manager provides these services to us directly but may subcontract for certain of these services with other entities, including other Navios Holdings subsidiaries.

The commercial and technical management services include:

- *the commercial and technical management of the vessel*: managing day-to-day vessel operations including negotiating charters and other employment contracts with respect to the vessels and monitoring payments thereunder, ensuring regulatory compliance, arranging for the vetting of vessels, procuring and arranging for port entrance and clearance, appointing counsel and negotiating the settlement of all claims in connection with the operation of each vessel, appointing adjusters and surveyors and technical consultants as necessary, and providing technical support,

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- *vessel maintenance and crewing*: including supervising the maintenance and general efficiency of vessels, and ensuring the vessels are in seaworthy and good operating condition, arranging our hire of qualified officers and crew, arranging for all transportation, board and lodging of the crew, negotiating the settlement and payment of all wages, and
- *purchasing and insurance*: purchasing stores, supplies and parts for vessels, arranging insurance for vessels (including marine hull and machinery insurance, protection and indemnity insurance and war risk and oil pollution insurance).

In November 2017, Navios Partners extended the duration of its existing Management Agreement with the Manager until December 31, 2022 and the fixed rate for ship management services of its owned fleet through December 31, 2019, effective from January 1, 2018. The management fees, excluding drydocking expenses are: (a) \$4,225 daily rate per Ultra-Handymax vessel; (b) \$4,325 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Container vessel of TEU 6,800; (e) \$7,400 daily rate per Container vessel of more than TEU 8,000; and (f) \$8,750 daily rate per very large Containers vessel of more than TEU 13,000. Drydocking expenses under this agreement are reimbursed by Navios Partners at cost at occurrence. Effective from August 31, 2016, Navios Partners could, upon request to Navios Holdings, partially or fully defer the reimbursement of drydocking and other extraordinary fees and expenses under the Management Agreement to a later date, but not later than January 5, 2018, and if reimbursed on a later date, such amounts would bear interest at a rate of 1% per annum over LIBOR.

The management agreement may be terminated, prior to the end of its term by us upon 120 days' notice if there is a change of control of the Manager, or by the Manager upon 120 days' notice if there is a change of control of us or our general partner. In addition, the management agreement may be terminated by us or by the Manager upon 120 days' notice if:

- the other party breaches the agreement;
- a receiver is appointed for all or substantially all of the property of the other party;
- an order is made to wind up the other party;
- a final judgment or order that materially and adversely affects the other party's ability to perform the management agreement is obtained or entered and not vacated or discharged; or
- the other party makes a general assignment for the benefit of its creditors, files a petition in bankruptcy or liquidation or commences any reorganization proceedings.

Furthermore, at any time after the first anniversary of the management agreement, the management agreement may be terminated prior to the end of its term by us or by the Manager upon 365 days' notice for any reason other than those described above.

In addition to the fixed daily fees payable under the management agreement, the management agreement provides that the Manager is entitled to reasonable supplementary remuneration for extraordinary fees and costs resulting from:

- time spent on insurance and salvage claims;
- time spent vetting and pre-vetting the vessels by any charterers in excess of 10 days per vessel per year;
- the deductible of any insurance claims relating to the vessels or for any claims that are within such deductible range;
- the significant increase in insurance premiums which are due to factors such as "acts of God" outside the control of the Manager;
- repairs, refurbishment or modifications, including those not covered by the guarantee of the shipbuilder or by the insurance covering the vessels, resulting from maritime accidents, collisions, other accidental damage or unforeseen events (except to the extent that such accidents, collisions, damage or events are due to the fraud, gross negligence or willful misconduct of the Manager, its employees or its agents, unless and to the extent otherwise covered by insurance);
- expenses imposed due to any improvement, upgrade or modification to, structural changes with respect to the installation of new equipment aboard any vessel that results from a change in, an introduction of new, or a change in the interpretation of, applicable laws, at the recommendation of the classification society for that vessel or otherwise;

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- costs associated with increases in crew employment expenses resulting from an introduction of new, or a change in the interpretation of, applicable laws or resulting from the early termination of the charter of any vessel;
- any taxes, dues or fines imposed on the vessels or the Manager due to the operation of the vessels;
- expenses incurred in connection with the sale or acquisition of a vessel such as inspections and technical assistance; and
- any similar costs, liabilities and expenses that were not reasonably contemplated by us and the Manager as being encompassed by or a component of the fixed daily fees at the time the fixed daily fees were determined.

Under the management agreement, neither we nor the Manager are liable for failure to perform any of our or its obligations, respectively, under the management agreement by reason of any cause beyond our or its reasonable control.

In addition, the Manager has no liability for any loss arising in the course of the performance of the commercial and technical management services under the management agreement unless and to the extent that such loss is proved to have resulted solely from the fraud, gross negligence or willful misconduct of the Manager or its employees, in which case (except where such loss has resulted from the Manager's intentional personal act or omission and with knowledge that such loss would probably result) the Manager's liability is limited to \$3.0 million for each incident or series of related incidents.

Further, under our management agreement, we have agreed to indemnify the Manager and its employees and agents against all actions which may be brought against them under the management agreement including, without limitation, all actions brought under the environmental laws of any jurisdiction, or otherwise relating to pollution or the environment, and against and in respect of all costs and expenses they may suffer or incur due to defending or settling such action; provided, however that such indemnity excludes any or all losses which may be caused by or due to the fraud, gross negligence or willful misconduct of the Manager or its employees or agents, or any breach of the management agreement by the Manager.

Administrative Services Agreement

At the closing of the IPO, we entered into the Administrative Services Agreement, as amended, with the Manager, pursuant to which the Manager has agreed to provide certain administrative management services to us. The agreement expires in December 2022.

The Administrative Services Agreement may be terminated prior to the end of its term by us upon 120 days' notice if there is a change of control of the Manager or by the Manager upon 120 days' notice if there is a change of control of us or our General Partner. In addition, the Administrative Services Agreement may be terminated by us or by the Manager upon 120 days' notice if:

- the other party breaches the agreement;
- a receiver is appointed for all or substantially all of the property of the other party;
- an order is made to wind up the other party;
- a final judgment or order that materially and adversely affects the other party's ability to perform the management agreement is obtained or entered and not vacated or discharged; or
- the other party makes a general assignment for the benefit of its creditors, files a petition in bankruptcy or liquidation or commences any reorganization proceedings.

Furthermore, the administrative services agreement may be terminated by us or by the Manager upon 365 days' notice for any reason other than those described above.

The administrative services include:

- *bookkeeping, audit and accounting services*: assistance with the maintenance of our corporate books and records, assistance with the preparation of our tax returns and arranging for the provision of audit and accounting services;
- *legal and insurance services*: arranging for the provision of legal, insurance and other professional services and maintaining our existence and good standing in necessary jurisdictions;
- *administrative and clerical services*: assistance with office space, arranging meetings for our common unitholders pursuant to the partnership agreement, arranging the provision of IT services, providing all administrative services required for subsequent debt and equity financings and attending to all other administrative matters necessary to ensure the professional management of our business;

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- *banking and financial services*: providing cash management including assistance with preparation of budgets, overseeing banking services and bank accounts, arranging for the deposit of funds, negotiating loan and credit terms with lenders and monitoring and maintaining compliance therewith;
- *advisory services*: assistance in complying with United States and other relevant securities laws;
- *client and investor relations*: arranging for the provision of, advisory, clerical and investor relations services to assist and support us in our communications with our common unitholders;
- integration of any acquired businesses; and
- client and investor relations.

We reimburse the Manager for reasonable costs and expenses incurred in connection with the provision of these services within 15 days after the Manager submits to us an invoice for such costs and expenses, together with any supporting detail that may be reasonably required.

Under the Administrative Services Agreement, we have agreed to indemnify the Manager and its employees against all actions which may be brought against them under the Administrative Services Agreement including, without limitation, all actions brought under the environmental laws of any jurisdiction, and against and in respect of all costs and expenses they may suffer or incur due to defending or settling such actions; provided, however that such indemnity excludes any or all losses which may be caused by or due to the fraud, gross negligence or willful misconduct of the Manager or its employees or agents.

General and Administrative Expenses

We have entered into an administrative services agreement with the Manager, pursuant to which the Manager has agreed to provide certain administrative management services to us. Navios Partners extended the duration of its existing Administrative Services Agreement with the Manager pursuant to the same terms, until December 31, 2022. Total general and administrative expenses for the years ended December 31, 2018, 2017 and 2016, including Navios Containers administrative fees for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017, amounted to \$9.3 million, \$8.9 million and \$7.8 million, respectively.

Management Fees

Pursuant to the management agreement dated November 16, 2007, which was revised in October 2009 and 2011, the Manager, provided commercial and technical management services to Navios Partners' vessels for a daily fee of: (a) \$4,500 daily rate per owned Ultra-Handymax vessel; (b) \$4,400 daily rate per owned Panamax vessel; and (c) \$5,500 daily rate per owned Capesize vessel until November 16, 2011. In October 2011, Navios Partners extended the duration of its existing Management Agreement with the Manager until December 31, 2017 and fixed the rate for shipmanagement services of its owned fleet through December 31, 2013. The management fees, including drydocking expenses were: (a) \$4,650 daily rate per Ultra-Handymax vessel; (b) \$4,550 daily rate per Panamax vessel; and (c) \$5,650 daily rate per Capesize vessel. In each of October 2013, August 2014, February 2015 and February 2016, Navios Partners amended its existing management agreement with the Manager to fix the fees for ship management services of its owned fleet at: (a) \$4,100 daily rate per Ultra-Handymax vessel; (b) \$4,200 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Container vessel of TEU 6,800; (e) \$7,400 daily rate per Container vessel of more than TEU 8,000; and (f) \$8,750 daily rate per very large Container vessel of more than TEU 13,000 through December 31, 2017. In November 2017, Navios Partners extended the duration of its existing Management Agreement with the Manager until December 31, 2022 and the fixed rate for ship management services of its owned fleet through December 31, 2019, effective from January 1, 2018. The management fees, excluding drydocking expenses are: (a) \$4,225 daily rate per Ultra-Handymax vessel; (b) \$4,325 daily rate per Panamax vessel; (c) \$5,250 daily rate per Capesize vessel; (d) \$6,700 daily rate per Container vessel of TEU 6,800; (e) \$7,400 daily rate per Container vessel of more than TEU 8,000; and (f) \$8,750 daily rate per very large Containers vessel of more than TEU 13,000.

Total management fees for the years ended December 31, 2018, 2017 and 2016, including Navios Containers management fees for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017, amounted to \$68.9 million, \$67.3 million and \$59.2 million, respectively.

Other

On November 15, 2012 (as amended in March 2014), Navios Holdings and Navios Partners entered into the Navios Holdings Guarantee by which Navios Holdings will provide supplemental credit default insurance with a maximum cash payment of \$20.0 million. The final settlement of the amount due will take place at any time but in no case later than December 31, 2019, in accordance with a letter of agreement effective as of December 29, 2017. During the years ended December 31, 2017 and 2016, the Company submitted claims for charterers' default under this agreement to Navios Holdings for a total amount of \$7.2 million and \$9.2 million, respectively, net of applicable deductions, of which \$7.6 million and \$9.6 million was recorded as "Other income". Net of the \$2.0 million write down, the claim amounted to \$17.6 million, including accrued interest and discount unwinding of \$0.4 million for the year ended December 31, 2018, presented under the caption "Amounts due from related parties-short term" in the Consolidated Balance Sheets.

Item 8. Financial Information

A. Consolidated Statements and Other Financial Information

Consolidated Financial Statements: See Item 18.

Legal Proceedings

On August 31, 2016, Hanjin Shipping Co. ("Hanjin") filed for rehabilitation. Navios Partners had two Capesize vessels chartered to Hanjin at a net rate of \$29,356 per day until December 2020. In September 2016, both vessels were redelivered to Navios Partners' commercial management and were rechartered to third parties. Navios has filed claims to the Seoul Central District Court for the lost revenues in accordance with the rehabilitation process. Rehabilitation proceedings were cancelled on February 2, 2017 and Hanjin entered into liquidation on February 17, 2017. Navios Partners' claims were registered in the rehabilitation proceedings on October 24, 2016 and will be assessed during the bankruptcy proceedings. There is no notable change in the status of Hanjin's bankruptcy proceedings since our last report of 2018. These claims are currently being assessed by the court.

We are not involved in any other legal proceedings or aware of any proceedings against us, or contemplated to be brought against us, that we believe would have a have a material adverse effect on our business, financial position, results of operations and liquidity.

From time to time, Navios Partners may be subject to legal proceedings and claims arising out of our operations in the normal course of business. We maintain insurance policies with insurers in amounts and with coverage and deductibles as our board of directors believes are reasonable and prudent. We expect that these claims would be covered by insurance, subject to customary deductibles. Those claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.

Cash Distribution Policy

Limitations on Cash Distributions and Our Ability to Change Our Cash Distribution Policy

There is no guarantee that unitholders will receive quarterly distributions from us and beginning with the quarter ending December 31, 2015, our board of directors elected to suspend distributions on our common units in order to preserve cash and improve our liquidity. In March 2018, the Company's board announced a new distribution policy under which it intends to declare quarterly cash distributions in the amount of \$0.02 per unit, or \$0.08 annually. Our distribution policy is subject to certain restrictions and may be changed at any time, including:

- Our unitholders have no contractual or other legal right to receive distributions other than the obligation under our partnership agreement to distribute available cash on a quarterly basis, which is subject to the broad discretion of our board of directors to establish reserves and other limitations.
- While our partnership agreement requires us to distribute all of our available cash, our partnership agreement, including provisions requiring us to make cash distributions contained therein, may be amended. Although during the subordination period, with certain exceptions, our partnership agreement could not be amended without the approval of non-affiliated common unitholders, our partnership agreement can be amended with the approval of a majority of the outstanding common units after the subordination period has ended. Upon the closing of the IPO, Navios Holdings did not own any of our outstanding common units and owned 100.0% of our outstanding subordinated units.
- Even if our cash distribution policy is not modified or revoked, the amount of distributions we pay under our cash distribution policy and the decision to make any distribution is determined by our board of directors, taking into consideration the terms of our partnership agreement.
- Under Section 51 of the Marshall Islands Limited Partnership Act, we may not make a distribution to our unitholders if the distribution would cause our liabilities to exceed the fair value of our assets.
- We may lack sufficient cash to pay distributions to our unitholders due to decreases in net revenues or increases in operating expenses, principal and interest payments on outstanding debt, tax expenses, working capital requirements, maintenance and replacement capital expenditures or anticipated cash needs.

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- Our distribution policy is affected by restrictions on distributions under our credit facilities that we entered into in connection with the closing of the IPO. Specifically, our credit facilities contain material financial tests that must be satisfied and we will not pay any distributions that will cause us to violate our credit facilities or other debt instruments. Should we be unable to satisfy these restrictions included in our credit facilities or if we are otherwise in default under our credit facilities, our ability to make cash distributions to unitholders, notwithstanding our cash distribution policy, would be materially adversely affected.
- If we make distributions out of capital surplus, as opposed to operating surplus, such distributions will constitute a return of capital and will result in a reduction in the minimum quarterly distribution and the target distribution levels. We do not anticipate that we will make any distributions from capital surplus.

Our ability to make distributions to our unitholders depends on the performance of our subsidiaries and their ability to distribute funds to us. The ability of our subsidiaries to make distributions to us may be restricted by, among other things, the provisions of existing and future indebtedness, applicable partnership and limited liability company laws and other laws and regulations.

Quarterly Distribution

There is no guarantee that we will pay the quarterly distribution on the common units in any quarter. The amount of distributions paid under our policy and the decision to make any distribution is determined by our board of directors, taking into consideration the terms of our partnership agreement. We are prohibited from making any distributions to unitholders if it would cause an event of default, or an event of default exists, under our existing credit facilities.

Quarterly distributions were paid by the Company through September 2015. For the quarter ended December 31, 2015, the Company's board of directors determined to suspend payment of the Company's quarterly distributions in order to preserve cash and improve our liquidity. In March 2018, the Company's board of directors announced a new distribution policy under which it intends to declare quarterly cash distributions in the amount of \$0.02 per unit, or \$0.08 annually. The Company announced the first quarterly distribution of \$0.02 per unit for the first quarter of 2018, which was paid on May 14, 2018 to all unitholders of record as of May 10, 2018. The aggregate amount of the declared distribution was \$3.4 million.

In July 2018, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended June 30, 2018 of \$0.02 per unit. The distribution was paid on August 10, 2018 to all unitholders of common and general partner units of record as of August 7, 2018. The aggregate amount of the declared distribution was \$3.4 million.

In October 2018, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended September 30, 2018 of \$0.02 per unit. The distribution was paid on November 14, 2018 to all unitholders of common and general partners units of record as of November 7, 2018. The aggregate amount of the declared distribution was \$3.4 million.

In January 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended December 31, 2018 of \$0.02 per unit. The distribution was paid on February 14, 2019 to all unitholders of common and general partner units of record as of February 11, 2019. The aggregate amount of the declared distribution was \$3.5 million.

During the years ended December 31, 2018, 2017 and 2016 the aggregate amount of cash distribution paid was \$10.3 million, \$0 and \$0, respectively.

Incentive Distribution Rights

The following description of our incentive distribution rights reflects such rights and the indicated levels are achieved, of which there can be no assurance. Incentive distribution rights represent the right to receive an increasing percentage of quarterly distributions of available cash from Operating Surplus after the minimum quarterly distribution and the target distribution levels have been achieved. Our general partner currently holds the incentive distribution rights, but may transfer these rights separately from its general partner interest, subject to restrictions in the partnership agreement. Except for transfers of incentive distribution rights to an affiliate or another entity as part of our general partner's merger or consolidation with or into, or sale of substantially all of its assets to such entity, the approval of a majority of our common units (excluding common units held by our general partner and its affiliates), voting separately as a class, generally is required for a transfer of the incentive distribution rights to a third party prior to December 31, 2018.

The following table illustrates the percentage allocations of the additional available cash from Operating Surplus among the unitholders and our general partner up to the various target distribution levels. The amounts set forth under "Marginal Percentage Interest in Distributions" are the percentage interests of the unitholders and our general partner in any available cash from Operating Surplus we distribute up to and including the corresponding amount in the column "Total Quarterly Distribution Target Amount," until available cash from Operating Surplus we distribute reaches the next target distribution level, if any. The percentage interests shown for the unitholders and our general partner for the minimum quarterly distribution are also applicable to quarterly distribution amounts that are less than the minimum quarterly distribution. The percentage interests shown for our general partner assume that our general partner maintains its 2.0% general partner interest and assume our general partner has not transferred the incentive distribution rights.

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	Total Quarterly Distribution Target Amount	Marginal Percentage Interest in Distributions	
		Common Unitholders	General Partner
Minimum Quarterly Distribution	up to \$0.35	98%	2%
First Target Distribution	up to \$0.4025	98%	2%
Second Target Distribution	above \$0.4025 up to \$0.4375	85%	15%
Third Target Distribution	above \$0.4375 up to \$0.525	75%	25%
Thereafter	above \$0.525	50%	50%

B. Significant Changes

No significant changes have occurred since the date of the annual financial statements included herein.

Item 9. The Offer and Listing

Our common units are traded on the New York Stock Exchange (or “NYSE”) under the symbol “NMM”.

On March 13, 2019, we were notified by the NYSE that we are no longer in compliance with the NYSE’s continued listing standards because the average closing price of our common stock over a consecutive 30 trading-day period was less than \$1.00 per unit. We responded to the NYSE confirming our intent to cure this deficiency within the prescribed timeframe set out in the NYSE’s Listed Company Manual. During this time, our common stock will continue to be listed and traded on the NYSE. The NYSE’s notification does not affect our Securities and Exchange Commission reporting requirements.

Item 10. Additional Information

A. Share Capital

Not applicable.

B. Memorandum and Articles of Association

The information required to be disclosed under Item 10.B is incorporated by reference to the following sections of the prospectus included in our Registration Statement on Form F-1 filed with the SEC on November 14, 2007: “The Partnership Agreement,” “Description of the Common Units — The Units,” “Conflicts of Interest and Fiduciary Duties,” “How we make Cash Distributions” and “Our Cash Distribution Policy and Restrictions on Distributions.”

On June 10, 2009, we executed the Second Amended and Restated Agreement of Limited Partnership of Navios Partners. The Second Amended and Restated Agreement of Limited Partnership designated a new series of subordinated units as Subordinated Series A Units (the “Series A Units”).

On January 1, 2012, in accordance with the terms of the partnership agreement, all of the then outstanding subordinated units converted into 7,621,843 shares of common units (conversion excluded the subordinated Series A units) and on June 29, 2012, the outstanding subordinated Series A units converted into 1,000,000 shares of common units.

On March 12, 2015, we executed the Third Amended and Restated Agreement of Limited Partnership of Navios Partners in order to reflect the conversion of the Subordinated Units and the Subordinated Series A Units into Common Units.

On March 19, 2018, we executed the Fourth Amended and Restated Agreement of Limited Partnership of Navios Partners in order to reflect the recent process to clarify the quorum necessary to conduct business at any adjourned meeting.

C. Material Contracts

The following is a summary of each material contract, other than material contracts entered into in the ordinary course of business, to which we or any of our subsidiaries is a party, for the two years immediately preceding the date of this Annual Report, each of which is included in the list of exhibits in Item 19. Please read “Item 5. Operating and Financial Review and Prospects — Trends and Factors Affecting Our Future Results of Operations — Liquidity and Capital Resources — credit facilities” for a summary of certain contract terms.

- Facility Agreement for a \$35.0 million term loan facility, dated May 27, 2011, among Navios Partners, Commerzbank AG and DVB Bank SE. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.

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- Supplemental Agreement, dated December 4, 2012, among Navios Partners, Commerzbank AG and DVB Bank SE relating to the \$290.45 million term loan facility, dated July 31, 2012. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Supplemental Agreement, dated March 27, 2013, among Navios Partners, Commerzbank AG and DVB Bank SE relating to the \$290.45 million term loan facility, dated July 31, 2012 to revise the lender majority vote requirement and expand the definition of Security Value. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Supplemental Agreement, dated December 24, 2015, among Navios Partners, Commerzbank AG and DVB Bank SE relating to the \$290.45 million term loan facility, dated July 31, 2012. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Supplemental Agreement, dated March 22, 2016, among Navios Partners, Commerzbank AG and DVB Bank SE relating to the \$290.45 million term loan facility, dated July 31, 2012. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Credit Agreement, dated June 27, 2013, among Navios Partners, Navios Partners Finance (US) Inc., as co-borrowers, JP Morgan Chase Bank, N.A., as syndication agent, Citibank, N.A., as documentation agent, Morgan Stanley Senior Funding, Inc., as administrative agent and the other lenders party thereto, for \$250.0 million term loan facility. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Incremental Amendment No. 1, dated October 31, 2013, to the Credit Agreement, dated June 27, 2013, among Navios Partners, Navios Partners Finance (US) Inc., as co-borrowers, JP Morgan Chase Bank, N.A., as syndication agent, Citibank, N.A., as documentation agent, Morgan Stanley Senior Funding, Inc., as administrative agent and the other lenders party thereto, for \$250.0 million term loan facility. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Incremental Amendment No. 2, dated November 1, 2013, to the Credit Agreement, dated June 27, 2013, among Navios Partners, Navios Partners Finance (US) Inc., as co-borrowers, JP Morgan Chase Bank, N.A., as syndication agent, Citibank, N.A., as documentation agent, Morgan Stanley Senior Funding, Inc., as administrative agent and the other lenders party thereto, for \$250.0 million term loan facility. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Facility Agreement for \$164.0 million term loan facility, dated April 16, 2015, among Navios Partners and HSH Nordbank AG. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Credit Agreement for \$405.0 million term loan, dated as of March 14, 2017, among Navios Maritime Partners L.P. and Navios Partners Finance (US) Inc., JP Morgan Chase Bank, N.A., Morgan Stanley Senior Funding, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, S. Goldman Advisors LLC, DVB Capital Markets LLC, ABN AMRO Capital USA LLC, Credit Agricole Corporate Investment Bank, Clarkson Platou Securities, Inc. and the several Lenders from time to time party thereto.
- Loan Agreement for a \$32.0 million term loan, dated June 26, 2017, among Finian Navigation Co., Casual ShipHolding Co., BNP Paribas and the Banks and Financial Institutions listed therein.
- Facility Agreement for a \$39.0 million credit facility, dated June 28, 2017, among Fantastiks Shipping Corporation, Sagittarius Shipping Corporation, Customized Developments S.A., Ammos Shipping Corp., Navios Maritime Partners L.P., and DVB Bank SE.
- Loan Agreement, dated March 26, 2018, by and among Goldie Services Company and Seymour Trading Limited; Nordea Bank AB (Publ), Filial I. Norge Skandinaviska Enskilda Banken AB (Publ) and NIBC Bank N.V.
- Omnibus Agreement, dated as of November 16, 2007, among Navios Holdings, Navios GP LLC, Navios Maritime Operating LLC., and Navios Partners. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment to Omnibus Agreement, dated as of June 29, 2009, among Navios Holdings, Navios GP LLC, Navios Maritime Operating LLC., and Navios Partners, relating to the Omnibus Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Acquisition Omnibus Agreement, dated as of May 28, 2010, among Navios Partners, Navios Acquisition and Navios Holdings. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.

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- Navios Midstream Omnibus Agreement, dated as of November 18, 2014, among Navios Holdings, Navios Maritime Midstream Partners L.P., Navios Maritime Midstream GP LLC, Navios Maritime Midstream Operating LLC., Navios Maritime Acquisition Corporation and Navios Partners. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Omnibus Agreement, effective as of June 7, 2017, among Navios Maritime Acquisition Corporation, Navios Maritime Holdings Inc., Navios Maritime Partners L.P., Navios Maritime Midstream Partners L.P., Navios Maritime Containers Inc. and Navios Partners Containers Finance Inc.
- Management Agreement dated November 16, 2007, between Navios Partners and Navios ShipManagement. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment to Management Agreement dated October 29, 2009, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 2 to Management Agreement dated October 21, 2011, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 3 to Management Agreement dated October 30, 2013, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 4 to Management Agreement dated August 29, 2014, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 5 to Management Agreement dated February 10, 2015, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 6 to Management Agreement dated May 4, 2015, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 7 to Management Agreement dated February 4, 2016, between Navios Partners and Navios ShipManagement relating to the Management Agreement dated November 16, 2007. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 8, dated November 14, 2017, to the Management Agreement, dated October 21, 2011, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.
- Administrative Services Agreement, dated as of November 16, 2007, between Navios Partners and Navios ShipManagement. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 1, dated October 21, 2011, to the Administrative Services Agreement, dated as of November 16, 2007, between Navios Partners and Navios ShipManagement. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Amendment No. 2 to Administrative Services Agreement, dated November 14, 2017, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.
- Registration Rights Agreement dated April 30, 2008. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Waiver to Right of First Refusal and Corporate Opportunities Agreement, dated June 29, 2009, by Navios Partners. Please read “Item 7. Major Unitholders and Related Party Transactions” for a summary of certain contract terms.
- Continuous Offering Program Sales Agreement, dated November 18, 2016, between Navios Partners and S. Goldman Capital LLC. Please read “Item 5. Operating and Financial Review and Prospects” for a summary of certain contract terms.
- Amendment No. 1 to Continuous Offering Program Sales Agreement, dated June 2, 2017, with S. Goldman Capital LLC.
- Loan Agreement, dated December 28, 2018, relating to a \$28.5 million term loan facility, by and among Velvet Shipping Corporation, Golem Navigation Limited and Coasters Ventures Ltd., as joint and several borrowers; the Banks and Financial Institutions listed in Schedule 1 therein, as Lenders; NIBC Bank N.V., as Mandated Lead Arranger; and NIBC Bank N.V., as Agent and Security Trustee.
- Facility Agreement, dated February 12, 2019, by and among Kohylia ShipManagement S.A., Floral Marine Ltd., Ianthe Maritime S.A., and Customized Development S.A., as joint and several Borrowers; guaranteed by Navios Maritime Partners L.P., as Guarantor; arranged by DVB Bank SE, as Arranger; with DVB Bank SE, acting as Facility Agent; DVB Bank SE, acting as Security Agent; and DVB Bank SE, acting as Account Bank.

D. Exchange controls

We are not aware of any governmental laws, decrees or regulations, including foreign exchange controls, in the Marshall Islands, Liberia, Malta, the countries of incorporation of Navios Partners and its subsidiaries that restrict the export or import of capital, or that affect the remittance of dividends, interest or other payments to non-resident holders of our securities.

We are not aware of any limitations on the right of non-resident or foreign owners to hold or vote our securities imposed by the laws of the Republic of the Marshall Islands or our Certificate of Formation and Limited Partnership Agreement.

E. Taxation of Holders

MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following is a discussion of the material U.S. federal income tax considerations that may be relevant to beneficial owners of our common units and, unless otherwise noted in the following discussion, is the opinion of Thompson Hine LLP, our U.S. counsel, insofar as it relates to matters of U.S. federal income tax law and legal conclusions with respect to those matters. The opinion of our counsel is dependent on the accuracy of representations made by us to them, including descriptions of our operations contained herein.

This discussion is based upon provisions of the Internal Revenue Code (the “Code”), U.S. Treasury Regulations, and administrative rulings and court decisions, all as in effect or in existence on the date of this filing and all of which are subject to change or differing interpretations by the Internal Revenue Service (“IRS”) or a court, possibly with retroactive effect. Changes in these authorities may cause the tax consequences of ownership of our common units to vary substantially from the consequences described below. Unless the context otherwise requires, references in this section to “we,” “our” or “us” are references to Navios Maritime Partners L.P.

The following discussion applies only to beneficial owners of common units that own the common units as “capital assets” (generally, property held for investment purposes). The following discussion does not address all aspects of U.S. federal income taxation which may be important to particular beneficial owners of common units in light of their individual circumstances, such as (i) beneficial owners of common units subject to special tax rules (e.g., banks or other financial institutions, real estate investment trusts, regulated investment companies, insurance companies, broker-dealers, traders that elect to mark-to-market for U.S. federal income tax purposes, tax-exempt organizations and retirement plans, individual retirement accounts and tax-deferred accounts, or former citizens or long-term residents of the United States) or to beneficial owners that will hold the common units as part of a straddle, hedge, conversion, constructive sale, or other integrated transaction for U.S. federal income tax purposes, (ii) partnerships or other entities classified as partnerships for U.S. federal income tax purposes or their partners, (iii) U.S. Holders (as defined below) that have a functional currency other than the U.S. dollar or (iv) beneficial owners of common units that own 2.0% or more (by vote or value) of our common units, all of whom may be subject to tax rules that differ significantly from those summarized below. If a partnership or other entity classified as a partnership for U.S. federal income tax purposes holds our common units, the tax treatment of its partners generally will depend upon the status of the partner, the activities of the partnership and certain determinations made at the partner level. If you are a partner in a partnership holding our common units, you should consult your own tax advisor regarding the tax consequences to you of the partnership’s ownership of our common units.

No ruling has been obtained or will be requested from the IRS, regarding any matter affecting us or holders of our common units. The opinions and statements made herein may be challenged by the IRS and, if so challenged, may not be sustained upon review in a court.

This discussion does not contain information regarding any state or local, estate, gift or alternative minimum tax considerations concerning the ownership or disposition of common units.

Each beneficial owner of our common units should consult its own tax advisor regarding the U.S. federal, state, local, and other tax consequences of the ownership or disposition of common units.

Election to Be Treated as a Corporation

We have elected to be treated as a corporation for U.S. federal income tax purposes. Consequently, among other things, U.S. Holders (as defined below) will not directly be subject to U.S. federal income tax on their shares of our income, but rather will be subject to U.S. federal income tax on distributions received from us and dispositions of common units as described below.

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

As used herein, the term “U.S. Holder” means a beneficial owner of our common units that:

- is an individual U.S. citizen or resident (as determined for U.S. federal income tax purposes),
- a corporation (or other entity that is classified as a corporation for U.S. federal income tax purposes) organized under the laws of the United States or any of its political subdivisions,

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- an estate the income of which is subject to U.S. federal income taxation regardless of its source, or
- a trust if (i) a court within the United States is able to exercise primary jurisdiction over the administration of the trust and one or more “United States persons” (as defined in the Code) have the authority to control all substantial decisions of the trust or (ii) the trust has a valid election in effect under current U.S. Treasury Regulations to be treated as a “United States person.”

Distributions

Subject to the discussion below of the rules applicable to a passive foreign investment company (a “PFIC”), any distributions to a U.S. Holder made by us with respect to our common units generally will constitute dividends, which will be taxable as ordinary income or “qualified dividend income” as described in more detail below, to the extent of our current and accumulated earnings and profits, as determined under U.S. federal income tax principles. Distributions in excess of our current and accumulated earnings and profits will be treated first as a non-taxable return of capital to the extent of the U.S. Holder’s tax basis in its common units on a dollar-for-dollar basis, and thereafter as capital gain, which will be either long-term or short-term capital gain depending upon whether the U.S. Holder held the common units for more than one year. U.S. Holders that are corporations generally will not be entitled to claim a dividend received deduction with respect to distributions they receive from us. Dividends received with respect to the common units will be treated as foreign source income and generally will be treated as “passive category income” for U.S. foreign tax credit purposes.

Dividends received with respect to our common units by a U.S. Holder who is an individual, trust or estate (a “non-corporate U.S. Holder”) generally will be treated as “qualified dividend income” that is taxable to such non-corporate U.S. Holder at preferential capital gain tax rates, provided that: (i) subject to the possibility that our common units may be delisted by a qualifying exchange, our common units are traded on an “established securities market” in the United States (such as the NYSE where our common units are traded) and are “readily tradeable” on such an exchange; (ii) we are not a PFIC for the taxable year during which the dividend is paid or the immediately preceding taxable year (which we do not believe we are, have been or will be, as discussed below); (iii) the non-corporate U.S. Holder has owned the common units for more than 60 days during the 121-day period beginning 60 days before the date on which the common units become ex-dividend (and has not entered into certain risk limiting transactions with respect to such common units); and (iv) the non-corporate U.S. Holder is not under an obligation to make related payments with respect to positions in substantially similar or related property. Any dividends paid on our common units that are not eligible for these preferential rates will be taxed as ordinary income to a non-corporate U.S. Holder. In addition, a 3.8% tax may apply to certain investment income. See “*Medicare Tax*” below.

Special rules may apply to any amounts received in respect of our common units that are treated as “extraordinary dividends.” In general, an extraordinary dividend is a dividend with respect to a common unit that is equal to or in excess of 10.0% of a U.S. Holder’s adjusted tax basis (or fair market value upon the U.S. Holder’s election) in such common unit. In addition, extraordinary dividends include dividends received within a one-year period that, in the aggregate, equal or exceed 20.0% of a U.S. Holder’s adjusted tax basis (or fair market value) in a common unit. If we pay an “extraordinary dividend” on our common units that is treated as “qualified dividend income,” then any loss recognized by a U.S. Individual Holder from the sale or exchange of such common units will be treated as long-term capital loss to the extent of the amount of such dividend.

Sale, Exchange or Other Disposition of Common Units

Subject to the discussion of PFICs below, a U.S. Holder generally will recognize capital gain or loss upon a sale, exchange or other disposition of our common units in an amount equal to the difference between the amount realized by the U.S. Holder from such sale, exchange or other disposition and the U.S. Holder’s adjusted tax basis in such units. The U.S. Holder’s initial tax basis in the common units generally will be the U.S. Holder’s purchase price for the common units and that tax basis will be reduced (but not below zero) by the amount of any distributions on the common units that are treated as non-taxable returns of capital (as discussed under “*Distributions*” above). Such gain or loss will be treated as long-term capital gain or loss if the U.S. Holder’s holding period is greater than one year at the time of the sale, exchange or other disposition.

A corporate U.S. Holder’s capital gains, long-term and short-term, are taxed at ordinary income tax rates. If a corporate U.S. Holder recognizes a loss upon the disposition of our common units, such U.S. Holder is limited to using the loss to offset other capital gain. If a corporate U.S. Holder has no other capital gain in the tax year of the loss, it may carry the capital loss back three years and forward five years.

Long-term capital gains of non-corporate U.S. Holders are subject to the favorable tax rate of a maximum of 20%. In addition, a 3.8% tax may apply to certain investment income. See “*Medicare Tax*” below. A non-corporate U.S. Holder may deduct a capital loss resulting from a disposition of our common units to the extent of capital gains plus up to \$3,000 (\$1,500 for married individuals filing separate tax returns) annually and may carry forward a capital loss indefinitely.

PFIC Status and Significant Tax Consequences

In general, we will be treated as a PFIC with respect to a U.S. Holder if, for any taxable year in which the holder held our common units, either:

- at least 75.0% of our gross income (including the gross income of our vessel-owning subsidiaries) for such taxable year consists of passive income (e.g., dividends, interest, capital gains and rents derived other than in the active conduct of a rental business), or
- at least 50.0% of the average value of the assets held by us (including the assets of our vessel-owning subsidiaries) during such taxable year produce, or are held for the production of, passive income.

Income earned, or deemed earned, by us in connection with the performance of services would not constitute passive income. By contrast, rental income generally would constitute “passive income” unless we were treated as deriving our rental income in the active conduct of a trade or business under the applicable rules.

Based on our current and projected methods of operations, and an opinion of counsel, we believe that we will not be a PFIC with respect to any taxable year. Our U.S. counsel, Thompson Hine LLP, is of the opinion that (1) the income we receive from the time chartering activities and assets engaged in generating such income should not be treated as passive income or assets, respectively, and (2) so long as our income from time charters exceeds 25.0% of our gross income for each taxable year after our initial taxable year and the value of our vessels contracted under time charters exceeds 50.0% of the average value of our assets for each taxable year after our initial taxable year, we should not be a PFIC. This opinion is based on representations and projections provided to our counsel by us regarding our assets, income and charters, and its validity is conditioned on the accuracy of such representations and projections.

Our counsel’s opinion is based principally on their conclusion that, for purposes of determining whether we are a PFIC, the gross income we derive or are deemed to derive from the time chartering activities of our wholly-owned subsidiaries should constitute services income, rather than rental income. Correspondingly, such income should not constitute passive income, and the assets that we or our subsidiaries own and operate in connection with the production of such income, in particular, the vessels we or our subsidiaries own that are subject to time charters, should not constitute passive assets for purposes of determining whether we are or have been a PFIC. We expect that all of the vessels in our fleet will be engaged in time chartering activities and intend to treat our income from those activities as non-passive income, and the vessels engaged in those activities as non-passive assets, for PFIC purposes.

Our counsel has advised us that there is a significant amount of legal authority consisting of the Code, legislative history, IRS pronouncements and rulings supporting our position that the income from our time chartering activities constitutes services income (rather than rental income). There is, however, no direct legal authority under the PFIC rules addressing whether income from time chartering activities is services income or rental income. Moreover, in a case not interpreting the PFIC rules, *Tidewater Inc. v. United States*, 565 F.3d 299 (5th Cir. 2009), the Fifth Circuit held that the vessel time charters at issue generated predominantly rental income rather than services income. However, the IRS stated in an Action on Decision (AOD 2010-001) that it disagrees with, and will not acquiesce to, the way that the rental versus services framework was applied to the facts in the *Tidewater* decision, and in its discussion stated that the time charters at issue in *Tidewater* would be treated as producing services income for PFIC purposes. The IRS’s AOD, however, is an administrative action that cannot be relied upon or otherwise cited as precedent by taxpayers.

The opinion of our counsel is not binding on the IRS or any court. Thus, while we have received an opinion of our counsel in support of our position, there is a possibility that the IRS or a court could disagree with this position and the opinion of our counsel. In addition, although we intend to conduct our affairs in a manner to avoid being classified as a PFIC with respect to any taxable year, we cannot assure you that the nature of our operations will not change in the future.

As discussed more fully below, if we were to be treated as a PFIC for any taxable year in which a U.S. Holder owned our common units, the U.S. Holder would be subject to different taxation rules depending on whether the U.S. Holder makes an election to treat us as a “Qualified Electing Fund,” which we refer to as a “QEF election.” As an alternative to making a QEF election, the U.S. Holder may be able to make a “mark-to-market” election with respect to our common units, as discussed below. In addition, if we were treated as a PFIC for any taxable year in which a U.S. Holder owned our common units, the U.S. Holder would be required to file IRS Form 8621 with the U.S. Holder’s U.S. federal income tax return for each year to report the U.S. Holder’s ownership of such common units. In the event a U.S. Holder does not file IRS Form 8621, the statute of limitations on the assessment and collection of U.S. federal income taxes of such U.S. Holder for the related tax year will not close before the date which is three years after the date on which such report is filed.

It should also be noted that, if we were treated as a PFIC for any taxable year in which a U.S. Holder owned our common units and any of our non-U.S. subsidiaries were also a PFIC, the U.S. Holder would be treated as owning a proportionate amount (by value) of the shares of the lower-tier PFIC for purposes of the application of these rules.

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

If we were to be treated as a PFIC for any taxable year, and a U.S. Holder makes a timely QEF election (any such U.S. Holder, an “Electing Holder”), the Electing Holder must report for U.S. federal income tax purposes its pro rata share of our ordinary earnings and net capital gain, if any, for our taxable year that ends with or within the Electing Holder’s taxable year, regardless of whether or not the Electing Holder received any distributions from us in that year. Such income inclusions would not be eligible for the preferential tax rates applicable to “qualified dividend income.” The Electing Holder’s adjusted tax basis in our common units will be increased to reflect taxed but undistributed earnings and profits. Distributions to the Electing Holder of our earnings and profits that were previously taxed will result in a corresponding reduction in the Electing Holder’s adjusted tax basis in our common units and will not be taxed again once distributed. The Electing Holder would not, however, be entitled to a deduction for its pro rata share of any losses that we incur with respect to any year. An Electing Holder generally will recognize capital gain or loss on the sale, exchange or other disposition of our common units.

Even if a U.S. Holder makes a QEF election for one of our taxable years, if we were a PFIC for a prior taxable year during which the U.S. Holder owned our common units and for which the U.S. Holder did not make a timely QEF election, the U.S. Holder would also be subject to the more adverse rules described below under “*Taxation of U.S. Holders Not Making a Timely QEF or Mark-to-Market Election.*” However, under certain circumstances, a U.S. Holder may be permitted to make a retroactive QEF election with respect to us for any open taxable years in the U.S. Holder’s holding period for our common units in which we are treated as a PFIC. Additionally, to the extent that any of our subsidiaries is a PFIC, a U.S. Holder’s QEF election with respect to us would not be effective with respect to the U.S. Holder’s deemed ownership of the stock of such subsidiary and a separate QEF election with respect to such subsidiary would be required.

A U.S. Holder makes a QEF election with respect to any year that we are a PFIC by filing IRS Form 8621 with the U.S. Holder’s U.S. federal income tax return. If, contrary to our expectations, we were to determine that we are treated as a PFIC for any taxable year, we would notify all U.S. Holders and would provide all necessary information to any U.S. Holder that requests such information in order to make the QEF election described above with respect to us and the relevant subsidiaries. A QEF election would not apply to any taxable year for which we are not a PFIC, but would remain in effect with respect to any subsequent taxable year for which we are a PFIC, unless the IRS consents to the revocation of the election.

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

If we were to be treated as a PFIC for any taxable year and, subject to the possibility that our common units may be delisted by a qualifying exchange, our common units were treated as “marketable stock,” then, as an alternative to making a QEF election, a U.S. Holder would be allowed to make a “mark-to-market” election with respect to our common units, provided the U.S. Holder completes and files IRS Form 8621 in accordance with the relevant instructions and related Treasury Regulations. If that election is made, the U.S. Holder generally would include as ordinary income in each taxable year the excess, if any, of the fair market value of the U.S. Holder’s common units at the end of the taxable year over the holder’s adjusted tax basis in the common units. The U.S. Holder also would be permitted an ordinary loss in respect of the excess, if any, of the U.S. Holder’s adjusted tax basis in the common units over the fair market value thereof at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. A U.S. Holder’s tax basis in the U.S. Holder’s common units would be adjusted to reflect any such income or loss recognized. Gain recognized on the sale, exchange or other disposition of our common units would be treated as ordinary income, and any loss recognized on the sale, exchange or other disposition of the common units would be treated as ordinary loss to the extent that such loss does not exceed the net mark-to-market gains previously included in income by the U.S. Holder. A mark-to-market election would not apply to our common units owned by a U.S. Holder in any taxable year during which we are not a PFIC, but would remain in effect with respect to any subsequent taxable year for which we are a PFIC, unless our common units are no longer treated as “marketable stock” or the IRS consents to the revocation of the election.

Even if a U.S. Holder makes a “mark-to-market” election for one of our taxable years, if we were a PFIC for a prior taxable during which the U.S. Holder owned our common units and for which the U.S. Holder did not make a timely mark-to-market election, the U.S. Holder would also be subject to the more adverse rules described below under “*Taxation of U.S. Holders Not Making a Timely QEF or Mark-to-Market Election.*” Additionally, to the extent that any of our subsidiaries is a PFIC, a “mark-to-market” election with respect to our common units would not apply to the U.S. Holder’s deemed ownership of the stock of such subsidiary.

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

If we were to be treated as a PFIC for any taxable year, a U.S. Holder who does not make either a timely QEF election or a timely “mark-to-market” election for that year (i.e., the taxable year in which the U.S. Holder’s holding period commences), whom we refer to as a “Non-Electing Holder,” would be subject to special rules resulting in increased tax liability with respect to (1) any excess distribution (i.e., the portion of any distributions received by the Non-Electing Holder on our common units in a taxable year in excess of 125.0% of the average annual distributions received by the Non-Electing Holder in the three preceding taxable years, or, if shorter, the Non-Electing Holder’s holding period for the common units), and (2) any gain realized on the sale, exchange or other disposition of our common units. Under these special rules:

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

If we were treated as a PFIC for any taxable year and a Non-Electing Holder who is an individual dies while owning our common units, such holder’s successor generally would not receive a step-up in tax basis with respect to such common units. Additionally, to the extent that any of our subsidiaries is a PFIC, the foregoing consequences would apply to the U.S. Holder’s deemed receipt of any excess distribution on, or gain deemed realized on the disposition of, the stock of such subsidiary deemed owned by the U.S. Holder.

Controlled Foreign Corporation

Although we believe that Navios Partners was not a controlled foreign corporation (a “CFC”) as of December 31, 2018, or at any time during 2018, tax rules recently enacted by the Tax Cuts and Jobs Act, including the imposition of so-called “downward attribution” for purposes of determining whether a non-U.S. corporation is a CFC, may result in Navios Partners being treated as a CFC for U.S. federal income tax purposes in the future. Currently, Navios Holdings owns 18.3% of our common units indirectly through Alpha Merit Corporation and the 2.1% general partner interest indirectly through Navios GP L.L.C. Through downward attribution, U.S. subsidiaries of Navios Holdings are treated as constructive owners of these equity interests for purposes of determining whether we are a CFC. If, in the future, U.S. Holders (including U.S. subsidiaries of Navios Holdings, as discussed above) that each own 10% or more of our equity (by vote or value) would own in the aggregate more than 50% of our equity (by vote or value), in each case, directly, indirectly or constructively, we should become a CFC.

The U.S. federal income tax consequences of U.S. holders who at all times own less than 10% of our equity, directly, indirectly, and constructively, should not be affected were we to become a CFC. However, were we to become a CFC, any U.S. Holder who owns 10% or more of our equity (by vote or value), directly, indirectly, or constructively (but not through downward attribution), should be subject to U.S. federal income tax on its pro rata share of our so-called “subpart F” income and should be subject to U.S. federal income tax reporting requirements. Income from our time chartering activities could constitute subpart F income if it were derived from passive rental activities. But, Thompson Hine’s opinion that the income we earn from our time chartering activities should not be treated as passive income is based principally on their conclusion that such income should constitute services income, rather than rental income (see *U.S. Federal Income Taxation of U.S. Holders – PFIC Status and Significant Tax Consequences*). So, we believe that the income we earn from our time chartering activities should not be treated as subpart F income and thus no such U.S. Holder should be subject to U.S. federal income tax on such income, regardless of whether IRS’s position that the Section 883 exemption does not apply to subpart F income is correct. If, contrary, to our belief discussed above, the income we earn from our time chartering activities were treated as subpart F income, it is unclear whether such income would nonetheless be exempted from U.S. federal income tax for so long as we qualify for the Section 883 exemption (see *Taxation of the Partnership – The Section 883 Exemption*). In this regard, the IRS has taken the position in Revenue Ruling 87-15 that the Section 883 exemption does not cause subpart F income to be exempted from U.S. federal income tax. Any U.S. Holder of Navios Partners that owns 10% or more (by vote or value), directly, indirectly, or constructively, of the equity of Navios Partners should consult its own tax advisor regarding U.S. federal tax consequences that may result from Navios Partners being treated as a CFC.

Medicare Tax

A U.S. Holder that is an individual or estate, or a trust that does not fall into a special class of trusts that is exempt from such tax, will generally be subject to a 3.8% tax on the lesser of (i) the U.S. Holder’s “net investment income” for a taxable year and (ii) the excess of the U.S. Holder’s modified adjusted gross income for such taxable year over \$200,000 (\$250,000 in the case of joint filers). For these purposes, “net investment income” will generally include dividends paid with respect to our common units and net gain attributable to the disposition of our common units not held in connection with certain trades or businesses, but will be reduced by any deductions properly allocable to such income or net gain.

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

A beneficial owner of our common units (other than a partnership or an entity or arrangement treated as a partnership for U.S. federal income tax purposes) that is not a U.S. Holder is a “Non-U.S. Holder”.

Distributions

Distributions we pay to a Non-U.S. Holder will not be subject to U.S. federal income tax or withholding tax if the Non-U.S. Holder is not engaged in a U.S. trade or business. If the Non-U.S. Holder is engaged in a U.S. trade or business, our distributions will be subject to U.S. federal income tax to the extent they constitute income effectively connected with the Non-U.S. Holder’s U.S. trade or business (and a corporate Non-U.S. Holder may also be subject to U.S. federal branch profits tax). However, distributions paid to a Non-U.S. Holder who is engaged in a trade or business may be exempt from taxation under an income tax treaty if the income arising from the distribution is not attributable to a U.S. permanent establishment maintained by the Non-U.S. Holder.

Disposition of Units

In general, a Non-U.S. Holder will not be subject to U.S. federal income tax or withholding tax on any gain resulting from the disposition of our common units provided the Non-U.S. Holder is not engaged in a U.S. trade or business. A Non-U.S. Holder that is engaged in a U.S. trade or business will be subject to U.S. federal income tax in the event the gain from the disposition of units is effectively connected with the conduct of such U.S. trade or business (provided, in the case of a Non-U.S. Holder entitled to the benefits of an income tax treaty with the United States, such gain also is attributable to a U.S. permanent establishment). However, even if not engaged in a U.S. trade or business, individual Non-U.S. Holders may be subject to tax on gain resulting from the disposition of our common units if they are present in the United States for 183 days or more during the taxable year in which those units are disposed and meet certain other requirements.

Backup Withholding and Information Reporting

In general, payments to a non-corporate U.S. Holder of distributions or the proceeds of a disposition of common units may be subject to information reporting. These payments to a non-corporate U.S. Holder also may be subject to backup withholding (currently at a rate of 24%), if the non-corporate U.S. Holder:

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

A U.S. Holder generally is required to certify its compliance with the backup withholding rules on IRS Form W-9.

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

Backup withholding is not an additional tax. Rather, a unitholder generally may obtain a credit for any amount withheld against his liability for U.S. federal income tax (and obtain a refund of any amounts withheld in excess of such liability) by filing a U.S. federal income tax return with the IRS.

Individual U.S. Holders (and to the extent specified in applicable U.S. Treasury Regulations, certain individual Non-U.S. Holders and certain U.S. Holders that are entities) that hold “specified foreign financial assets,” including our common units, whose aggregate value exceeds \$75,000 at any time during the taxable year or \$50,000 on the last day of the taxable year (or such higher amounts as prescribed by applicable Treasury Regulations) are required to file a report on IRS Form 8938 with information relating to the assets for each such taxable year. Specified foreign financial assets would include, among other things, our common units, unless such common units are held in an account maintained by a U.S. “financial institution” (as defined). Substantial penalties apply to any failure to timely file IRS Form 8938, unless the failure is shown to be due to reasonable cause and not due to willful neglect. Additionally, in the event an individual U.S. Holder (and to the extent specified in applicable Treasury Regulations, an individual Non-U.S. Holder or a U.S. entity) that is required to file IRS Form 8938 does not file such form, the statute of limitations on the assessment and collection of U.S. federal income taxes of such holder for the related tax year may not close until three years after the date that the required information is filed. U.S. Holders (including U.S. entities) and Non-U.S. Holders should consult their own tax advisors regarding their reporting obligations.

NON-UNITED STATES TAX CONSIDERATIONS

Marshall Islands Tax Consequences

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

Because we and our subsidiaries do not and do not expect to conduct business or operations in the Republic of the Marshall Islands, under current Marshall Islands law you will not be subject to Marshall Islands taxation or withholding on distributions, including upon distribution treated as a return of capital, we make to you as a unitholder. In addition, you will not be subject to Marshall Islands stamp, capital gains or other taxes on the purchase, ownership or disposition of common units, and you will not be required by the Republic of the Marshall Islands to file a tax return relating to your ownership of common units.

EACH UNITHOLDER IS URGED TO CONSULT HIS OWN TAX, LEGAL AND OTHER ADVISORS REGARDING THE CONSEQUENCES OF OWNERSHIP OF COMMON UNITS UNDER THE UNITHOLDER'S PARTICULAR CIRCUMSTANCES.

F. Dividends and paying agents

Not applicable.

G. Statements by experts

Not applicable.

H. Documents on display

We file reports and other information with the SEC. These materials, including this annual report and the accompanying exhibits, may be inspected and copied at the public facilities maintained by the Commission at 100 F Street, N.E., Washington, D.C. 20549, or from the SEC's website <http://www.sec.gov>. You may obtain information on the operation of the public reference room by calling 1 (800) SEC-300 and you may obtain copies at prescribed rates.

I. Subsidiary information

Not applicable.

Item 11. 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 the U.S. dollar 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. Expenses incurred in foreign currencies against which the U.S. Dollar falls in value can increase such expenses, thereby decreasing our income or vice versa if the U.S. dollar increases in value. For example, as of December 31, 2018, the value of the U.S. dollar as compared to the Euro increased by approximately 4.7% compared with the respective value as of December 31, 2017.

Interest Rate Risk

Bank borrowings under our credit facilities bear interest at a rate based on a premium over U.S. LIBOR. Therefore, we are exposed to the risk that our interest expense may increase if interest rates rise. For the years ended December 31, 2018, 2017 and 2016, we paid interest on our outstanding debt at a weighted average interest rate of 6.8%, 5.8% and 4.7%, respectively. A 1% increase in LIBOR would have increased our interest expense for the years ended December 31, 2018, 2017 and 2016 by \$5.2 million, \$4.8 million and \$5.5 million, respectively.

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.

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For the year ended December 31, 2018, HMM represented approximately 24.5% of total revenues. For the year ended December 31, 2017, HMM and Yang Ming accounted for approximately 26.8% and 12.0%, respectively, of our total revenues. For the year ended December 31, 2016, HMM, Yang Ming and Mediterranean Shipping Co. S.A. accounted for 29.6%, 13.0% and 11.6%, respectively, of our total revenues. No other customers accounted for 10% or more of total revenues for any of the years presented.

Following the termination of the credit default insurance through its third party insurer, Navios Partners entered into an agreement with Navios Holdings by which Navios Holdings will provide supplemental credit default insurance with a maximum cash payment of \$20.0 million. The final settlement of the amount due will take place at any time but in no case later than December 31, 2019, in accordance with a letter of agreement effective as of December 29, 2017. During the year ended December 31, 2018, the Company did not submit any claims to Navios Holdings for charterers' default under this agreement. During the year ended December 31, 2017 and 2016, the Company submitted claims for charterers' default under this agreement to Navios Holdings for a total amount of \$7.2 million and \$9.2 million, respectively, net of applicable deductions, of which \$7.6 million and \$9.6 million, respectively, was recorded as "Other income". Net of the \$2.0 million write down, the claim amounted to \$17.6 million, including accrued interest and discount unwinding of \$0.4 million for the year ended December 31, 2018, presented under the caption "Amounts due from related parties-short term" in the Consolidated Balance Sheets.

Inflation

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

Item 12. Description of Securities Other than Equity Securities

Not applicable.

PART II

Item 13. Defaults, Dividend Arrearages and Delinquencies

None.

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

None.

Item 15. Controls and Procedures

A. Disclosure Controls and Procedures

The management of Navios Partners, with the participation of the Chief Executive Officer and Chief Financial Officer, conducted an evaluation, pursuant to Rule 13a-15 promulgated under the Securities Act of 1934, as amended (the "Exchange Act"), of the effectiveness of our disclosure controls and procedures as of December 31, 2018. Based on this evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the disclosure controls and procedures were effective as of December 31, 2018.

Disclosure controls and procedures means controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms and that such information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosures.

B. Management's annual report on internal control over financial reporting

The management of Navios Partners is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) or 15d-15(f) of the Exchange Act. Navios Partners' internal control system was designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States ("GAAP").

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Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Navios Partners' management assessed the effectiveness of Navios Partners' internal control over financial reporting as of December 31, 2018. In making this assessment, it used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control—Integrated Framework (2013). Based on its assessment, management concluded that, as of December 31, 2018, Navios Partners' internal control over financial reporting is effective based on those criteria.

Navios Partners' independent registered public accounting firm has issued an attestation report on Navios Partners' internal control over financial reporting.

C. Attestation report of the registered public accounting firm

Navios Partners' independent registered public accounting firm has issued an audit report on Navios Partners' internal control over financial reporting. This report appears on Page F-2 of the consolidated financial statements.

D. Changes in internal control over financial reporting

There have been no changes in internal controls over financial reporting (identified in connection with management's evaluation of such internal controls over financial reporting) that occurred during the year covered by this annual report that have materially affected, or are reasonably likely to materially affect, Navios Partners' internal controls over financial reporting.

Item 16A. Audit Committee Financial Expert

Navios Partners' Audit Committee consists of three independent directors, Orthodoxia Zisimatou, Serafeim Kriempardis and Alexander Kalafatides. The Board of Directors has determined that Serafeim Kriempardis qualifies as "an audit committee financial expert" as defined in the instructions of Item 16A of Form 20-F. Mr. Kriempardis is independent under applicable NYSE and SEC standards.

Item 16B. Code of Ethics

Navios Partners has adopted a code of ethics applicable to officers, directors and employees that complies with applicable guidelines issued by the SEC. The Navios Partners Code of Corporate Conduct and Ethics is available for review on Navios Partners' website at www.navios-mlp.com.

Item 16C. Principal Accountant Fees and Services

Audit Fees

Our principal Accountants for fiscal years 2018 and 2017 were PricewaterhouseCoopers S.A. The audit fees for the audit of the years ended December 31, 2018 and 2017 were \$0.2 million and \$0.3 million, respectively.

Audit-Related Fees

There were no audit-related fees billed in 2018 and 2017.

Tax Fees

There were no tax fees billed in 2018 and 2017.

Other Fees

There were no other fees billed in 2018 and 2017.

Audit Committee

The Audit Committee is responsible for the appointment, replacement, compensation, evaluation and oversight of the work of the independent auditors. As part of this responsibility, the Audit Committee pre-approves the audit and non-audit services performed by the independent auditors in order to assure that they do not impair the auditors' independence from Navios Partners. The Audit Committee has adopted a policy which sets forth the procedures and the conditions pursuant to which services proposed to be performed by the independent auditors may be pre-approved.

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The Audit Committee separately pre-approved all engagements and fees paid to our principal accountant in 2018.

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

Not applicable.

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

None.

Item 16F. Change in Registrant's Certifying Accountant

Not applicable.

Item 16G. Corporate Governance

Pursuant to an exception for foreign private issuers, we are not required to comply with the corporate governance practices followed by U.S. companies under the NYSE listing standards. However, we have voluntarily adopted all of the NYSE required practices, except we do not have (i) a nominating/governance committee consisting of independent directors or (ii) a nominating/governance committee charter specifying the purpose and responsibilities of the nominating/governance committee. Instead, all nomination/governance decisions, other than those nominating decisions dictated by our Partnership Agreement, are currently made by a majority of our independent board members.

Item 16H. Mine Safety Disclosures

Not applicable.

Item 17. Financial Statements

Not applicable.

Item 18. Financial Statements

The financial information required by this Item together with the related report of PricewaterhouseCoopers S.A., Independent Registered Public Accounting Firm, thereon is filed as part of this annual report on Pages F-1 through F-40.

Item 19. Exhibits

- 1.1 [Certificate of Limited Partnership of Navios Maritime Partners L.P.\(1\)](#)
- 1.2 [Fourth Amended and Restated Agreement of Limited Partnership of Navios Maritime Partners L.P.\(43\)](#)
- 1.3 [Third Amended and Restated Agreement of Limited Partnership of Navios Maritime Partners L.P.\(28\)](#)
- 1.4 [Certificate of Formation of Navios GP L.L.C.\(1\)](#)
- 1.5 [Limited Liability Company Agreement of Navios GP L.L.C.\(1\)](#)
- 1.6 [Certificate of Formation of Navios Maritime Operating L.L.C.\(1\)](#)
- 1.7 [Amended and Restated Limited Liability Company Agreement of Navios GP L.L.C.\(1\)](#)
- 1.8 [Limited Liability Company Agreement of Navios Operating L.L.C.\(1\)](#)
- 4.1 [Omnibus Agreement, among Navios Maritime Holdings Inc., Navios GP L.L.C., Navios Maritime Operating L.L.C. and Navios Maritime Partners L.P.\(1\)](#)
- 4.2 [Management Agreement with Navios ShipManagement Inc.\(1\)](#)
- 4.3 [Administrative Services Agreement with Navios Maritime Holdings Inc.\(1\)](#)
- 4.4 [Form of First Contribution and Conveyance Agreement\(1\)](#)
- 4.5 [Form of Second Contribution and Conveyance Agreement\(1\)](#)
- 4.6 [Form of Share Purchase Agreement for Navios TBN I\(1\)](#)
- 4.7 [Form of Share Purchase Agreement for Navios TBN II\(1\)](#)
- 4.8 [Revolving Credit and Term Loan Facility Agreement\(2\)](#)

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- 4.9 [Common Unit Purchase Agreement between Navios Maritime Partners L.P. and Amadeus Maritime S.A.\(1\)](#)
- 4.10 [Share Purchase Agreement for Navios Hope\(3\)](#)
- 4.11 [Registration Rights Agreement\(3\)](#)
- 4.12 [Supplemental Agreement, dated June 15, 2008, to the Facility Agreement\(4\)](#)
- 4.13 [Supplemental Agreement, dated January 30, 2009, to the Facility Agreement\(5\)](#)
- 4.14 [Amendment to Omnibus Agreement, dated as of June 29, 2009, relating to the Omnibus Agreement\(6\)](#)
- 4.15 [Amendment to Share Purchase Agreement, dated as of June 29, 2009, between Anemos Holdings and Navios Maritime Partners L.P. relating to the Share Purchase Agreement\(6\)](#)
- 4.16 [Waiver to Right of First Refusal and Corporate Opportunities Agreement, dated June 29, 2009, by Navios Maritime Partners L.P.\(7\)](#)
- 4.17 [Amendment to Management Agreement, dated October 29, 2009, between Navios Maritime Partners L.P. and Navios ShipManagement Inc. relating to the Management Agreement\(7\)](#)
- 4.18 [Supplemental Agreement, dated January 11, 2010, to the Facility Agreement\(8\)](#)
- 4.19 [Supplemental Agreement, dated March 30, 2010, to the Facility Agreement\(9\)](#)
- 4.20 [Supplemental Agreement, dated June 1, 2010, to the Facility Agreement\(10\)](#)
- 4.21 [Supplemental Agreement, dated December 13, 2010, to the Facility Agreement\(11\)](#)
- 4.22 [Supplemental Agreement, dated May 31, 2011, to the Facility Agreement\(12\)](#)
- 4.23 [Supplemental Agreement, dated September 30, 2011, to the Facility Agreement\(13\)](#)
- 4.24 [Supplemental Agreement, dated March 30, 2012, to the Facility Agreement\(15\)](#)
- 4.25 [Facility Agreement for \\$35.0 million term loan facility, dated May 27, 2011\(12\)](#)
- 4.26 [Facility Agreement for \\$290.45 million term loan facility, dated July 31, 2012\(16\)](#)
- 4.27 [Supplemental Agreement, dated December 4, 2012, to Facility Agreement for \\$290.45 million term loan facility, dated July 31, 2012\(17\)](#)
- 4.28 [Supplemental Agreement, dated March 27, 2013, to Facility Agreement for \\$290.45 million term loan facility, dated July 31, 2012\(18\)](#)
- 4.29 [Supplemental Agreement, dated April 17, 2014, to Facility Agreement for \\$290.45 million term loan facility, dated July 31, 2012\(22\)](#)
- 4.30 [Facility Agreement for \\$44.0 million term loan facility, dated August 8, 2012\(16\)](#)
- 4.31 [Credit Agreement for \\$250.0 million term loan facility, dated June 27, 2013\(19\)](#)
- 4.32 [Incremental Amendment No. 1, dated October 31, 2013, to the Credit Agreement for a \\$250.0 million term loan facility, dated June 27, 2013\(20\)](#)
- 4.33 [Incremental Amendment No. 2, dated November 1, 2013, to the Credit Agreement for a \\$250.0 million term loan facility, dated June 27, 2013\(20\)](#)
- 4.34 [Facility Agreement for \\$56.0 million term loan facility, dated September 22, 2014\(23\)](#)
- 4.35 [Amendment No. 1 to Administrative Services Agreement with Navios Maritime Holdings Inc., dated October 21, 2011\(14\)](#)
- 4.36 [Amendment No. 2 to Management Agreement, dated October 29, 2009, between Navios Maritime Partners L.P. and Navios ShipManagement Inc. relating to the Management Agreement, dated October 21, 2011\(14\)](#)
- 4.37 [Amendment No. 3, dated October 30, 2013, to the Management Agreement, dated November 16, 2007, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.\(20\)](#)
- 4.38 [Amendment No. 4, dated August 29, 2014, to the Management Agreement, dated November 16, 2007, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.\(24\)](#)
- 4.39 [Amendment No. 5, dated February 10, 2015, to the Management Agreement, dated November 16, 2007, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.\(26\)](#)

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- 4.40 [Amendment No. 6, dated May 4, 2015, to the Management Agreement, dated November 16, 2007, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.](#)⁽²⁹⁾
- 4.41 [Amendment No. 7, dated February 4, 2016, to the Management Agreement, dated October 21, 2011, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.](#)⁽³²⁾
- 4.42 [Facility Agreement for \\$164.0 million term loan facility, dated April 16, 2015](#)⁽²⁹⁾
- 4.43 [Supplemental Agreement, dated March 22, 2016, to Facility Agreement for \\$164.0 million term loan facility](#)⁽³²⁾
- 4.44 [Supplemental Agreement, dated April 8, 2015, to Facility Agreement for \\$56.0 million term loan facility, dated September 22, 2014](#)⁽²⁹⁾
- 4.45 [Supplemental Agreement, dated March 22, 2016, to Facility Agreement for \\$56.0 million term loan facility](#)⁽³²⁾
- 4.46 [Supplemental Agreement, dated March 22, 2016, to Facility Agreement for \\$290.45 million term loan facility, dated July 31, 2012](#)⁽³²⁾
- 4.47 [Credit Agreement for \\$60.0 million term loan facility, dated May 29, 2015](#)⁽³⁰⁾
- 4.48 [Acquisition Omnibus Agreement](#)⁽²¹⁾
- 4.49 [Navios Midstream Omnibus Agreement](#)⁽²⁷⁾
- 4.50 [Registration Rights Agreement, dated February 4, 2015](#)⁽²⁵⁾
- 4.51 [Continuous Offering Program Sales Agreement, dated November 18, 2016](#)⁽³⁶⁾
- 4.52 [Form of Indenture](#)⁽³⁷⁾
- 4.53 [Credit Agreement for \\$405.0 million term loan, dated as of March 14, 2017, among Navios Maritime Partners L.P. and Navios Partners Finance \(US\) Inc., JP Morgan Chase Bank, N.A., Morgan Stanley Senior Funding, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, S. Goldman Advisors LLC, DVB Capital Markets LLC, ABN AMRO Capital USA LLC, Credit Agricole Corporate Investment Bank, Clarkson Platou Securities, Inc. and the several Lenders from time to time party thereto](#)⁽³⁸⁾
- 4.54 [Amendment No. 1 to Continuous Offering Program Sales Agreement, dated June 2, 2017, with S. Goldman Capital LLC](#)⁽³⁹⁾
- 4.55 [Omnibus Agreement, effective as of June 8, 2017, among Navios Maritime Acquisition Corporation, Navios Maritime Holdings Inc., Navios Maritime Partners L.P., Navios Maritime Midstream Partners L.P., Navios Maritime Containers Inc. and Navios Partners Containers Finance Inc.](#)⁽⁴⁰⁾
- 4.56 [Loan Agreement for a \\$32.0 million term loan, dated June 26, 2017, among Finian Navigation Co., Casual ShipHolding Co., BNP Paribas and the Banks and Financial Institutions listed therein](#)⁽⁴⁰⁾
- 4.57 [Facility Agreement for a \\$39.0 million credit facility, dated June 28, 2017, among Fantastiks Shipping Corporation, Sagittarius Shipping Corporation, Customized Developments S.A., Ammos Shipping Corp., Navios Maritime Partners L.P., and DVB Bank SE](#)⁽⁴⁰⁾
- 4.58 [Amendment No. 8, dated November 14, 2017, to the Management Agreement, dated October 21, 2011, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.](#)⁽⁴¹⁾
- 4.59 [Amendment No. 2 to Administrative Services Agreement, dated November 14, 2017, between Navios Maritime Partners L.P. and Navios ShipManagement Inc.](#)⁽⁴¹⁾
- 4.60 [Loan Agreement, dated March 26, 2018, by and among Goldie Services Company and Seymour Trading Limited; Nordea Bank AB \(Publ\), Filial I. Norge Skandinaviska Enskilda Banken AB \(Publ\) and NIBC Bank N.V.](#)⁽⁴²⁾
- 4.61 [Loan Agreement, dated December 28, 2018, relating to a \\$28.5 million term loan facility, by and among Velvet Shipping Corporation, Golem Navigation Limited, Coasters Ventures Ltd., the Banks and Financial Institutions listed in Schedule 1 therein, NIBC Bank N.V., and NIBC Bank N.V.](#)^{*}
- 4.62 [Facility Agreement, dated February 12, 2019, by and among Kohylia ShipManagement S.A., Floral Marine Ltd., Ianthe Maritime S.A., Customized Development S.A., Navios Maritime Partners L.P., DVB Bank SE](#)^{*}
- 8.1 [List of Subsidiaries of Navios Maritime Partners L.P.](#)^{*}
- 12.1 [Section 302 Certification of Chief Executive Officer](#)^{*}
- 12.2 [Section 302 Certification of Chief Financial Officer](#)^{*}
- 13.1 [Section 906 Certification of Chief Executive Officer and Chief Financial Officer](#)^{*}
- 15.1 [Consent of PricewaterhouseCoopers S.A.](#)^{*}
- 15.2 [Consent of Ernst & Young \(Hellas\) Certified Auditors Accountants S.A](#)^{*}
- 15.3 [Consolidated Financial Statements of Navios Maritime Containers LP for the year ended December 31, 2018 and the period April 28, 2017 \(date of inception\) to December 31, 2017](#)^{*}

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- 101 The following materials from the Company's Annual Report on Form 20-F for the fiscal year ended December 31, 2018, formatted in eXtensible Business Reporting Language (XBRL): (i) Consolidated Balance Sheets at December 31, 2018 and 2017; (ii) Consolidated Statements of Income for each of the years ended December 31, 2018, 2017 and 2016; (iii) Consolidated Statements of Cash Flows for each of the years ended December 31, 2018, 2017 and 2016; (iv) Consolidated Statements of Changes in Partners' Capital for each of the years ended December 31, 2018, 2017 and 2016; and (v) the Notes to the Consolidated Financial Statements as blocks of text.
- (1) Previously filed as an exhibit to the Company's Registration Statement on Form F-1, as amended (File No. 333-146972) as filed with the SEC and hereby incorporated by reference to the Annual Report.
 - (2) Previously filed as an exhibit to a Report on Form 6-K filed on November 26, 2007 and hereby incorporated by reference.
 - (3) Previously filed as an exhibit to a Report on Form 6-K filed on July 2, 2008 and hereby incorporated by reference.
 - (4) Previously filed as an exhibit to a Report on Form 6-K filed on July 10, 2008 and hereby incorporated by reference.
 - (5) Previously filed as an exhibit to a Report on Form 6-K filed on February 25, 2009 and hereby incorporated by reference.
 - (6) Previously filed as an exhibit to a Report on Form 6-K filed on July 14, 2009 and hereby incorporated by reference.
 - (7) Previously filed as an exhibit to a Report on Form 6-K filed on October 30, 2009 and hereby incorporated by reference.
 - (8) Previously filed as an exhibit to a Report on Form 6-K filed on January 26, 2010 and hereby incorporated by reference.
 - (9) Previously filed as an exhibit to a Report on Form 6-K filed on April 8, 2010 and hereby incorporated by reference.
 - (10) Previously filed as an exhibit to a Report on Form 6-K filed on June 11, 2010 and hereby incorporated by reference.
 - (11) Previously filed as an exhibit to a Report on Form 6-K filed on March 1, 2011 and hereby incorporated by reference.
 - (12) Previously filed as an exhibit to a Report on Form 6-K filed on June 8, 2011 and hereby incorporated by reference.
 - (13) Previously filed as an exhibit to a Report on Form 6-K filed on October 5, 2011 and hereby incorporated by reference.
 - (14) Previously filed as an exhibit to a Report on Form 6-K filed on October 24, 2011 and hereby incorporated by reference.
 - (15) Previously filed as an exhibit to a Report on Form 6-K filed on April 9, 2012 and hereby incorporated by reference.
 - (16) Previously filed as an exhibit to a Report on Form 6-K filed on September 5, 2012 and hereby incorporated by reference.
 - (17) Previously filed as an exhibit to a Report on Form 6-K filed on January 31, 2013 and hereby incorporated by reference.
 - (18) Previously filed as an exhibit to a Report on Form 6-K filed on May 2, 2013 and hereby incorporated by reference.
 - (19) Previously filed as an exhibit to a Report on Form 6-K filed on July 11, 2013 and hereby incorporated by reference.
 - (20) Previously filed as an exhibit to a Report on Form 6-K filed on November 7, 2013 and hereby incorporated by reference.
 - (21) Previously filed as an exhibit to the Company's Annual Report on Form 20-F for the year ended December 31, 2012 filed on March 15, 2013 and hereby incorporated by reference.
 - (22) Previously filed as an exhibit to a Report on Form 6-K filed on July 31, 2014 and hereby incorporated by reference.
 - (23) Previously filed as an exhibit to a Report on Form 6-K filed on September 30, 2014 and hereby incorporated by reference.
 - (24) Previously filed as an exhibit to a Report on Form 6-K filed on October 30, 2014 and hereby incorporated by reference.
 - (25) Previously filed as an exhibit to a Report on Form 6-K filed on February 12, 2015 and hereby incorporated by reference.
 - (26) Previously filed as an exhibit to a Report on Form 6-K filed on February 17, 2015 and hereby incorporated by reference.
 - (27) Previously filed as an exhibit to a Report on Form F-1/A for Navios Maritime Midstream Partners L.P. filed on October 22, 2014 and hereby incorporated by reference.
 - (28) Previously filed as an exhibit to the Company's Annual Report on Form 20-F for the year ended December 31, 2014 filed on March 13, 2015 and hereby incorporated by reference.
 - (29) Previously filed as an exhibit to a Report on Form 6-K filed on May 5, 2015 and hereby incorporated by reference.
 - (30) Previously filed as an exhibit to a Report on Form 6-K filed on August 3, 2015 and hereby incorporated by reference.
 - (31) Previously filed as an exhibit to a Report on Form 6-K filed on November 12, 2015 and hereby incorporated by reference.
 - (32) Previously filed as an exhibit to the Company's Annual Report on Form 20-F for the year ended December 31, 2015 filed on March 23, 2016 and hereby incorporated by reference.
 - (33) Previously filed as an exhibit to a Report on Form 6-K filed on May 12, 2016 and hereby incorporated by reference.
 - (34) Previously filed as an exhibit to a Report on Form 6-K filed on August 12, 2016 and hereby incorporated by reference.
 - (35) Previously filed as an exhibit to a Report on Form 6-K filed on November 14, 2016 and hereby incorporated by reference.
 - (36) Previously filed as an exhibit to a Report on Form 6-K filed on November 23, 2016 and hereby incorporated by reference.
 - (37) Previously filed as an exhibit to a Registration Statement on Form F-3 filed on January 12, 2017 and hereby incorporated by reference.
 - (38) Previously filed as an exhibit to a Report on Form 6-K filed on May 25, 2017 and hereby incorporated by reference.
 - (39) Previously filed as an exhibit to a Report on Form 6-K filed on June 14, 2017 and hereby incorporated by reference.
 - (40) Previously filed as an exhibit to a Report on Form 6-K filed on August 1, 2017 and hereby incorporated by reference.
 - (41) Previously filed as an exhibit to a Report on Form 6-K filed on February 5, 2018 and hereby incorporated by reference.
 - (42) Previously filed as an exhibit to a Report on Form 6-K filed on May 21, 2018 and hereby incorporated by reference.
 - (43) Previously filed as an exhibit to the Company's Annual Report on Form 20-F for the year ended December 31, 2017 filed on April 4, 2018 and hereby incorporated by reference.
- * Filed herewith.

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SIGNATURES

Navios Maritime Partners L.P. hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this Annual Report on its behalf.

Navios Maritime Partners L.P.

/s/ Angeliki Frangou

By: Angeliki Frangou

Its: Chairman and Chief Executive Officer

Date: April 9, 2019

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders, Board of Directors and Partners of Navios Maritime Partners L.P.:

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Navios Maritime Partners L.P. and its subsidiaries (the “Company”) as of December 31, 2018 and 2017, and the related consolidated statements of operations, changes in partners’ capital and cash flows for each of the three years in the period ended December 31, 2018, including the related notes (collectively referred to as the “consolidated financial statements”). We also have audited the Company’s internal control over financial reporting as of December 31, 2017, based on criteria established in *Internal Control—Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

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

Basis for Opinions

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

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

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

Definition and Limitations of Internal Control over Financial Reporting

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

We have served as the Company’s auditor since 2007.

/s/ PricewaterhouseCoopers S.A.

Athens, Greece
April 9, 2019

NAVIOS MARITIME PARTNERS L.P.
CONSOLIDATED BALANCE SHEETS
(Expressed in thousands of U.S. Dollars except unit data)

	Notes	December 31, 2018	December 31, 2017
ASSETS			
Current assets			
Cash and cash equivalents	4	\$ 58,590	\$ 24,047
Restricted cash	4	2,865	5,886
Accounts receivable, net	5	14,436	14,121
Amounts due from related parties	18	28,562	10,545
Prepaid expenses and other current assets	6	1,895	905
Notes receivable	19	4,764	4,802
Total current assets		111,112	60,306
Vessels, net	7	1,043,250	1,099,015
Other long-term assets	16	5,632	2,779
Deferred dry dock and special survey costs, net		10,820	16,253
Investment in affiliates	20	66,296	52,122
Loans receivable from affiliates	18	27,657	11,706
Intangible assets	8	4,332	8,080
Amounts due from related parties	18	28,880	34,891
Notes receivable, net of current portion	19	11,629	15,897
Note receivable from affiliates	18	4,525	4,253
Total non-current assets		1,203,021	1,244,996
Total assets		\$ 1,314,133	\$ 1,305,302
LIABILITIES AND PARTNERS' CAPITAL			
Current liabilities			
Accounts payable	9	\$ 4,839	\$ 3,718
Accrued expenses	10	5,434	8,800
Deferred revenue	19	15,256	15,143
Financial liability short-term, net	11	1,699	—
Current portion of long-term debt, net	11	25,105	26,586
Total current liabilities		52,333	54,247
Long-term financial liability, net	11	22,121	—
Long-term debt, net	11	458,560	466,877
Deferred revenue	19	4,366	16,468
Total non-current liabilities		485,047	483,345
Total liabilities		\$ 537,380	\$ 537,592
Commitments and contingencies	16	—	—
Partners' capital:			
Common Unitholders (169,054,258 and 147,797,720 units issued and outstanding at December 31, 2018 and December 31, 2017, respectively)	13	800,374	791,669
General Partner (3,450,091 and 3,016,284 units issued and outstanding at December 31, 2018 and December 31, 2017, respectively)	13	5,802	5,464
Notes receivable	18	(29,423)	(29,423)
Total partners' capital		776,753	767,710
Total liabilities and partners' capital		\$ 1,314,133	\$ 1,305,302

See notes to the consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
CONSOLIDATED STATEMENTS OF OPERATIONS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

	Notes	Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
Time charter and voyage revenues (includes related party revenue of \$97, \$654 and \$1,939 for each of the years ended December 31, 2018, 2017 and 2016 respectively)	14,18,19	\$ 231,361	\$ 211,652	\$ 190,524
Time charter and voyage expenses		(10,024)	(4,158)	(5,673)
Direct vessel expenses		(6,180)	(7,172)	(6,381)
Management fees (entirely through related parties transactions)	18	(68,871)	(67,310)	(59,209)
General and administrative expenses	18	(18,458)	(17,163)	(12,351)
Depreciation and amortization	7,8	(58,334)	(72,760)	(92,370)
Vessel impairment losses	7	(44,344)	(32,677)	(27,201)
Loss on sale of securities		—	—	(19,435)
Interest expense and finance cost, net		(42,766)	(38,225)	(31,247)
Interest income		4,408	3,277	541
Gain on change in control	3	—	4,068	—
Other income	22	1,554	9,884	14,523
Other expense	23	(5,384)	(5,133)	(4,270)
Equity in net earnings of affiliated companies	20	3,957	866	—
Net loss		\$ (13,081)	\$ (14,851)	\$ (52,549)
Less: Net income attributable to the noncontrolling interest		—	(239)	—
Net loss attributable to Navios Partners unitholders		\$ (13,081)	\$ (15,090)	\$ (52,549)
Loss per unit (see note 21):				
		Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
Loss per unit:				
Common unit (basic and diluted)		\$ (0.08)	\$ (0.11)	\$ (0.62)

See notes to the consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Expressed in thousands of U.S. Dollars)

	Notes	Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
OPERATING ACTIVITIES:				
Net loss		\$ (13,081)	\$ (14,851)	\$ (52,549)
Adjustments to reconcile net loss to net cash provided by operating activities:				
Depreciation and amortization	7,8	58,334	72,760	92,370
Vessel impairment losses	7	44,344	32,677	27,201
Loss on sale of securities		—	—	19,435
Gain on debt repayment		—	—	(2,140)
Non cash accrued interest income and amortization of deferred revenue	19	(12,522)	(12,512)	(5,717)
Non cash accrued interest income from receivable from affiliates	18	(272)	(204)	—
Amortization and write-off of deferred financing cost and discount		7,258	9,744	4,003
Amortization of deferred dry dock and special survey costs		6,180	6,725	6,381
Equity in net earnings of affiliated companies	20	(3,957)	(866)	59
Equity compensation expense	13	2,450	1,904	93
Allowance for doubtful accounts	5	—	1,495	—
Loss on vessel disposal	23	53	1,260	—
Gain on change in control	3	—	(4,068)	—
Changes in operating assets and liabilities:				
Net increase in accounts receivable	5	(315)	(6,071)	(6,023)
Net increase in prepaid expenses and other current assets	6	(952)	(40)	(303)
Decrease in other long-term assets		—	—	61
Net increase in accounts payable	9	1,121	1,630	570
(Decrease)/ increase in accrued expenses	10	(3,776)	6,642	1,929
(Decrease)/increase in amounts due to related parties	18	—	(11,105)	3,025
Increase/ (decrease) in deferred revenue		113	(2,200)	(1,000)
Net increase in amounts due from related parties	18	(12,332)	(26,131)	(20,089)
Payments for dry dock and special survey costs		(4,327)	(3,290)	(5,493)
Net cash provided by operating activities		68,319	53,499	61,813
INVESTING ACTIVITIES:				
Net cash proceeds from sale of vessels	7	76,264	113,818	—
Deposits for vessels acquisitions		—	(9)	—
Acquisition of vessels and favorable lease terms, net of cash acquired	7	(115,902)	(158,241)	(15,341)
Change to acquisition of Navios Containers assets and favorable lease terms, net of cash		—	(115,884)	—
Navios Containers repayment of seller's credit		—	14,000	—
Change in control of Navios Containers, including disposed cash		—	(19,757)	—
Deposit for option to acquire vessel	16	(2,853)	(2,770)	—
Investment in affiliates	20	(14,460)	(10,000)	—
Repayments of notes receivable	19	4,688	4,687	—
Loans receivable from affiliates	18	(15,625)	(9,005)	(450)
Note receivable from affiliates	18	—	(4,050)	—
Proceeds from sale of securities	19	—	—	20,842
Net cash (used in)/ provided by investing activities		(67,888)	(187,211)	5,051
FINANCING ACTIVITIES:				
Cash distributions paid	21	(10,261)	—	—
Net proceeds from issuance of general partner units	13	805	2,638	10
Proceeds from issuance of common units, net of offering costs	13	33,373	98,774	440
Proceeds from noncontrolling interest		—	17,324	—
Common units issuance cost for Navios Europe I loans	13	—	(726)	—
Proceeds from long-term debt and financial liability, net	11	83,300	514,703	29,000
Repayment of long-term debt and financial liability	11	(74,881)	(546,465)	(104,624)
Deferred financing cost		(1,245)	(7,802)	(1,141)

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	<u>Notes</u>	<u>Year Ended December 31, 2018</u>	<u>Year Ended December 31, 2017</u>	<u>Year Ended December 31, 2016</u>
Proceeds from long-term borrowing of Navios Containers, net of financing cost		—	60,111	—
Net cash provided by/ (used in) financing activities		31,091	138,557	(76,315)
Increase/ (decrease) in cash, cash equivalents and restricted cash		31,522	4,845	(9,451)
Cash, cash equivalents and restricted cash, beginning of period		29,933	25,088	34,539
Cash, cash equivalents and restricted cash, end of period		\$ 61,455	\$ 29,933	\$ 25,088
		<u>Year Ended December 31, 2018</u>	<u>Year Ended December 31, 2017</u>	<u>Year Ended December 31, 2016</u>
Supplemental disclosures of cash flow information				
Cash interest paid		\$ 35,244	\$ 26,630	\$ 26,694
Non cash financing activities				
Equity compensation expense		\$ 2,450	\$ 1,904	\$ 93
Issuance of common units for transfer of Navios Europe I loans		—	\$ 28,697	—
Receivable from affiliates		—	\$ (29,423)	—
Accrued deferred financing costs		\$ 410	—	—
Non cash investing activities				
Notes receivable		—	\$ (7,540)	\$ 6,112
Other than temporary impairment on dividend in kind		\$ 560	—	—
Distribution of Navios Containers' shares		\$ 4,243	—	—
Accrued interest on loan receivable from affiliates		\$ 327	\$ 278	\$ 238

See notes to the consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
CONSOLIDATED STATEMENTS OF CHANGES IN PARTNERS' CAPITAL
(Expressed in thousands of U.S. Dollars except unit data)

	Limited Partners				Note Receivable	Total Navios Partners' Capital	Noncontrolling interest	Total Partners' Capital
	General Partner		Common Unitholders					
	Units	Amount	Units	Amount				
Balance, December 31, 2015	1,695,509	\$ 4,169	83,079,710	\$ 728,046	\$ —	\$ 732,215	\$ —	\$ 732,215
Stock based compensation	—	—	—	93	—	93	—	93
Proceeds from public offering and issuance of common units, net of offering costs (see Note 13)	—	—	244,201	440	—	440	—	440
Net proceeds from issuance of general partner units (see Note 13)	4,984	10	—	—	—	10	—	10
Net loss	—	(1,051)	—	(51,498)	—	(52,549)	—	(52,549)
Balance, December 31, 2016	1,700,493	\$ 3,128	83,323,911	\$ 677,081	\$ —	\$ 680,209	\$ —	\$ 680,209
Formation of Navios Containers	—	—	—	—	—	—	17,323	17,323
Issuance of restricted common units (see Note 13)	—	—	2,040,000	1,904	—	1,904	—	1,904
Proceeds from public offering and issuance of common units, net of offering costs (see Note 13)	—	—	48,995,442	98,175	—	98,175	—	98,175
Net proceeds from issuance of general partner units (see Note 13)	1,308,415	2,626	—	—	—	2,626	—	2,626
Issuance of common units for transfer of Navios Europe I Loans (see Notes 13 & 18)	—	—	13,076,923	28,697	(29,423)	(726)	—	(726)
Issuance of restricted common units for acquisition of vessels from Rickmers Trust (see Note 13)	7,376	12	361,444	600	—	612	—	612
Navios Containers' deconsolidation (see Note 3)	—	—	—	—	—	—	(17,562)	(17,562)
Net loss	—	(302)	—	(14,788)	—	(15,090)	239	(14,851)
Balance, December 31, 2017	3,016,284	\$ 5,464	147,797,720	\$ 791,669	\$ (29,423)	\$ 767,710	\$ —	\$ 767,710
Cash distribution paid (\$0.06 per unit—see Note 21)	—	(205)	—	(10,056)	—	(10,261)	—	(10,261)
Proceeds from public offering and issuance of common units, net of offering costs (see Note 13)	—	—	18,422,000	33,373	—	33,373	—	33,373
Net proceeds from issuance of general partner units (see Note 13)	375,959	714	—	—	—	714	—	714
Issuance of restricted common units (see Note 13)	57,848	91	2,834,538	1,620	—	1,711	—	1,711
Stock based compensation (see Note 13)	—	—	—	830	—	830	—	830
Distribution of Navios Containers' shares (\$4.96 per unit - see Note 20)	—	—	—	(4,243)	—	(4,243)	—	(4,243)
Net loss	—	(262)	—	(12,819)	—	(13,081)	—	(13,081)
Balance, December 31, 2018	3,450,091	\$ 5,802	169,054,258	\$ 800,374	\$ (29,423)	\$ 776,753	\$ —	\$ 776,753

See notes to the consolidated financial statements

NAVIOS MARITIME PARTNERS L.P.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
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NOTE 1 – DESCRIPTION OF BUSINESS

Navios Maritime Partners L.P. (“Navios Partners” or the “Company”), is an international owner and operator of dry cargo vessels, formed on August 7, 2007 under the laws of the Republic of the Marshall Islands. Navios GP L.L.C. (the “General Partner”), a wholly owned subsidiary of Navios Maritime Holdings Inc. (“Navios Holdings”), was also formed on that date to act as the general partner of Navios Partners and received a 2.0% general partner interest in Navios Partners.

Navios Partners is engaged in the seaborne transportation services of a wide range of dry cargo commodities including iron ore, coal, grain, fertilizer and also containers, chartering its vessels under medium to longer-term charters. The operations of Navios Partners are managed by Navios ShipManagement Inc., a subsidiary of Navios Holdings (the “Manager”), from its offices in Piraeus, Greece, Singapore and Monaco.

Pursuant to the initial public offering (“IPO”) on November 16, 2007, Navios Partners entered into the following agreements:

(a) a management agreement with the Manager (the “Management Agreement”), pursuant to which the Manager provides Navios Partners commercial and technical management services;

(b) an administrative services agreement with the Manager (the “Administrative Services Agreement”), pursuant to which the Manager provides Navios Partners administrative services; and

(c) an omnibus agreement with Navios Holdings (the “Omnibus Agreement”), governing, among other things, when Navios Partners and Navios Holdings may compete against each other as well as rights of first offer on certain drybulk carriers.

As of December 31, 2018, there were outstanding: 169,054,258 common units and 3,450,091 general partnership units. As of December 31, 2018, Navios Holdings owned a 20.0% interest in Navios Partners, which included a 2.0% general partner interest.

Navios Containers

Navios Maritime Containers Inc. (“Navios Containers”), an affiliate of the Company, was established in the Republic of the Marshall Islands on April 28, 2017. Navios Containers is a growth vehicle dedicated to the container sector of the maritime industry. On June 12, 2017, Navios Containers also registered and began trading on the Norwegian Over-The-Counter market under the ticker symbol NMCI. On November 30, 2018, Navios Containers Inc. was converted into a limited partnership, Navios Maritime Containers L.P. Following its conversion, Navios Containers also registered its common units for trading on the Nasdaq Global Select Market on December 10, 2018 under the ticker symbol NMCI.

On June 8, 2017, Navios Containers closed its private placement and issued 10,057,645 shares for total gross proceeds of \$50,288 at a subscription price of \$5.00 per share. Navios Partners invested \$30,000 and received 59.7% of the equity, and Navios Holdings invested \$5,000 and received 9.9% of the equity of Navios Containers. Each of Navios Partners and Navios Holdings also received warrants, with a five-year term, for 6.8% and 1.7% of the equity, respectively. Navios Containers used the proceeds to acquire five 4,250 TEU vessels from Navios Partners for a total purchase price of \$64,000. These vessels, first acquired by Navios Partners from Rickmers Maritime Trust Pte. (“Rickmers Trust”), were employed on charters with a net daily charter rate of \$26,850. The charters expire in 2018 and early 2019. In addition, Navios Containers acquired all the rights under the acquisition agreements entered into between Navios Partners and Rickmers Trust to purchase the remaining nine vessels in the original 14-vessel container fleet.

On August 29, 2017, Navios Containers closed its private placement of 10,000,000 shares at a subscription price of \$5.00 per share, resulting in gross proceeds of \$50,000. Navios Partners invested \$10,000 and received 2,000,000 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the equity. As a result, from August 29, 2017, Navios Containers is considered an affiliate entity and the investment in Navios Containers is accounted for under the equity method due to the Company’s significant influence over Navios Containers.

On November 9, 2017, Navios Containers closed a private placement of 9,090,909 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$50,000. Navios Partners invested \$10,000 and received 1,818,182 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the newly issued equity.

NAVIOS MARITIME PARTNERS L.P.
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In connection with the Navios Containers' deconsolidation, the Company recognized an amount of \$174 related to the dilution gain of its investment in Navios Containers. The amount was recognized in the Consolidated Statements of Operations under the caption of "Equity in net earnings of affiliated companies" for the year ended December 31, 2017.

On March 13, 2018, Navios Containers closed a private placement of 5,454,546 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$30,000. Navios Partners invested \$14,460 and received 2,629,095 shares and Navios Holdings invested \$500 and received 90,909 shares. Navios Partners and Navios Holdings also received 370,909 and 9,273 warrants, with a five-year term, respectively.

On December 3, 2018, Navios Partners distributed 855,001 units of Navios Containers to the unitholders of Navios Partners, approximately 2.5% of the Navios Containers' outstanding equity. The amount of the distribution was \$4,243 based on the last trading price of Navios Containers' shares in the N-OTC market as of November 23, 2018. In connection with this transaction, Navios Partners recognized an other-than-temporary impairment of \$560 on the units distributed, which was presented under the caption "Equity in net earnings of affiliated companies" in the Consolidated Statements of Operations. Following the distribution, Navios Partners owns approximately 33.5% of the equity in Navios Containers. As of December 31, 2018, Navios Partners held 11,592,276 common units (33.5% of the equity), and Navios Holdings held 1,263,276 common units (3.7% of the equity) of Navios Containers.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

- (a) **Basis of presentation:** The accompanying consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

The Company elected to early adopt the requirements of Accounting Standard Update ("ASU") 2016-02, "Leases (Topic 842)" effective from January 1, 2018 using the modified retrospective method and has also elected the use of the practical expedients. The early adoption of this ASU did not have a material effect on the Company's Consolidated Balance Sheets, Consolidated Statements of Operations and opening retained earnings.

On January 1, 2018, the Company adopted ASU No. 2014-09, "Revenue from Contracts with Customers" and the related amendments ("ASC 606" or "the new revenue standard") using the modified retrospective method.

On January 1, 2018, the Company adopted ASU 2016-18, "Restricted Cash" ("ASU 2016-18"), which updated ASC Topic 230, "Statement of Cash Flows." ASU 2016-18 required companies to include restricted cash and restricted cash equivalents with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The recognition and measurement guidance for restricted cash is not affected. The Company applied this guidance retrospectively to all prior periods presented in the Company's financial statements. The reclassification of restricted cash in the statement of cash flows does not impact net income as previously reported or any prior amounts reported on the statements of comprehensive income, or balance sheet. The effect of the retrospective application of this change in accounting principle on the Company's statement of cash flows for the year ended December 31, 2017 and 2016 resulted in a (decrease)/ increase in net cash provided by operating activities of \$(435) and \$5,286, a (decrease)/ increase in net cash provided by/ (used in) financing activities of \$(1,407) and \$(5,347) with a corresponding decrease in cash and cash equivalents of \$(1,842) and \$(61) (see Note 4 — Cash and Cash Equivalents).

- (b) **Principles of consolidation:** The accompanying consolidated financial statements include Navios Partners' wholly owned subsidiaries incorporated under the laws of Marshall Islands, Malta, and Liberia from their dates of incorporation or, for chartered-in vessels, from the dates charter-in agreements were in effect. All significant inter-company balances and transactions have been eliminated in Navios Partners' consolidated financial statements.

Navios Partners also consolidates entities that are determined to be variable interest entities ("VIE") as defined in the accounting guidance, if it determines that it is the primary beneficiary. A VIE is defined as a legal entity where either (i) 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, (ii) the equity holders have not provided sufficient equity investment to permit the entity to finance its activities without additional subordinated financial support, or (iii) 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.

NAVIOS MARITIME PARTNERS L.P.
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Based on internal forecasts and projections that take into account reasonably possible changes in our 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.

Subsidiaries: Subsidiaries are those entities in which Navios Partners has an interest of more than one half of the voting rights or otherwise has power to govern the financial and operating policies of the entity.

The accompanying consolidated financial statements include the following entities:

Company name	Vessel name	Country of incorporation	Statements of Operations		
			2018	2017	2016
Libra Shipping Enterprises Corporation ⁽⁵⁾	Navios Libra II	Marshall Is.	1/01 – 12/14	1/01 – 12/31	1/01 – 12/31
Alegria Shipping Corporation	Navios Alegria	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Felicity Shipping Corporation ⁽⁶⁾	Navios Felicity	Marshall Is.	1/01 – 12/04	1/01 – 12/31	1/01 – 12/31
Gemini Shipping Corporation ⁽¹⁾	Navios Gemini S	Marshall Is.	—	1/01 – 12/21	1/01 – 12/31
Galaxy Shipping Corporation	Navios Galaxy I	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Aurora Shipping Enterprises Ltd.	Navios Hope	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Palermo Shipping S.A. ⁽²⁾	Navios Apollon	Marshall Is.	—	1/01 – 4/21	1/01 – 12/31
Fantastiks Shipping Corporation	Navios Fantastiks	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Sagittarius Shipping Corporation	Navios Sagittarius	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Hyperion Enterprises Inc.	Navios Hyperion	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Chilali Corp.	Navios Aurora II	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Surf Maritime Co.	Navios Pollux	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Pandora Marine Inc.	Navios Melodia	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Customized Development S.A.	Navios Fulvia	Liberia	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Kohylia Shipmanagement S.A.	Navios Luz	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Orbiter Shipping Corp.	Navios Orbiter	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Floral Marine Ltd.	Navios Buena Ventura	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Golem Navigation Limited	Navios Soleil	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Kymata Shipping Co.	Navios Helios	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Joy Shipping Corporation	Navios Joy	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Micaela Shipping Corporation	Navios Harmony	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Pearl Shipping Corporation	Navios Sun	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Velvet Shipping Corporation	Navios La Paix	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Perigiali Navigation Limited	Navios Beaufiks	Marshall Is.	1/01 – 12/31	1/01 – 12/31	12/30 – 12/31
Finian Navigation Co.	Navios Ace	Marshall Is.	1/01 – 12/31	6/09 – 12/31	—
Ammos Shipping Corp.	Navios Prosperity I	Marshall Is.	1/01 – 12/31	6/07 – 12/31	—
Wave Shipping Corp.	Navios Libertas	Marshall Is.	1/01 – 12/31	7/10 – 12/31	—
Casual Shipholding Co.	Navios Sol	Marshall Is.	1/01 – 12/31	7/17 – 12/31	—
Avery Shipping Company	Navios Symphony	Marshall Is.	1/01 – 12/31	9/20 – 12/31	—
Coasters Ventures Ltd.	Navios Christine B	Marshall Is.	1/01 – 12/31	8/11 – 12/31	—
Ianthe Maritime S.A.	Navios Aster	Marshall Is.	1/01 – 12/31	8/21 – 12/31	—
Rubina Shipping Corporation	Hyundai Hongkong	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Topaz Shipping Corporation	Hyundai Singapore	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Beryl Shipping Corporation	Hyundai Tokyo	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Cheryl Shipping Corporation	Hyundai Shanghai	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Christal Shipping Corporation	Hyundai Busan	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Fairy Shipping Corporation ⁽³⁾	YM Utmost	Marshall Is.	1/01 – 7/02	1/01 – 12/31	1/01 – 12/31
Limestone Shipping Corporation ⁽³⁾	YM Unity	Marshall Is.	1/01 – 7/02	1/01 – 12/31	1/01 – 12/31
Dune Shipping Corp. ⁽⁴⁾	MSC Cristina	Marshall Is.	—	1/01 – 1/12	1/01 – 12/31
Citrine Shipping Corporation	—	Marshall Is.	—	—	—
Cavalli Navigation Inc.	—	Marshall Is.	—	—	—
Seymour Trading Limited	Navios Altair I	Marshall Is.	6/07 – 12/31	—	—
Goldie Services Company	Navios Symmetry	Marshall Is.	5/21 – 12/31	—	—
Andromeda Shiptrade Limited	Navios Apollon I	Marshall Is.	5/09 – 12/31	—	—
Esmeralda Shipping Corporation	Navios Sphera	Marshall Is.	8/31 – 12/31	—	—
Triangle Shipping Corporation	Navios Mars	Marshall Is.	8/31 – 12/31	—	—
Chartered-in vessels					
Cavos Navigation Co.	Navios Libra	Marshall Is.	—	—	—
Other					
Prosperity Shipping Corporation	—	Marshall Is.	—	—	—
Aldebaran Shipping Corporation	—	Marshall Is.	—	—	—
JTC Shipping and Trading Ltd. ⁽⁷⁾	Holding Company	Malta	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Maritime Partners L.P.	N/A	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Maritime Operating LLC.	N/A	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Partners Finance (US) Inc.	Co-Borrower	Delaware	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31
Navios Partners Europe Finance Inc.	Sub-Holding Company	Marshall Is.	1/01 – 12/31	1/01 – 12/31	1/01 – 12/31

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- (1) The vessel was sold on December 21, 2017 (see Note 7 – Vessels, net).
- (2) The vessel was sold on April 21, 2017 (see Note 7 – Vessels, net).
- (3) The vessels were sold on July 2, 2018 (see Note 7 – Vessels, net).
- (4) The vessel was sold on January 12, 2017 (see Note 7 – Vessels, net).
- (5) The vessel was sold on December 14, 2018 (see Note 7 – Vessels, net).
- (6) The vessel was sold on December 4, 2018 (see Note 7 – Vessels, net).
- (7) Not a vessel-owning subsidiary and only holds right to charter-in contracts.

Investments in Affiliates: 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.

Affiliates included in the financial statements accounted for under the equity method: In the consolidated financial statements of Navios Partners, the following entities are included as affiliates and are accounted for under the equity method for such periods: (i) Navios Containers and its subsidiaries (ownership interest as of December 31, 2018 was 33.5%); (ii) Navios Europe I and its subsidiaries (ownership interest as of December 31, 2018 was 5.0%); and (iii) Navios Europe II and its subsidiaries (ownership interest as of December 31, 2018 was 5.0%).

- (c) **Use of Estimates:** The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the dates of the financial statements and the reported amounts of revenues and expenses during the reporting periods. On an on-going basis, management evaluates the estimates and judgments, including those related to uncompleted voyages, future drydock dates, the selection of useful lives for tangible assets and scrap value expected future cash flows from long-lived assets to support impairment tests, provisions necessary for accounts receivable, provisions for legal disputes, and contingencies and the valuation estimates inherent in the deconsolidation gain. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates under different assumptions and/or conditions.
- (d) **Cash and Cash Equivalents:** Cash and cash equivalents consist of cash on hand, deposits held on call with banks, and other short-term liquid investments with original maturities of three months or less.
- (e) **Restricted Cash:** As of December 31, 2018 and 2017, restricted cash includes an amount of \$865 and \$386, respectively, which related to amounts held in retention accounts in order to service debt and interest payments, as required by Navios Partners' credit facilities. Also, as of December 31, 2018, restricted cash included \$2,000 as cash collateral to the Term Loan B, due to the release of certain mortgaged vessels of the fleet. As of December 31, 2017, an amount of \$5,500 was held as security in the form of a letter of guarantee, relating to the chartering of a vessel, which was released in March 2018. As of December 31, 2018 and 2017, the restricted cash was \$2,865 and \$5,886, respectively.
- (f) **Accounts Receivable, Net:** The amount shown as accounts receivable, net at each balance sheet date includes receivables from charterers for hire, freight and demurrage billings, net of a provision for doubtful accounts. At each balance sheet date, all potentially uncollectible accounts are assessed individually for purposes of determining the appropriate provision for doubtful accounts. The allowance for doubtful accounts as of December 31, 2018 and 2017 was \$1,495 and \$1,495, respectively.
- (g) **Inventories:** Inventories, which are comprised of bunkers due to freight voyages, are valued at cost as determined on the first-in, first-out basis.
- (h) **Vessels, Net:** Vessels are stated at historical cost, which consists of the contract price and any material expenses incurred upon acquisition (improvements and delivery expenses). Vessels acquired in an asset acquisition or in a business combination are recorded at fair value. Subsequent expenditures for major improvements and upgrades are capitalized, provided they appreciably extend the life, increase the earnings capacity or improve the efficiency or safety of the vessels. The cost and related accumulated depreciation of assets retired or sold are removed from the accounts at the time of sale or retirement and any gain or loss is included in the accompanying Consolidated Statements of Operations.

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Expenditures for routine maintenance and repairs are expensed as incurred.

Depreciation is computed using the straight line method over the useful life of the vessels, after considering the estimated residual value. Management estimates the residual values of our drybulk and containerships based on a scrap value cost of steel times the weight of the ship noted in lightweight ton ("LWT"). Residual values are periodically reviewed and revised to recognize changes in conditions, new regulations or other reasons. Revisions of residual values affect the depreciable amount of the vessels and affects depreciation expense in the period of the revision and future periods. The management after considering current market trends for scrap rates and 10-year average historical scrap rates of the residual values of the Company's vessels, estimates scrap value at a rate of \$340 per LWT.

Management estimates the useful life of our vessels to be 25 and 30 years from the drybulk and containership's original construction, respectively. However, when regulations place limitations over the ability of a vessel to trade on a worldwide basis, its useful life is re-estimated to end at the date such regulations become effective. An increase in the useful life of a vessel or in its residual value would have the effect of decreasing the annual depreciation charge and extending it into later periods. A decrease in the useful life of a vessel or in its residual value would have the effect of increasing the annual depreciation charge.

(i) **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 disposal groups as being held for sale when the following criteria are met: management has committed to a plan to sell the vessel (disposal group); the asset (disposal group) is available for immediate sale in its present condition subject only to terms that are usual and customary for sales of vessels; an active program to locate a buyer and other actions required to complete the plan to sell the 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 vessels are not depreciated once they meet the criteria to be held for sale. No assets were classified as held for sale as of December 31, 2018 and 2017.

(j) **Impairment of Long Lived Assets:** Vessels, other fixed assets and other long lived assets held and used by Navios Partners are reviewed periodically for potential impairment whenever events or changes in circumstances indicate that the carrying amount of a particular asset may not be fully recoverable. Navios Partners' management evaluates the carrying amounts and periods over which long-lived assets are depreciated to determine if events or changes in circumstances have occurred that would require modification to their carrying values or useful lives. Measurement of the impairment loss is based on the fair value of the asset. Navios Partners determines the fair value of its assets on the basis of management estimates and assumptions by making use of available market data and taking into consideration third party valuations performed on an individual vessel basis. In evaluating useful lives and carrying values of long-lived assets, certain indicators of potential impairment, are reviewed such as undiscounted projected operating cash flows, vessel sales and purchases, business plans and overall market conditions.

Undiscounted projected net operating cash flows are determined for each asset group and compared to the carrying value of the vessel, the unamortized portion of deferred drydock and special survey costs related to the vessel and the related carrying value of the intangible assets with respect to the time charter agreement attached to that vessel or the carrying value of deposits for newbuildings. Within the shipping industry, vessels are customarily bought and sold with a charter attached. The value of the charter may be favorable or unfavorable when comparing the charter rate to then current market rates. The loss recognized either on impairment (or on disposition) will reflect the excess of carrying value over fair value (selling price) for the vessel asset group.

During the fourth quarter of fiscal year 2018, the Company concluded that events occurred and circumstances had changed, which indicated that potential impairment of Navios Partners' long-lived assets may exist. These indicators included volatility in the spot market and the related impact of the current drybulk and container sector has on management's expectation for future revenues. As a result, Navios Partners performed step one of the impairment assessment of the Company's long-lived assets by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel and the carrying value of the related intangible assets, if applicable. The significant factors and assumptions the Company used in the undiscounted projected net operating cash flow analysis included: determining the projected net operating cash flows by considering the charter revenues from existing time charters for the fixed fleet days (Navios Partners' remaining charter agreement rates) and an estimated daily time charter equivalent for the unfixed days (based on a combination of one-year average historical time charter rates for the first year and 10-year average historical one-year time charter rates for the remaining period, adjusted for outliers) over the remaining economic life of each vessel, net of brokerage and address commissions, and excluding days of scheduled off-hires, management fees fixed until December 2019 and thereafter assuming an increase of 1.0% every second year and utilization rate of 98.6% based on the fleet's historical performance.

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As of December 31, 2018, our assessment concluded that step two of the impairment analysis was not required for our vessels held and used, as the undiscounted projected net operating cash flows exceeded the carrying value.

As of December 31, 2017, our assessment concluded that step two of the impairment analysis was required for one of our vessels held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, the Company recorded an impairment loss of \$30,304 for this vessel, being the difference between the fair value and the vessel's carrying value together with the carrying value of deferred drydock and special survey costs related to the vessel, presented under the caption "Vessel impairment losses" in the Consolidated Statements of Operations (see Note 7 — Vessels, net). The assessment performed for 2016 did not indicate a step two was necessary for the Company's vessels held and used.

As of December 31, 2018, 2017 and 2016, an impairment loss of \$44,344, \$2,373 and \$27,201, respectively, was also recognized in connection with the committed sale of the YM Unity and the YM Utmost in July 2018, the Navios Felicity and the Navios Libra II in December 2018, the Navios Gemini S in December 2017 and the MSC Cristina and Navios Apollon in 2016, as the carrying amount of each asset group was not recoverable and exceeded its fair value less costs to sell (see Note 7 — Vessels, net).

The total impairment loss recognized amounted to \$44,344, \$32,677 and \$27,201 for the years ended December 31, 2018, 2017 and 2016, respectively, and was presented under the caption "Vessel impairment losses" in the Consolidated Statements of Operations.

- (k) **Deferred Drydock and Special Survey Costs:** Navios Partners' vessels are subject to regularly scheduled drydocking and special surveys which are generally carried out every 30 or 60 months, depending on the vessels' ages to coincide with the renewal of the related certificates issued by the classification societies, unless a further extension is obtained in rare cases and under certain conditions. The cost of drydocking and special surveys are deferred and amortized over the above periods or to the next drydocking or special survey date if such date has been determined. Costs capitalized as part of the drydocking or special survey consist principally of the actual costs incurred at the yard, and expenses relating to spare parts, paints, lubricants and services incurred solely during the drydocking or special survey period. For the years ended December 31, 2018, 2017 and 2016, the amortization expense was \$6,180, \$7,172 and \$6,381, respectively.
- (l) **Deferred Financing Cost:** Deferred financing costs include fees, commissions and legal expenses associated with obtaining or modifying credit facilities. Deferred financing costs are presented as a deduction from the corresponding liability. These costs are amortized over the life of the related facility using the effective interest rate method, and are included under the caption "Interest expense and finance cost, net". Amortization and write-off of deferred financing costs, including amortization of debt discount, for each of the years ended December 31, 2018, 2017 and 2016 were \$7,258, \$9,744 and \$4,003, respectively.
- (m) **Investments in Equity Securities:** Navios Partners evaluates its investments in Navios Europe I, Navios Europe II and Navios Containers for other-than-temporary impairment on a quarterly basis. Consideration is given to (i) the length of time and the extent to which the fair value has been less than the carrying value, (ii) the financial condition and near-term prospects of Navios Europe I, Navios Europe II and Navios Containers, and (iii) the intent and ability of the Company to retain its investment in Navios Europe I, Navios Europe II and Navios Containers, for a period of time sufficient to allow for any anticipated recovery in fair value.
- (n) **Intangible Assets and Liabilities:** Navios Partners' intangible assets and liabilities consist of favorable lease terms and unfavorable lease terms. When intangible assets or liabilities associated with the acquisition of a vessel are identified, they are recorded at fair value. Fair value is determined by reference to market data and the discounted amount of expected future cash flows. Where charter rates are higher than market charter rates, an asset is recorded, being the difference between the acquired charter rate and the market charter rate for an equivalent vessel. Where charter rates are less than market charter rates, a liability is recorded, being the difference between the assumed charter rate and the market charter rate for an equivalent vessel. The determination of the fair value of acquired assets and assumed liabilities requires Navios Partners to make significant assumptions and estimates of many variables including market charter rates, expected future charter rates, the level of utilization of its vessels and its weighted average cost of capital. The use of different assumptions could result in a material change in the fair value of these items, which could have a material impact on Navios Partners' financial position and results of operations.

The amortizable value of favorable and unfavorable leases is amortized over the remaining life of the lease term and the amortization expense is included under the caption "Depreciation and amortization" in the Consolidated Statements of Operations.

The amortizable value of favorable leases would be considered impaired if its carrying value could not be recovered from the future undiscounted cash flows associated with the asset. Management, after considering various indicators, performed an impairment test which included intangible assets as described in paragraph (j) above. As of December 31, 2018, 2017 and 2016 there was no impairment of intangible assets.

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- (o) **Foreign Currency Translation:** Navios Partners' functional and reporting currency is the U.S. Dollar. Navios Partners engages in worldwide commerce with a variety of entities. Although, its operations may expose it to certain levels of foreign currency risk, its transactions are predominantly U.S. dollar denominated. Additionally, Navios Partners' wholly-owned vessel subsidiaries transacted a nominal amount of their operations in Euros; however, all of the subsidiaries' primary cash flows are U.S. dollar denominated. Transactions in currencies other than the functional currency are translated at the exchange rate in effect at the date of each transaction. Differences in exchange rates during the period 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 Operations. The foreign currency gains/(losses) recognized in the accompanying Consolidated Statements of Operations under the caption "Other income" or "Other expense", for each of the years ended December 31, 2018, 2017 and 2016 were \$21, \$(54), and \$11, respectively.
- (p) **Provisions:** Navios Partners, in the ordinary course of its business, is subject to various claims, suits and complaints. Management, in consultation with internal and external advisors, will provide for a contingent loss in the financial statements if the contingency had been incurred as of the balance sheet date and the likelihood of loss was probable and the amount of the loss can be reasonably estimated. If Navios Partners has determined that the reasonable estimate of the loss is a range and there is no best estimate within the range, Navios Partners will accrue the lower amount of the range.
- Navios Partners, through the management agreement, participates in Protection and Indemnity (P&I) insurance coverage plans provided by mutual insurance societies known as P&I clubs. Under the terms of these plans, participants may be required to pay additional premiums (supplementary calls) to fund operating deficits incurred by the clubs ("back calls"). Obligations for back calls are accrued annually based on information provided by the P&I clubs.
- (q) **Segment Reporting:** Navios Partners reports financial information and evaluates its operations by charter revenues and not by the length of ship employment for its customers. Navios Partners does not use discrete financial information to evaluate operating results for each type of charter or vessel type. Management does not identify expenses, profitability or other financial information by charter type. As a result, management reviews operating results solely by revenue per day and operating results of the fleet and thus Navios Partners has determined that it operates under one reportable segment. For the period from April 28, 2017 to August 29, 2017, the Company had two reportable segments from which it derived its revenues: Navios Partners Operations and Navios Containers Operations. The reportable segments reflect the internal organization of the Company whereby the Chief Operating Decision Maker ("CODM") reviews the discrete financial information of the Navios Partners' controlled fleet and the Navios Containers' controlled fleet (see Note 14 — Segment information).
- (r) **Revenue and Expense Recognition:** On January 1, 2018, the Company adopted the provisions of ASC 606 "Revenue from Contracts with Customers". 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. Revenue is recognized when (or as) the Company transfers promised goods or services to its customers in amounts that reflect the consideration to which the company expects to be entitled to in exchange for those goods or services, which occurs when (or as) the Company satisfies its contractual obligations and transfers control of the promised goods or services to its customers. 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 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.

The Company's contract revenues from time chartering and pooling arrangements are governed by ASU 2016-02 (ASC 842) "Leases". 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 Operations.

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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. Estimated losses on voyages are provided for in full at the time such losses become evident. 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 will recognize 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. During 2017, no freight voyage existed and therefore, there was no impact on the Company's results of operations, financial position or cash flows. Revenue from voyage contracts amounted to \$9,660, \$0 and \$2,798 for the years ended December 31, 2018, 2017 and 2016, 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.

Revenues from time chartering of vessels are accounted for as operating leases and are thus recognized on a straight line basis as the average lease 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. Short period charters for less than three months are referred to as spot-charters. Charters extending three months to a year are generally referred to as medium-term charters. All other charters are considered long-term. Under time charters, operating costs such as for crews, maintenance and insurance are typically paid by the owner of the vessel. Revenue from time chartering of vessels amounted to \$215,877, \$203,775 and \$192,900 for the years ended December 31, 2018, 2017 and 2016, respectively.

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 sharing elements, these are accounted for on the actual cash settlement or when such revenue becomes determinable.

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 points 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 when an agreement with the pool exists, price is fixed, service is provided and the collectability is reasonably assured. The allocation of such net revenue may be subject to future adjustments by the pool however, such changes are not expected to be material. 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.

Revenue from vessels operating in pooling and profit sharing arrangements amounted to \$5,824, \$7,877 and \$(5,174) for the years ended December 31, 2018, 2017 and 2016, respectively.

Deferred Revenue and Cash Received in Advance: Deferred revenue primarily relates to cash received from charterers prior to it being earned and the compensation received for the future reduction in the daily hire rates payable by HMM. These amounts are recognized as revenue over the voyage or charter period.

Time Charter and Voyage Expenses: Time charter and voyage expenses comprise all expenses related to each particular voyage, including time charter hire paid and voyage freight paid, bunkers, port charges, canal tolls, cargo handling, agency fees and brokerage commissions. Also included in time charter and voyage expenses are provisions for losses on time charters and voyages in progress at year-end, direct port terminal expenses and other miscellaneous expenses. Time charter expenses are expensed over the period of the time charter and voyage expenses are recognized as incurred.

Direct Vessel Expenses: Direct vessel expenses comprise the amortization related to drydocking and special survey costs of certain vessels of Navios Partners' fleet.

Prepaid Voyage Costs: Prepaid voyage costs relate to cash paid in advance for expenses associated with voyages. These amounts are recognized as expenses over the voyage or charter period.

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Management Fees: Pursuant to the amended Management Agreement, in each of October 2013, August 2014, February 2015 and February 2016, the Manager, a wholly owned subsidiary of Navios Holdings, provides commercial and technical management services to Navios Partners' vessels for a daily fee of: (a) \$4.10 daily rate per Ultra-Handymax vessel; (b) \$4.20 daily rate per Panamax vessel; (c) \$5.25 daily rate per Capesize vessel; (d) \$6.70 daily rate per Containership of TEU 6,800; (e) \$7.40 daily rate per Containership of more than TEU 8,000; and (f) \$8.75 daily rate per very large Containership of more than TEU 13,000 through December 31, 2017. On November 14, 2017, Navios Partners agreed to extend the duration of its existing Management Agreement with the Manager until December 31, 2022 and to fix the rate for shipmanagement services of its owned fleet through December 31, 2019, effective from January 1, 2018. The new management fees excluding drydocking expenses which are reimbursed at cost by Navios Partners, are: (a) \$4.23 daily rate per Ultra-Handymax vessel; (b) \$4.33 daily rate per Panamax vessel; (c) \$5.25 daily rate per Capesize vessel; (d) \$6.70 daily rate per Containership of TEU 6,800; (e) \$7.40 daily rate per Containership of more than TEU 8,000; and (f) \$8.75 daily rate per very large Containership of more than TEU 13,000. Drydocking expenses under this agreement are reimbursed by Navios Partners at cost at occurrence.

General and Administrative Expenses: Pursuant to the Administrative Services Agreement dated November 16, 2007, the Manager also provides administrative services to Navios Partners, 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. The Manager is reimbursed for reasonable costs and expenses incurred in connection with the provision of these services. Navios Partners extended the duration of its existing Administrative Services Agreement with the Manager pursuant to the same terms, until December 31, 2022.

- (s) **Financial Instruments:** Financial instruments carried on the balance sheet include cash and cash equivalents, restricted cash, trade receivables and payables, other receivables and other liabilities and long-term debt. The particular recognition methods applicable to each class of financial instrument are disclosed in the applicable significant policy description of each item, or included below as applicable.

Financial Risk Management: Navios Partners' activities expose it to a variety of financial risks including fluctuations in future freight rates, time charter hire rates, fuel prices, credit and interest rates risk. Risk management is carried out under policies approved by executive management. Guidelines are established for overall risk management, as well as specific areas of operations.

Credit risk: Navios Partners closely monitors its credit exposure to customers and counter-parties for credit risk. Navios Partners has entered into the management agreement with the Manager, pursuant to which the Manager agreed to provide commercial and technical management services to Navios Partners. When negotiating on behalf of Navios Partners' various vessel employment contracts, the Manager has policies in place to ensure that it trades with customers and counterparties with an appropriate credit history.

Financial instruments that potentially subject Navios Partners to concentrations of credit risk are accounts receivable and cash and cash equivalents. Navios Partners does not believe its exposure to credit risk is likely to have a material adverse effect on its financial position, results of operations or cash flows.

For the year ended December 31, 2018, HMM represented approximately 24.5% of total revenues. For the year ended December 31, 2017, HMM and Yang Ming accounted for approximately 26.8% and 12.0%, respectively, of our total revenues. For the year ended December 31, 2016, HMM, Yang Ming and Mediterranean Shipping Co. S.A. accounted for 29.6%, 13.0% and 11.6%, respectively, of our total revenues. No other customers accounted for 10% or more of total revenues for any of the years presented.

Liquidity Risk: Prudent liquidity risk management implies maintaining sufficient cash and marketable securities, the availability of funding through an adequate amount of committed credit facilities and the ability to close out market positions. Navios Partners monitors cash balances appropriately to meet working capital needs.

Foreign Exchange Risk: Foreign currency transactions are translated into the measurement currency rates prevailing at the dates of transactions. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation of monetary assets and liabilities denominated in foreign currencies are recognized in the Consolidated Statements of Operations.

- (t) **Cash Distribution:** As per the Partnership Agreement, within 45 days following the end of each quarter, to the extent and as may be declared by the Board, an amount equal to 100% of Available Cash with respect to such quarter shall be distributed to the partners as of the record date selected by the Board of Directors.

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Available Cash: Generally means, for each fiscal quarter, all cash on hand at the end of the quarter:

- less the amount of cash reserves established by the board of directors to:
- provide for the proper conduct of the business (including reserve for Maintenance and Replacement Capital Expenditures)
- comply with applicable law, any of Navios Partners' debt instruments, or other agreements; or
- provide funds for distributions to the unitholders and to the general partner for any one or more of the next four quarters;
- plus all cash on hand on the date of determination of Available Cash for the quarter resulting from working capital borrowings made after the end of the quarter. Working capital borrowings are generally borrowings that are made under any revolving credit or similar agreement used solely for working capital purposes or to pay distributions to partners.

Available Cash is a quantitative measure used in the publicly traded partnership investment community to assist in evaluating a partnership's ability to make quarterly cash distributions. Available Cash is not required by US GAAP and should not be considered as an alternative to net income or any other indicator of Navios Partners' performance required by US GAAP.

Cash distributions are recorded in the Company's financial statements in the period in which they are declared. Navios Partners paid \$10,261, \$0 and \$0 to its unitholders of common and general partner units during the years ended December 31, 2018, 2017 and 2016, respectively. On February 3, 2016, Navios Partners announced that its board of directors decided to suspend the quarterly cash distributions to its unitholders, including the distribution for the quarter ended December 31, 2015. In March 2018, the board determined to reinstate a distribution and any continued distribution will be at the discretion of our Board of Directors. The amount of any distributions paid under Navios Partners' policy and the decision to make any distribution is determined by its board of directors, taking into consideration the terms of its partnership agreement.

Maintenance and Replacement Capital Expenditures: Maintenance and Replacement capital expenditures are those capital expenditures required to maintain over the long-term the operating capacity of or the revenue generated by Navios Partners' capital assets, and expansion capital expenditures are those capital expenditures that increase the operating capacity of or the revenue generated by the capital assets. To the extent, however, that capital expenditures associated with acquiring a new vessel increase the revenues or the operating capacity of our fleet, those capital expenditures would be classified as expansion capital expenditures. As of December 31, 2018, 2017 and 2016, Maintenance and Replacement capital expenditures reserve approved by the Board of Directors was \$26,787, \$14,859 and \$11,899, respectively.

- (u) **Stock-based compensation:** In December 2018, 2017 and 2016, Navios Partners granted restricted common units to its directors and officers, which are based solely on service conditions and vest over four, four and three years, respectively. The fair value of the restricted common units was determined by reference to the quoted common unit price on the date of grant. Compensation expense, net of estimated forfeitures, is recognized based on a graded expense model over the vesting period. Compensation expense for the awards that vest upon achievement of the performance criteria is recognized when it is probable that the performance criteria will be met and are being accounted for as equity. The effect of compensation expense arising from the restricted common units described above amounted to \$2,450, \$1,904 and \$93 as of December 31, 2018, 2017 and 2016, respectively, and was presented under the caption "General and administrative expenses" in the Consolidated Statements of Operations. There were no restricted common units exercised, forfeited or expired during the years ended December 31, 2018, 2017 and 2016. As of December 31, 2018, 1,720,426 restricted common units were vested, cumulatively.
- (v) **Income Taxes:** The Company is a Marshall Islands Corporation. Pursuant to various treaties and the United States Internal Revenue Code, the Company believes that substantially all its operations are exempt from income taxes in the Marshall Islands and the United States of America. Under the laws of Marshall Islands, Malta and Liberia, the countries of the vessel-owning subsidiaries' incorporation and vessels' registration, the vessel-owning subsidiaries are subject to registration and tonnage taxes which have been included in vessel operating expenses in the accompanying Consolidated Statements of Operations.
- (w) **(Loss)/Earnings Per Unit:** Basic (losses)/earnings per unit is computed by dividing net (loss)/income attributable to Navios Partners common unitholders by the weighted average number of common units outstanding during the periods presented. Diluted earnings per unit reflect the potential dilution that would occur if securities or other contracts to issue common units were exercised or converted. Diluted earnings per unit is calculated in the same manner as basic earnings per unit, except that the weighted average number of outstanding units increased to include the dilutive effect of outstanding unit options or phantom units.
- (x) **Guarantees:** An asset for the fair value of a right undertaken in issuing the guarantee is recognized. The recognition of fair value is not required for certain guarantees such as the parent's guarantee of a subsidiary's debt to a third party or guarantees on product warranties. For those guarantees excluded from the above guidance requiring the fair value recognition of the asset, financial statement disclosures of their terms are made.

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On November 15, 2012 (as amended in March 2014), Navios Holdings and Navios Partners entered into an agreement (the “Navios Holdings Guarantee”) by which Navios Holdings will provide supplemental credit default insurance with a maximum cash payment of \$20,000. The final settlement of the amount due will take place at any time but in no case later than December 31, 2019, in accordance with a letter of agreement effective as of December 29, 2017. During the year ended December 31, 2018, the Company did not submit any claims to Navios Holdings for charterers’ default under this agreement. During the years ended December 31, 2017 and 2016, the Company submitted claims for charterers’ default under this agreement to Navios Holdings for a total amount of \$7,242 and \$9,153, respectively, net of applicable deductions, of which \$7,623 and \$9,635 was recorded as “Other income”. Net of the \$2,000 write down, the claim amounted to \$17,612, including accrued interest and discount unwinding of \$389 for the year ended December 31, 2018, presented under the caption “Amounts due from related parties-short term” in the Consolidated Balance Sheets.

- (y) **Leases:** Vessel leases where Navios Partners is regarded as the lessor are classified as either finance leases or operating leases based on an assessment of the terms of the lease.

For charters classified as finance leases the minimum lease payments are recorded as the gross investment in the lease. The difference between the gross investment in the lease and the sum of the present values of the two components of the gross investment is recorded as unearned income which is amortized to income over the lease term as finance lease interest income to produce a constant periodic rate of return on the net investment in the lease.

For charters classified as operating leases where Navios Partners is regarded as the lessor, refer to Note 2(r).

For charters classified as operating leases where Navios Partners is regarded as the lessee, the expense is recognized on a straight line basis over the rental periods of such charter agreements.

In cases of sale and leaseback transactions, if the transfer of the asset to the lessor does not qualify as a sale, then the transaction constitutes a failed sale and leaseback and is accounted for as a financing transaction. For a sale to have occurred, the control of the asset would need to be transferred to the buyer, and the buyer would need to obtain substantially all the benefits from the use of the asset.

- (z) **Financial Instruments and Fair Value:** Guidance on Fair Value Measurements provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level I measurements) and the lowest priority to unobservable inputs (Level III measurements).

A financial instrument’s level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. In determining the appropriate levels, the Company performs a detailed analysis of the assets and liabilities that are subject to guidance on Fair Value Measurements.

- (aa) **Recent Accounting Pronouncements:**

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 nonlease 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 did not have a material impact on the Company’s disclosures to the 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 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 Company is currently assessing the impact that adopting this new accounting guidance will have on its disclosures to the consolidated financial statements.

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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 Company is currently assessing the impact that adopting this new accounting guidance will have on its disclosures to the consolidated financial statements.

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 2018-11, 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.

In addition, in July 2018, 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. The amendments in this update affect the amendments in Update 2016-02, which are not yet effective but for which early adoption upon issuance is permitted. 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.

The Company has elected to early adopt the requirements of ASU 2016-02 effective January 1, 2018, through application of the alternative transition method, which is consistent, with the approach the Company has elected under the new revenue standard, and has elected to adopt the practical expedient for lessors to combine lease and non-lease components of revenue earned by its vessels under time charter agreements classified as operating leases. The Company believes that combining the lease and non-lease components provides for more meaningful financial reporting as it is more reflective of the predominant component in the time charter contracts that is the lease component.

As a result of adoption, there was no cumulative impact to the Company’s retained earnings at January 1, 2018. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those periods.

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On January 1, 2018, the Company adopted Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers" ("ASU 2014-09") and the related amendments ("ASC 606" or "the new revenue standard") using the modified retrospective method, requiring to recognize the cumulative effect of adopting this guidance as an adjustment to the 2018 opening balance of retained earnings and not retrospectively adjusting prior periods.

Under the new guidance, there is a five-step model to apply to revenue recognition. The five-steps consist of: (1) determination of whether a contract, an agreement between two or more parties that creates legally enforceable rights and obligations, exists; (2) identification of the performance obligations in the contract; (3) determination of the transaction price; (4) allocation of the transaction price to the performance obligations in the contract; and (5) recognition of revenue when (or as) the performance obligation is satisfied.

As a result of adoption, there was no cumulative impact to the Company's retained earnings at January 1, 2018. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those periods. The Company expects the impact of the adoption of the new standard to be immaterial to its net income on an ongoing basis.

In January 2017, FASB issued Accounting Standard Update No. 2017-03 "Accounting Changes and Error Corrections (Topic 250) and Investments- Equity Method and Joint Ventures (Topic 323)." The ASU amends the Codification for SEC staff announcements made at recent Emerging Issues Task Force (EITF) meetings. The SEC guidance that specifically relates to our Consolidated Financial Statements was from the September 2016 meeting, where the SEC staff expressed its expectations about the extent of disclosures registrants should make about the effects of the new FASB guidance as well as any amendments issued prior to adoption, on revenue (ASU 2014-09), leases (ASU 2016-02) and credit losses on financial instruments (ASU 2016-13) in accordance with SAB Topic 11.M. Registrants are required to disclose the effect that recently issued accounting standards will have on their financial statements when adopted in a future period. In cases where a registrant cannot reasonably estimate the impact of the adoption, then additional qualitative disclosures should be considered. The ASU incorporates these SEC staff views into ASC 250 and adds references to that guidance in the transition paragraphs of each of the three new standards. The adoption of this new accounting guidance did not have a material effect on the Company's Consolidated Financial Statements.

In August 2016, the FASB issued Accounting Standards Update No. 2016-15, "Statement of Cash Flows: Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). This Update addresses eight specific cash flow issues with the objective of reducing the existing diversity in practice. The Company adopted the new guidance on January 1, 2018 and it did not have a material impact on the consolidated results of operations, financial condition, or cash flows.

NOTE 3: ACQUISITION/DECONSOLIDATION

On June 7, 2017, after its special meeting of stockholders, Navios Containers announced the approval of the acquisition of five 4,250 TEU containerships from Navios Partners and the charter-out contracts for an aggregate purchase price of \$64,000. Out of the total purchase price an amount of \$40,000 was paid from the proceeds of the private placement on June 8, 2017 and the \$24,000 balance as a seller's credit by Navios Partners for a period of up to 90 days from the purchase date at LIBOR plus 375 bps. On June 30, 2017 and August 29, 2017, Navios Containers paid to Navios Partners \$10,000 and \$14,000, respectively, in relation to this agreement.

On August 29, 2017, Navios Containers closed its private placement of 10,000,000 shares at a subscription price of \$5.00 per share, resulting in gross proceeds of \$50,000. Navios Partners invested \$10,000 and received 2,000,000 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the equity. Immediately after the Navios Containers' private placement, Navios Partners' ownership of the outstanding voting stocks of Navios Containers decreased to 39.9% and Navios Partners no longer controls a majority of the voting power of Navios Containers. From that date onwards, Navios Containers has been considered as an affiliate entity of Navios Partners and not as a controlled subsidiary of the Company and the investment in Navios Containers has been accounted for under the equity method due to the Company's significant influence over Navios Containers.

On August 29, 2017, based on the equity method, the Company recorded an investment in Navios Containers of \$40,000, which represents the fair value of the common stocks that were held by Navios Partners on such date. The remeasurement of the retained investment in Navios Containers was determined by reference to the share price of Navios Containers in the N-OTC market and had no impact in Company's income statement.

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On August 29, 2017, the Company calculated a gain on change in control of \$4,068 which is equal to the fair value of the Company's investment in Navios Containers of \$30,000 (including the cash paid for retaining a 39.9%) less the Company's 59.7% interest in Navios Containers' net assets of approximately \$43,494 on August 29, 2017.

As of December 31, 2018, Navios Partners held 11,592,276 common units (33.5% of the equity), and Navios Holdings held 1,263,276 common units (3.7% of the equity) of Navios Containers.

NOTE 4 – CASH AND CASH EQUIVALENTS

Cash and cash equivalents consist of the following:

	December 31, 2018	December 31, 2017
Cash and cash equivalents	\$ 58,590	\$ 24,047
Restricted cash	2,865	5,886
Total cash and cash equivalents and restricted cash	\$ 61,455	\$ 29,933

Short-term deposits and highly liquid funds relate to amounts held in banks for general financing purposes and represent deposits with an original maturity of less than three months.

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 Partners does maintain cash deposits and equivalents in excess of government-provided insurance limits. Navios Partners also minimizes exposure to credit risk by dealing with a diversified group of major financial institutions.

Restricted cash, at each of December 31, 2018 and December 31, 2017, included \$865 and \$386, respectively, which related to amounts held in retention accounts in order to service debt and interest payments, as required by certain of Navios Partners' credit facilities. Also, as of December 31, 2018, restricted cash included \$2,000 as cash collateral to the Term Loan B, due to the release of certain mortgaged vessels of the fleet. As of December 31, 2017, an amount of \$5,500 was held as security in the form of a letter of guarantee, relating to the chartering of a vessel, which was released in March 2018.

NOTE 5: ACCOUNTS RECEIVABLE, NET

Accounts receivable consisted of the following:

	December 31, 2018	December 31, 2017
Accounts receivable	\$ 15,931	\$ 15,616
Less: Provision for doubtful accounts	(1,495)	(1,495)
Accounts receivable, net	\$ 14,436	\$ 14,121

Charges to provisions for doubtful accounts are summarized as follows:

	Balance at beginning of period	Charges to costs and expenses	Amount utilized	Balance at end of period
Allowance for doubtful receivables				
Year ended December 31, 2018	\$ (1,495)	\$ —	\$ —	\$ (1,495)
Year ended December 31, 2017	\$ —	\$ (1,495)	\$ —	\$ (1,495)
Year ended December 31, 2016	\$ —	\$ —	\$ —	\$ —

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Concentration of credit risk with respect to accounts receivable is limited due to the Company's large number of customers, who are internationally dispersed and have a variety of end markets in which they sell. Due to these factors, management believes that no additional credit risk beyond amounts provided for collection losses is inherent in the Company's trade receivables. For the year ended December 31, 2018, one customer accounted for 24.5% of the Company's revenue. For the year ended December 31, 2017, two customers accounted for 26.8% and 12.0%, respectively, of the Company's revenue and for the year ended December 31, 2016, three customers accounted for 29.6%, 13.0% and 11.6% of the Company's revenue.

NOTE 6 – PREPAID EXPENSES AND OTHER CURRENT ASSETS

Prepaid expenses and other current assets consist of the following:

	December 31, 2018	December 31, 2017
Prepaid voyage costs	\$ 134	\$ 14
Inventory	1,004	220
Other	757	671
Total prepaid expenses and other current assets	\$ 1,895	\$ 905

Inventories, which are comprised of bunkers remaining on board as of December 31, 2018, due to freight voyages, are valued at cost as determined on the first-in, first-out basis.

NOTE 7 – VESSELS, NET

Vessels	Cost	Accumulated Depreciation	Net Book Value
Balance December 31, 2016	\$1,354,298	\$ (317,092)	\$1,037,206
Additions	158,241	(56,210)	102,031
Disposals	(26,233)	18,688	(7,545)
Vessel impairment losses	(66,228)	33,551	(32,677)
Balance December 31, 2017	\$1,420,078	\$ (321,063)	\$1,099,015
Additions	115,902	(54,585)	61,317
Disposals	(76,264)	—	(76,264)
Vessel impairment losses	(99,485)	58,667	(40,818)
Balance December 31, 2018	\$1,360,231	\$ (316,981)	\$1,043,250

Acquisition of Vessels

2018

On August 31, 2018, Navios Partners acquired from its affiliate, Navios Holdings, the Navios Sphera, a 2016-built Panamax vessel of 84,872 dwt and the Navios Mars, a 2016-built Capesize vessel of 181,259 dwt, for an acquisition cost \$79,000, in total.

On June 7, 2018, Navios Partners acquired from an unrelated third party the Navios Altair I, a 2006-built Panamax vessel of 74,475 dwt, for an acquisition cost of \$11,842.

On May 21, 2018, Navios Partners acquired from an unrelated third party the Navios Symmetry, a 2006-built Panamax vessel of 74,381 dwt, for an acquisition cost of \$11,811.

On May 9, 2018, Navios Partners acquired from an unrelated third party the Navios Apollon I, a 2005-built Panamax vessel of 87,052 dwt, for an acquisition cost of \$13,446.

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2017

On September 20, 2017, Navios Partners acquired from an unrelated third party the Navios Symphony, a 2010-built Capesize vessel of 178,132 dwt, for an acquisition cost of \$27,961.

On August 21, 2017, Navios Partners acquired from an unrelated third party the Navios Aster, a 2010-built Capesize vessel of 179,314 dwt, for an acquisition cost of \$28,855.

On August 11, 2017, Navios Partners acquired from a related third party the Navios Christine B, a 2009-built Ultra-Handymax vessel of 58,058 dwt, for an acquisition cost of \$14,030.

On July 17, 2017, Navios Partners acquired from an unrelated third party the Navios Sol, a 2009-built Capesize vessel of 180,274 dwt, for an acquisition cost of \$28,607.

On July 10, 2017, Navios Partners acquired from an unrelated third party the Navios Libertas, a 2007-built Panamax vessel of 75,511 dwt, for an acquisition cost of \$13,737.

On June 9, 2017, Navios Partners acquired from an unrelated third party the Navios Ace, a 2011-built Capesize vessel of 179,016 dwt, for an acquisition cost of \$31,364.

On June 7, 2017, Navios Partners acquired from an unrelated third party the Navios Prosperity I, a 2007-built Panamax vessel of 75,527 dwt, for an acquisition cost of \$13,687.

Sale of Vessels

2018

On December 14, 2018, Navios Partners sold the Navios Libra II to an unrelated third party, for a net sale price of \$4,559. The aggregate net carrying amount of the vessel, including the remaining carrying balance of dry dock and special survey cost of \$657, amounted to \$5,784 as at the date of sale.

On December 4, 2018, Navios Partners sold the Navios Felicity to an unrelated third party, for a net sale price of \$4,705. The aggregate net carrying amount of the vessels, including the remaining carrying balance of dry dock and special survey cost of \$818, amounted to \$10,016 as at the date of sale. The loss on sale of the vessel was \$53.

On July 2, 2018, Navios Partners sold the YM Unity and the YM Utmost to its affiliate, Navios Containers, for a total sale price of \$67,000. The aggregate net carrying amount of the vessels, including the remaining carrying balance of dry dock and special survey costs of \$2,104, amounted to \$104,860 as at the date of sale.

2017

On December 21, 2017, Navios Partners sold the Navios Gemini S to an unrelated third party for a net sale price of \$4,078. The aggregate net carrying amount of the vessel including the remaining carrying balance of dry dock and special survey cost of \$502 amounted to \$6,451 as at the date of sale.

On April 21, 2017, Navios Partners sold the Navios Apollon to an unrelated third party for a net sale price of \$4,750. The aggregate net carrying amount of the vessel including the remaining carrying balance of dry dock and special survey cost of \$782 amounted to \$14,758 as at the date of sale.

On January 12, 2017, Navios Partners sold the MSC Cristina to an unrelated third party for a net sale price of \$125,000. The aggregate net carrying amount of the vessel amounted to \$142,193 as at the date of sale. The loss on sale of the vessel was \$1,260 (see Note 23 — Other expense).

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Vessel impairment losses

On October 25, 2018, Navios Partners entered into a Memorandum of Agreement with an unrelated third party for the disposal of the Navios Libra II for a net sale price of \$4,559. The Company had a current expectation that the vessel would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group. An impairment loss of \$1,226 was recognized under the caption “Vessel impairment losses” in the Consolidated Statements of Operations as of December 31, 2018. The vessel was sold on December 14, 2018.

On October 2, 2018, Navios Partners entered into a Memorandum of Agreement with an unrelated third party for the disposal of the Navios Felicity for a net sale price of \$4,705. The vessel was subject to an existing time charter with an unrelated charterer and was not immediately available for sale and therefore, did not qualify as an asset held for sale as of September 30, 2018. As of September 30, 2018, the Company had a current expectation that the vessel would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group. An impairment loss of \$5,258 has been recognized under the caption “Vessel impairment losses” in the Consolidated Statements of Operations as of December 31, 2018. The vessel was sold on December 4, 2018.

On April 27, 2018, Navios Partners agreed to sell the YM Unity and the YM Utmost to its affiliate, Navios Containers, for a total sale price of \$67,000. As of June 30, 2018, the vessels had been classified as held for sale as the relevant criteria for the classification were met and, therefore, they were presented in the Consolidated Balance Sheets at their fair value totaling \$67,000. An impairment loss of \$37,860 for the vessels held for sale was presented under the caption “Vessel impairment losses” in the Consolidated Statements of Operations as of December 31, 2018. The vessels were sold on July 2, 2018, and proceeds from the sale were used to partially repay an amount of \$20,200 of the DVB Credit Facility (see Note 11 — Borrowings).

As of December 31, 2017, Navios Partners concluded that step two of the impairment assessment was required for one of its vessels held and used, as the undiscounted projected net operating cash flows did not exceed the carrying value. As a result, the Company recorded an impairment loss of \$30,304 for this vessel, being the difference between the fair value and the vessel’s carrying value.

On November 27, 2017, Navios Partners entered into a Memorandum of Agreement with an unrelated third party for the disposal of the Navios Gemini S for a net sale price of \$4,078. As of December 31, 2017, the Company had a current expectation that the vessel would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group. An impairment loss of \$2,373 was recognized under the caption “Vessel impairment losses” in the Consolidated Statements of Operations as of December 31, 2017. The vessel was sold on December 21, 2017.

On January 9, 2017, Navios Partners entered into a Memorandum of Agreement with an unrelated third party for the disposal of the Navios Apollon for a net sale price of \$4,750. The vessel was subject to an existing time charter with an unrelated charterer and was not immediately available for sale and therefore did not qualify as an asset held for sale as of December 31, 2016. As of December 31, 2016, the Company had a current expectation that the vessel would be sold before the end of its previously estimated useful life, and as a result performed an impairment test of the specific asset group. An impairment loss of \$10,008 was recognized under the caption “Vessel impairment losses” in the Consolidated Statements of Operations as of December 31, 2016. The vessel was sold on April 21, 2017.

During June 2016, Navios Partners entered into a Memorandum of Agreement with an unrelated third party, for the disposal of the MSC Cristina. The vessel was subject to an existing time charter and management had committed to a plan to sell the vessel to the current charterer prior to June 2017.

As of December 31, 2016, the vessel had been classified as held for sale as the relevant criteria for the classification were met and, therefore, it was presented in the Consolidated Balance Sheets at its fair value less cost to sell totaling \$125,000. An impairment loss of \$17,193 for the vessel held for sale was presented under the caption “Vessel impairment losses” in the Consolidated Statements of Operations as of December 31, 2016. The vessel was sold on January 12, 2017 and proceeds from the sale of the vessel were used to fully repay the outstanding amount of the April 2015 Credit Facility and the June 2016 Credit Facility (see Note 11 — Borrowings). The loss on sale of the vessel was \$1,260 (see Note 23 — Other expense).

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NOTE 8 – INTANGIBLE ASSETS

Intangible assets as of December 31, 2018 and December 31, 2017 consisted of the following:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net Book Value</u>
Favorable lease terms December 31, 2016	\$83,716	\$ (64,764)	\$ 18,952
Additions	—	(10,872)	(10,872)
Favorable lease terms December 31, 2017	\$83,716	\$ (75,636)	\$ 8,080
Additions	—	(3,748)	(3,748)
Favorable lease terms December 31, 2018	\$83,716	\$ (79,384)	\$ 4,332

Amortization expense of favorable lease terms for each of the years ended December 31, 2018, 2017 and 2016 is presented in the following table:

	<u>Year Ended</u>		
	<u>December 31, 2018</u>	<u>December 31, 2017</u>	<u>December 31, 2016</u>
Favorable lease terms	\$ (3,748)	\$ (10,872)	\$ (15,861)
Acceleration of favorable lease terms	—	—	(20,526)
Total	\$ (3,748)	\$ (10,872)	\$ (36,387)

The aggregate amortization of the intangibles for the 12-month periods ended December 31 is estimated to be as follows:

<u>Year</u>	<u>Amount</u>
2019	1,166
2020	1,166
2021	1,166
2022 and thereafter	834
Total	\$4,332

As of December 31, 2016, Navios Partners accelerated \$20,526 of amortization of the Navios Luz and the Navios Buena Ventura favorable lease intangibles due to a change in their useful life following the termination of the Charter Party and early re-delivery of the vessels from Hanjin Shipping Co. on September 13, 2016.

Intangible assets subject to amortization are amortized using straight line method over their estimated useful lives to their estimated residual value of zero. The weighted average useful lives are 10.3 years for the remaining favorable lease terms, at inception.

NOTE 9 – ACCOUNTS PAYABLE

Accounts payable as of December 31, 2018 and 2017 consisted of the following:

	<u>December 31, 2018</u>	<u>December 31, 2017</u>
Creditors	\$ 1,744	\$ 1,099
Brokers	2,262	1,936
Insurances	—	3
Professional and legal fees	833	680
Total accounts payable	\$ 4,839	\$ 3,718

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NOTE 10 – ACCRUED EXPENSES

Accrued expenses as of December 31, 2018 and 2017 consisted of the following:

	December 31, 2018	December 31, 2017
Accrued voyage expenses	\$ 2,828	\$ 1,805
Accrued loan interest	2,244	1,981
Accrued legal and professional fees	252	889
Accrued bonus	110	4,125
Total accrued expenses	\$ 5,434	\$ 8,800

In December 2017, the Compensation Committee of Navios Partners authorized and approved an aggregate cash payment of \$3,650 subject to fulfillment of certain service conditions that were provided and completed during 2017 and 2018. In December 2018, the Compensation Committee of Navios Partners authorized and approved a cash payment of \$2,160 for which all service conditions had been met as of December 31, 2018. Also, the Compensation Committee of Navios Partners authorized and approved an additional \$2,160 cash payment to the directors and officers of the Company subject to fulfillment of certain conditions in 2019. As of December 31, 2018 and 2017, an accrued amount of \$110 and \$4,125 is included in accrued bonus and an amount of \$8,000 and \$800 was paid during 2018 and 2017, respectively. The total amount of \$3,985 and \$3,475 was recorded in general and administrative expenses in Consolidated Statements of Operations for the years ended December 31, 2018 and 2017, respectively.

NOTE 11 – BORROWINGS

Borrowings as of December 31, 2018 and December 31, 2017 consisted of the following:

	December 31, 2018	December 31, 2017
Term Loan B facility	\$ 418,538	\$ 441,471
Credit facilities	75,671	69,161
Total debt	\$ 494,209	\$ 510,632
Financial liability	24,842	—
Total borrowings	\$ 519,051	\$ 510,632
Less: Long-term unamortized discount	(6,629)	(10,824)
Less: Current portion of long-term borrowings, net	(26,804)	(26,586)
Less: Deferred finance costs, net	(4,937)	(6,345)
Long-term borrowings, net	\$ 480,681	\$ 466,877

As of December 31, 2018, the total borrowings, net of deferred finance fees and discount under the Navios Partners' credit facilities were \$507,485.

Term Loan B Facility: In June 2013, Navios Partners completed the issuance of the \$250,000 Term Loan B Facility. On October 31, 2013 and November 1, 2013, Navios Partners completed the issuance of an \$189,500 add-on to its existing Term Loan B Facility.

During 2016, Navios Partners prepaid \$25,000 of the Term Loan B facility. The prepayment was fully applied to the balloon payment. Following the prepayment of May 2016, an amount of \$187 was written-off from the deferred finance fees.

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On March 14, 2017, Navios Partners completed the issuance of a new \$405,000 Term Loan B Facility. The new Term Loan B Facility bears an interest rate of LIBOR plus 500 bps, it is set to mature on September 14, 2020 and is repayable in equal quarterly installments of 1.25% of the initial principal amount. Navios Partners used the net proceeds of the Term Loan B Facility to: (i) refinance the existing Term Loan B; and (ii) pay fees and expenses related to the Term Loan B. Following the refinancing of the Term Loan B Facility, an amount of \$1,880 and \$1,275, was written-off from the deferred finance fees and discount, respectively. On August 10, 2017, Navios Partners completed the issuance of a \$53,000 add-on to its existing Term Loan B Facility. The add-on to the Term Loan B Facility bore the same terms as the Term Loan B Facility. Navios Partners used the net proceeds to partially finance the acquisition of three vessels.

The Term Loan B Facility is secured by first priority mortgages covering certain vessels owned by subsidiaries of Navios Partners, in addition to other collateral, and guaranteed by each subsidiary of Navios Partners. During the year ended December 31, 2018, four drybulk vessels were released from security of the Term Loan B Facility and in exchange, five drybulk vessels and \$2,000 in cash substituted the released vessels, as collateral to the Term Loan B Facility.

The Term Loan B Facility requires maintenance of a loan to value ratio of 0.8 to 1.0, and other restrictive covenants customary for facilities of this type (subject to negotiated exceptions and baskets), including restrictions on indebtedness, liens, acquisitions and investments, restricted payments and dispositions. The Term Loan B Facility also provides for customary events of default, prepayment and cure provisions.

As of December 31, 2018, the outstanding balance of the Term Loan B Facility was \$411,909, net of discount of \$6,629, and is repayable in six quarterly installments of \$5,733 with a final payment of \$384,138, including the last installment on the last repayment date. The final maturity date is September 14, 2020.

BNP Credit Facility: On June 26, 2017, Navios Partners entered into a new credit facility with BNP PARIBAS (the “BNP Credit Facility”) of up to \$32,000 (divided into two tranches) in order to finance a portion of the purchase price of the Navios Ace and the Navios Sol. On June 28, 2017, the first tranche of BNP Credit Facility of \$17,000 was drawn. On July 18, 2017, the second tranche of BNP Credit Facility of \$15,000 was drawn. On December 13, 2018, Navios Partners repaid the outstanding balance of the first tranche in the amount of \$15,070. Following this repayment, an amount of \$117 was written-off from the deferred finance fees as of December 31, 2018. As of December 31, 2018, the outstanding balance of the second tranche of the BNP Credit Facility was \$12,915, and is repayable in eleven equal consecutive quarterly installments of \$417 each, with a final balloon payment of \$8,328 to be repaid on the last repayment date. The facility matures in the third quarter of 2021 and bears interest at LIBOR plus 300 bps per annum.

DVB Credit Facilities: On June 28, 2017, Navios Partners entered into a new credit facility with DVB Bank S.E. (the “DVB Credit Facility”) of up to \$39,000 (divided into four tranches) in order to refinance the Commerzbank/DVB Credit Facility dated July 2012 and an additional amount of \$7,000 to partially finance the acquisition of the Navios Prosperity I. The amounts of \$7,000 and \$32,000 were drawn on June 30, 2017 and November 3, 2017, respectively. On July 2, 2018, Navios Partners repaid the outstanding balance of the three tranches in the amount of \$20,200. Following this repayment, an amount of \$209 was written-off from the deferred finance fees as of June 30, 2018. As of December 31, 2018, the outstanding balance of the DVB Credit Facility was \$13,000 and is repayable in one quarterly installment of \$750 and seven consecutive quarterly installments of \$571 each, with a final balloon payment of \$8,250 to be repaid on the last repayment date. The facility matures in the fourth quarter of 2020 and bears interest at LIBOR plus 310 bps per annum.

On July 31, 2018, Navios Partners entered into a new credit facility with DVB Bank S.E. (the “DVB \$44m Credit Facility”) of up to \$44,000 (divided into two tranches) in order to finance the acquisition of the Navios Sphera and the Navios Mars. The amounts of \$17,500 and \$26,500 were drawn on August 30, 2018, respectively. As of December 31, 2018, the outstanding balance of the DVB \$44m Credit Facility was \$43,202 and is repayable in 19 consecutive quarterly installments of \$798, with a final balloon payment of \$28,050 to be repaid on the last repayment date. The facility matures in the third quarter of 2023 and bears interest at LIBOR plus 290 bps per annum.

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Nordea/Skandinaviska Enskilda/NIBC Credit Facility: On March 26, 2018, Navios Partners entered into a new credit facility with Nordea Bank AB, Skandinaviska Enskilda Bank AB and NIBC Bank N.V. (the “March 2018 Credit Facility”) of up to \$14,300 (divided into two tranches) in order to finance a portion of the purchase of the Navios Symmetry and the Navios Altair I. On May 18, 2018, the first tranche of the March 2018 Credit Facility of \$7,150 was drawn. On June 1, 2018 the second tranche of the March 2018 Credit Facility of \$7,150 was drawn. On December 13, 2018, Navios Partners repaid the outstanding balance of the second tranche in the amount of \$6,554. Following this repayment, an amount of \$95 was written-off from the deferred finance fees as of December 31, 2018. As of December 31, 2018, the outstanding balance of the March 2018 Credit Facility was \$6,554 and is repayable in 18 equal consecutive quarterly installments of \$298, with a final balloon payment of \$1,190 to be repaid on the last repayment date. The facility matures in the second quarter of 2023 and bears interest at LIBOR plus 300 bps per annum.

ABN AMRO Credit Facility: On June 23, 2016, Navios Partners entered into a new credit facility with ABN AMRO Bank N.V. (the “June 2016 Credit Facility”) of up to \$30,000 to be used for the general corporate purposes of the Borrower. The June 2016 Credit Facility bore interest at LIBOR plus 400 bps per annum. The final maturity date was January 30, 2017. On January 12, 2017, Navios Partners fully repaid the June 2016 Credit Facility. As of December 31, 2018, there was no outstanding amount under this facility.

HSH Credit Facility: On April 16, 2015, Navios Partners, through certain of its wholly-owned subsidiaries, entered into a term loan facility agreement of up to \$164,000 (divided into two tranches) with HSH Nordbank AG (the “April 2015 Credit Facility”), in order to finance a portion of the purchase price payable in connection with the acquisition of the MSC Cristina and one more super-post-panamax 13,100 TEU containership. On September 30, 2015, the second tranche of April 2015 Credit Facility of \$83,000 was cancelled. The final maturity date was April 20, 2022. On January 12, 2017, Navios Partners fully repaid the April 2015 Credit Facility. Following the repayment, an amount of \$516 was written-off from the deferred finance fees. As of December 31, 2018, there was no outstanding amount under this facility.

NIBC Credit Facility: On December 26, 2018, Navios Partners entered into a new credit facility with NIBC Bank N.V. (the “December 2018 Credit Facility”) of up to \$28,500 (divided into three tranches) in order to refinance three Ultra-Handymax vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 275 bps per annum. As of December 31, 2018, no amount has been drawn under this facility.

Financial Liability: In December 2018, the Company entered into two sale and leaseback agreements of \$25,000 in total, with unrelated third parties for the Navios Fantastiks and the Navios Beaufiks. Navios Partners has a purchase obligation to acquire the vessels at the end of the lease term and under ASC 842-40, the transfer of the vessels was determined to be a failed sale. In accordance with ASC 842-40, the Company did not derecognize the respective vessels from its balance sheet and accounted for the amounts received under the sale and leaseback agreements as a financial liability. The terms under the sale and leaseback agreements included a daily rate of \$5.3 and \$5.1 for the Navios Fantastiks and the Navios Beaufiks, respectively, and an implied fixed interest rate of 7.6%. As of December 31, 2018, the outstanding balance under the sale and leaseback agreements of the Navios Fantastiks and Navios Beaufiks was \$24,842 in total and is repayable in 68 and 59 equal consecutive average monthly installments of \$161 and \$155, respectively, including interest expense with a purchase obligation of \$6,300 per vessel on the last repayment date. The agreements mature in the third quarter of 2024 and fourth quarter of 2023, respectively.

Amounts drawn under the credit facilities are secured by first preferred mortgages on certain Navios Partners’ vessels and other collateral and are guaranteed by the respective vessel-owning subsidiaries. The credit facilities contain a number of restrictive covenants that prohibit or limit Navios Partners from, among other things: incurring or guaranteeing indebtedness; entering into affiliate transactions; charging, pledging or encumbering the vessels; changing the flag, class, management or ownership of Navios Partners’ vessels; changing the commercial and technical management of Navios Partners’ vessels; selling or changing the beneficial ownership or control of Navios Partners’ vessels; not maintaining Navios Holdings’ (or its affiliates) ownership in Navios Partners of at least 15.0%; and subordinating the obligations under the credit facilities to any general and administrative costs relating to the vessels, including the fixed daily fee payable under the management agreement.

The credit facilities require compliance with a number of financial covenants, including: (i) maintain a required security amount ranging over 120% to 140%; (ii) minimum free consolidated liquidity in an amount equal to at least \$650 per owned vessel; (iii) maintain a ratio of EBITDA to interest expense of at least 2.00:1.00; (iv) maintain a ratio of total liabilities or total debt to total assets (as defined in our credit facilities) ranging of less than 0.75; and (v) maintain a minimum net worth to \$135,000.

The Financial Liability has no financial covenants.

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It is an event of default under the credit facilities if such covenants are not complied with in accordance with the terms and subject to the prepayments or cure provisions of the facilities.

As of December 31, 2018, Navios Partners was in compliance with the financial covenants and/or the prepayment and/or the cure provisions as applicable in each of its credit facilities.

The maturity table below reflects the gross principal payments due under its credit facilities for the 12-month periods ended December 31:

<u>Year</u>	<u>Amount</u>
2019	\$ 33,392
2020	414,297
2021	16,230
2022	6,833
2023 and thereafter	48,299
Total	<u>\$519,051</u>

NOTE 12 – FAIR VALUE OF FINANCIAL INSTRUMENTS

The carrying value amounts of many of Navios Partners' financial instruments, including cash and cash equivalents, restricted cash, accounts receivable and accounts payable and amounts due to related parties approximate their fair value due primarily to the short-term maturity of the related instruments.

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

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.

Amounts due from related parties, short-term: The carrying amount of due from related parties, short-term reported in the balance sheet approximates its fair value due to the short-term nature of these receivables.

Loans receivable from affiliates: The carrying amount of the fixed rate loan approximates its fair value.

Amounts 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 due to the long-term nature of these receivables.

Notes receivable, net of current portion: The carrying amount of the fixed rate notes receivable approximate its fair value.

Note receivable from affiliates: The carrying amount of the long-term receivable from affiliates approximates its fair value.

Term Loan B Facility: The fair value of the Company's debt is estimated based on currently available debt with similar contract terms, interest rate and remaining maturities, as well as taking into account our creditworthiness. The book value has been adjusted to reflect the net presentation of deferred finance fees.

Other long-term borrowings, net: The book value has been adjusted to reflect the net presentation of deferred finance costs. The outstanding balance of the floating rate loans continues to approximate its fair value, excluding the effect of any deferred finance costs.

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The estimated fair values of the Navios Partners' financial instruments are as follows:

	December 31, 2018		December 31, 2017	
	Book Value	Fair Value	Book Value	Fair Value
Cash and cash equivalents	\$ 58,590	\$ 58,590	\$ 24,047	\$ 24,047
Restricted cash	\$ 2,865	\$ 2,865	\$ 5,886	\$ 5,886
Amounts due from related parties, short-term	\$ 28,562	\$ 28,562	\$ 10,545	\$ 10,545
Loans receivable from affiliates	\$ 27,657	\$ 27,657	\$ 11,706	\$ 11,706
Amounts due from related parties, long-term	\$ 28,880	\$ 28,880	\$ 34,891	\$ 34,891
Notes receivable, net of current portion	\$ 11,629	\$ 11,629	\$ 15,897	\$ 15,897
Note receivable from affiliates	\$ 4,525	\$ 4,525	\$ 4,253	\$ 4,253
Term Loan B Facility, net	\$(408,662)	\$(414,352)	\$(425,144)	\$(441,471)
Other long-term borrowings, net	\$ (98,823)	\$(100,513)	\$ (68,319)	\$ (69,161)

Fair Value Measurements

The estimated fair value of our financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are 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 December 31, 2018 and December 31, 2017.

	Fair Value Measurements at December 31, 2018			
	Total	Level I	Level II	Level III
Cash and cash equivalents	\$ 58,590	\$58,590	—	—
Restricted cash	\$ 2,865	\$ 2,865	—	—
Amounts due from related parties, short-term	\$ 28,562	—	\$ 28,562	—
Loans receivable from affiliates	\$ 27,657	—	\$ 27,657	—
Amounts due from related parties, long-term	\$ 28,880	—	\$ 28,880	—
Notes receivable, net of current portion(2)	\$ 11,629	—	\$ 11,629	—
Note receivable from affiliates	\$ 4,525	—	\$ 4,525	—
Term Loan B facility, net(1)	\$(414,352)	—	\$(414,352)	—
Other long-term borrowings, net (1)	\$(100,513)	—	\$(100,513)	—

	Fair Value Measurements at December 31, 2017			
	Total	Level I	Level II	Level III
Cash and cash equivalents	\$ 24,047	\$24,047	—	—
Restricted cash	\$ 5,886	\$ 5,886	—	—
Amounts due from related parties, short-term	\$ 10,545	—	\$ 10,545	—
Loans receivable from affiliates	\$ 11,706	—	\$ 11,706	—
Amounts due from related parties, long-term	\$ 34,891	—	\$ 34,891	—
Notes receivable, net of current portion(2)	\$ 15,897	—	\$ 15,897	—
Note receivable from affiliates	\$ 4,253	—	\$ 4,253	—
Term Loan B facility, net(1)	\$(441,471)	—	\$(441,471)	—
Other long-term borrowings, net(1)	\$ (69,161)	—	\$ (69,161)	—

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The estimated fair value of our financial instruments that are measured at fair value on a non-recurring basis, categorized based upon the fair value hierarchy, are as follows:

	Fair Value Measurements at December 31, 2018			
	Total	Level I	Level II	Level III
Vessels, net (for Navios Felicity)	\$ 4,705	—	\$ 4,705	—
Vessels, net (for Navios Libra II)	\$ 4,559	—	\$ 4,559	—

	Fair Value Measurements at December 31, 2017			
	Total	Level I	Level II	Level III
Vessels, net (for Navios Gemini S)	\$ 4,078	—	\$ 4,078	—
Vessels, net (for Navios Hope)	\$ 16,127	—	\$ 16,127	—

- (1) The fair value of the Company's debt is estimated based on currently available debt with similar contract terms, interest rate and remaining maturities as well as taking into account our creditworthiness.
- (2) The fair value is estimated based on currently available information on the Company's counterparty with similar contract terms, interest rate and remaining maturities.

NOTE 13 – ISSUANCE OF UNITS

In December 2018, Navios Partners authorized the granting of 1,464,494 restricted common units, which were issued on December 24, 2018, to its directors and officers, which are based solely on service conditions and vest over four years. The fair value of the restricted common units was determined by reference to the quoted common unit price on the date of grant. Compensation expense, net of estimated forfeitures, is recognized when it is probable that the performance criteria will be met based on a graded expense model over the vesting period. Navios Partners also issued 29,888 general partnership units to its general partner for net proceeds of \$27. As of December 31, 2018, the effect of compensation expense arising from the restricted common units described above amounted to \$20 and was presented under the caption "General and administrative expenses" in the Consolidated Statements of Operations. There were no restricted common units exercised, forfeited or expired the year ended December 31, 2018. As of December 31, 2018, no restricted common units were vested.

On February 21, 2018, Navios Partners completed a public offering of 18,422,000 common units at \$1.90 per unit and raised gross proceeds of approximately \$35,002. The net proceeds of this offering, including the underwriting discount and the offering costs of \$1,629 in total, were approximately \$33,373. Pursuant to this offering, Navios Partners issued 375,959 general partnership units to its general partner. The net proceeds from the issuance of the general partnership units were \$714.

In December 2017, Navios Partners authorized the granting of 1,370,044 restricted common units, which were issued on January 11, 2018, to its directors and officers, which are based solely on service conditions and vest over four years. The fair value of the restricted common units was determined by reference to the quoted common unit price on the date of grant. Compensation expense, net of estimated forfeitures, is recognized when it is probable that the performance criteria will be met based on a graded expense model over the vesting period. Navios Partners also issued 27,960 general partnership units to its general partner for net proceeds of \$64. The effect of compensation expense arising from the restricted common units described above amounted to \$1,600 and \$72 as of December 31, 2018 and 2017, respectively, and was presented under the caption "General and administrative expenses" in the Consolidated Statements of Operations. There were no restricted common units exercised, forfeited or expired during each of the years ended December 31, 2018 and 2017. As of December 31, 2018, 353,761 restricted common units were vested.

On September 1, 2017 and as part of the acquisition agreement entered into between the Company and Rickmers Trust, Navios Partners authorized and issued 361,444 restricted common units and 7,376 general partnership units to its general partner for net proceeds of \$600 and \$12, respectively. The fair value of the restricted common units was determined by reference to the quoted common unit price on the date of grant. On September 25, 2017, the fair value of the restricted common units described above was compensated by Navios Containers in full amount. There were no restricted common units exercised, forfeited or expired during each of the years ended December 31, 2018 and 2017. As of December 31, 2018, 180,722 restricted common units were vested.

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On March 20, 2017, Navios Partners completed a public offering of 47,795,000 common units at \$2.10 per unit and raised gross proceeds of approximately \$100,369. The net proceeds of this offering, including the underwriting discount and the offering costs of \$4,383 in total, were approximately \$95,986. Pursuant to this offering, Navios Partners issued 975,408 general partnership units to its general partner. The net proceeds from the issuance of the general partnership units were \$2,049.

On March 17, 2017, Navios Holdings transferred to Navios Partners its rights to the fixed 12.7% interest on the Navios Europe I's Navios Term Loans I and Navios Revolving Loans I (including the respective accrued receivable interest) for a total amount of \$33,473 for a cash consideration of \$4,050 and 13,076,923 newly issued common units of Navios Partners, with fair value net of costs at date of issuance of \$28,862 (see Note 18 — Transactions with related parties and affiliates). Pursuant to this transaction, Navios Partners issued 266,876 general partnership units to its general partner for net cash proceeds of \$468.

In December 2016, Navios Partners authorized the granting of 2,040,000 restricted common units, which were issued on January 31, 2017, to its directors and officers, which are based solely on service conditions and vest over three years. The fair value of the restricted common units was determined by reference to the quoted common unit price on the date of grant. Compensation expense, net of estimated forfeitures, is recognized when it is probable that the performance criteria will be met based on a graded expense model over the vesting period. Navios Partners also issued 41,633 general partnership units to its general partner for net proceeds of \$63. The effect of compensation expense arising from the restricted common units described above amounted to \$830 and \$1,832 as of December 31, 2018 and 2017, respectively, and was presented under the caption "General and administrative expenses" in the Consolidated Statements of Operations. There were no restricted common units exercised, forfeited or expired during each of the years ended December 31, 2018 and 2017. As of December 31, 2018, 1,366,665 restricted common units were vested, cumulatively.

As of December 31, 2018, the estimated compensation cost relating to service conditions of non-vested restricted common units granted in 2016, 2017 and 2018 not yet recognized was \$3,074.

On November 18, 2016, Navios Partners entered into a Continuous Offering Program Sales Agreement, which was further amended on June 2, 2017, pursuant to which Navios Partners may issue and sell from time to time through its agent common units representing limited partner interests having an aggregate offering price of up to \$25,000. As of December 31, 2017 and 2016, Navios Partners issued 1,200,442 and 244,201 common units and received net proceeds of \$2,221 and \$440, respectively. Pursuant to the issuance of the common units, Navios Partners issued 24,498 general partnership units to its general partner in order to maintain its 2.0% general partner interest. As of December 31, 2017 and 2016, the net proceeds from the issuance of the general partnership units were \$46 and \$10, respectively. There were no equity transactions or units sold under this program during the year ended December 31, 2018.

Navios Holdings currently owns an approximately 20.4% interest in Navios Partners, which includes the approximately 2.1% interest through Navios Partners' general partner, which Navios Holdings owns and controls.

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NOTE 14 – SEGMENT INFORMATION

For the period from April 28, 2017 up to August 29, 2017, the Company had two reportable segments from which it derived its revenues: Navios Partners Operations and Navios Containers Operations. The reportable segments reflect the internal organization of the Company whereby the Chief Operating Decision Maker (“CODM”) reviews the discrete financial information of the Navios Partners’ controlled fleet and the Navios Containers’ controlled fleet.

The Company measures segment performance based on net (loss)/income attributable to Navios Partners common unitholders. Summarized financial information concerning each of the Company’s reportable segments is as follows:

	Navios Partners Operations		Navios Containers Operations		Total	
	Twelve Month Period Ended December 31, 2018	Twelve Month Period Ended December 31, 2017	Period from April 28, 2017 to August 29, 2017	Eliminations for the Period from April 28, 2017 to August 29, 2017	Twelve Month Period Ended December 31, 2018	Twelve Month Period Ended December 31, 2017
Revenue	\$ 231,361	\$ 199,297	\$ 12,355	—	\$ 231,361	\$ 211,652
Management fees	(68,871)	(62,595)	(4,715)	—	(68,871)	(67,310)
Interest expense and finance cost, net	(42,766)	(37,647)	(767)	189	(42,766)	(38,225)
Depreciation and amortization	(58,334)	(67,885)	(4,875)	—	(58,334)	(72,760)
Net (loss)/ income	(13,081)	(15,089)	593	(355)	(13,081)	(14,851)
Total assets	1,314,133	1,305,302	—	—	1,314,133	1,305,302
Capital expenditures	(118,755)	(217,019)	(59,885)	—	(118,755)	(276,904)
Investment in affiliates	66,296	52,122	—	—	66,296	52,122
Cash and cash equivalents	58,590	24,047	—	—	58,590	24,047
Restricted cash	2,865	5,886	—	—	2,865	5,886
Long-term borrowings (including current and non-current portion), net	507,485	493,463	—	—	507,485	493,463

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

The following table sets out operating revenue by geographic region for Navios Partners’ reportable segment. Revenue is allocated on the basis of the geographic region in which the customer is located. Drybulk and containerships operate worldwide. Revenues from specific geographic region, which contribute over 10% of total revenue, are disclosed separately.

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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.

	Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
Asia	\$ 120,660	\$ 125,618	\$ 112,019
Europe	86,633	47,308	54,006
North America	17,862	20,307	13,364
Australia	6,206	18,419	11,135
Total	\$ 231,361	\$ 211,652	\$ 190,524

NOTE 15 – INCOME TAXES

Marshall Islands, Malta and Liberia do not impose a tax on international shipping income. Under the laws of Marshall Islands, Malta and Liberia, the countries of the vessel-owning subsidiaries' incorporation and vessels' registration, the vessel-owning subsidiaries are subject to registration and tonnage taxes, which have been included in vessel operating expenses in the accompanying Consolidated Statements of Operations.

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 vessel's 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.

Pursuant to Section 883 of the Internal Revenue Code of the United States, 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 vessel-owning subsidiaries satisfy these initial criteria.

In addition, these companies must meet an ownership test. The management of Navios Partners believes that this ownership test was satisfied prior to the IPO by virtue of a special rule applicable to situations where the ship operating companies are beneficially owned by a publicly traded company. Although not free from doubt, management also believes that the ownership test will be satisfied based on the trading volume and ownership of Navios Partners' units, but no assurance can be given that this will remain so in the future.

NOTE 16 – COMMITMENTS AND CONTINGENCIES

Navios Partners 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 Navios Partners believes that a liability may be probable, and for which the amounts are reasonably estimable, based upon facts known at the date the financial statements were prepared. Management believes the ultimate disposition of these matters will be immaterial individually and in the aggregate to Navios Partners' financial position, results of operations or liquidity.

In November 2017, Navios Partners agreed to charter-in, under a ten-year bareboat contract, from an unrelated third party, a newbuilding Panamax vessel of approximately 81,000 dwt, expected to be delivered in the second half of 2019. Navios Partners has agreed to pay in total \$5,540, representing a deposit for the option to acquire the vessel after the end of the fourth year, of which the first half amounted to \$2,770 was paid during the year ended December 31, 2017 and the second half amounted to \$2,770 was paid during the year ended December 31, 2018, both presented under the caption "Other long-term assets" in the Consolidated Balance Sheets.

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The future minimum commitments for the 12-month periods ended December 31, of Navios Partners under its charter-in contracts, net of commissions, are as follows:

	<u>Amount</u>
2019	\$ 547
2020	2,178
2021	2,172
2022	2,149
2023	2,080
2024 and thereafter	11,691
Total	<u>\$20,817</u>

NOTE 17 – LEASES

The future minimum contractual lease income (charter-out rates are presented net of commissions and assume no off-hires days) as of December 31, 2018, is as follows:

	<u>Amount</u>
2019	\$ 95,815
2020	82,025
2021	80,837
2022	70,894
2023 and thereafter	248,448
Total	<u>\$578,019</u>

NOTE 18 – TRANSACTIONS WITH RELATED PARTIES AND AFFILIATES

Management fees: Pursuant to the amended Management Agreement, in each of October 2013, August 2014, February 2015 and February 2016, the Manager, a wholly owned subsidiary of Navios Holdings, provides commercial and technical management services to Navios Partners' vessels for a daily fee of: (a) \$4.10 daily rate per Ultra-Handymax vessel; (b) \$4.20 daily rate per Panamax vessel; (c) \$5.25 daily rate per Capesize vessel; (d) \$6.70 daily rate per Containership of TEU 6,800; (e) \$7.40 daily rate per Containership of more than TEU 8,000; and (f) \$8.75 daily rate per very large Containership of more than TEU 13,000 through December 31, 2017. On November 14, 2017, Navios Partners agreed to extend the duration of its existing Management Agreement with the Manager until December 31, 2022 and to fix the rate for shipmanagement services of its owned fleet through December 31, 2019, effective from January 1, 2018. The new management fees, excluding drydocking expenses which are reimbursed at cost by Navios Partners, are: (a) \$4.23 daily rate per Ultra-Handymax vessel; (b) \$4.33 daily rate per Panamax vessel; (c) \$5.25 daily rate per Capesize vessel; (d) \$6.70 daily rate per Containership of TEU 6,800; (e) \$7.40 daily rate per Containership of more than TEU 8,000 and (f) \$8.75 daily rate per very large Containership of more than TEU 13,000. Drydocking expenses under this agreement are reimbursed by Navios Partners at cost at occurrence. Effective from August 31, 2016, Navios Partners could, upon request to Navios Holdings, partially or fully defer the reimbursement of drydocking and other extraordinary fees and expenses under the Management Agreement to a later date, but not later than January 5, 2018, and if reimbursed on a later date, such amounts would bear interest at a rate of 1% per annum over LIBOR.

Total management fees for each of the years ended December 31, 2018, 2017 and 2016, including Navios Containers management fees for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017, amounted to \$68,871, \$67,310 and \$59,209, respectively.

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General and administrative expenses: Pursuant to the Administrative Services Agreement, the Manager also provides administrative services to Navios Partners, 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. The Manager is reimbursed for reasonable costs and expenses incurred in connection with the provision of these services. Navios Partners extended the duration of its existing Administrative Services Agreement with the Manager, until December 31, 2022.

Total general and administrative expenses charged by Navios Holdings for each of the years ended December 31, 2018, 2017 and 2016, including Navios Containers administrative expenses for the period from April 28, 2017 (date of Navios Containers' inception) to August 29, 2017, amounted to \$9,344, \$8,877 and \$7,751, respectively.

Balance due from related parties (excluding Navios Europe I and Navios Europe II): Balance due from related parties as of December 31, 2018 and December 31, 2017 amounted to \$52,252 and \$43,146, respectively, of which for the year ended December 31, 2018, the current receivable was \$28,562 and the long-term receivable was \$28,880. The balance mainly consisted of management fees and drydocking expenses including amounts needed for compliance with IMO regulations prepaid to Navios Holdings in accordance with the Management service agreement and the Navios Holdings Guarantee of up to \$20,000. The claim amounted to \$17,612 as of December 31, 2018.

Vessel Chartering: In November 2016, Navios Partners entered into a charter with a subsidiary of Navios Holdings for the Navios Fulvia, a 2010-built Capesize vessel. The term of this charter is approximately three months that commenced in November 2016, at a net daily rate of \$11.5. The vessel was redelivered in February 2017.

Total revenue of Navios Partners from the subsidiaries of Navios Holdings for the years ended December 31, 2018, 2017 and 2016 amounted to \$97, \$654 and \$1,939, respectively.

Registration Rights Agreement: On February 4, 2015, we completed a private placement to Navios Holdings of 1,120,547 common units and 22,868 general partner units, raising gross proceeds of \$14,967 and in connection with such private placement, we entered into a registration rights agreement with Navios Holdings pursuant to which we provide Navios Holdings with certain rights relating to the registration of the common units.

Balance due from Navios Europe I: Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe I revolving loans of up to \$24,100 to fund working capital requirements (collectively, the "Navios Revolving Loans I"). In December 2018, the amount of funds available under the Navios Revolving Loans I was increased by \$30,000 (see Note 20 — Investment in Affiliates). The Navios Revolving Loans I and the Navios Term Loans I earn interest and an annual preferred return at 12.7% per annum, on a quarterly compounding basis and are repaid from free cash flow (as defined in the loan agreement) to the fullest extent possible at the end of each quarter.

As of December 31, 2018, Navios Partners' portion of the outstanding amount relating to the portion of the investment in Navios Europe I (5.0% of the \$10,000) was \$500, under the caption "Investment in affiliates" and the outstanding amount relating to the Navios Revolving Loans I capital was \$11,205 (December 31, 2017: \$1,205), under the caption "Loans receivable from affiliates". The accrued interest income earned under the Navios Revolving Loans I was \$731 (December 31, 2017: \$489) under the caption "Balance due from related parties" and the accrued interest income earned under the Navios Term Loans I was \$447 (December 31, 2017: \$334) under the caption "Loans receivable from affiliates". As of December 31, 2018, the amount undrawn under the Navios Revolving Loans I was \$12,000, of which Navios Partners may be required to fund an amount ranging from \$0 to \$12,000.

Balance due from Navios Europe II: Navios Holdings, Navios Acquisition and Navios Partners have made available to Navios Europe II revolving loans of up to \$43,500 to fund working capital requirements (collectively, the "Navios Revolving Loans II"). In March 2017, the amount of funds available under the Navios Revolving Loans II was increased by \$14,000 (see Note 20 — Investment in Affiliates). The Navios Revolving Loans II and the Navios Term Loans II earn interest and an annual preferred return at 18% per annum, on a quarterly compounding basis and are repaid from free cash flow (as defined in the loan agreement) to the fullest extent possible at the end of each quarter.

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As of December 31, 2018, Navios Partners' portion of the outstanding amount relating to the portion of the investment in Navios Europe II (5.0% of the \$14,000) was \$700, under the caption "Investment in affiliates" and the outstanding amount relating to the Navios Revolving Loans II capital was \$15,397 (December 31, 2017: \$9,772), under the caption "Loans receivable from affiliates". The accrued interest income earned under the Navios Revolving Loans II was \$4,459 (December 31, 2017: \$1,801) under the caption "Balance due from related parties" and the accrued interest income earned under the Navios Term Loans II was \$608 (December 31, 2017: \$395) under the caption "Loans receivable from affiliates". As of December 31, 2018, the amount undrawn under the Navios Revolving Loans II was \$4,503, of which Navios Partners may be required to fund an amount ranging from \$0 to \$4,503.

Note receivable from affiliates: On March 17, 2017, Navios Holdings transferred to Navios Partners its rights to the fixed 12.7% interest on the Navios Europe I's Navios Term Loans I and Navios Revolving Loans I (including the respective accrued receivable interest) in the amount of \$33,473, which included a cash consideration of \$4,050 and 13,076,923 newly issued common units of Navios Partners. At the date of this transaction, the Company recognized a receivable at the fair value of its newly issued common units totaling \$29,423 based on the closing price of \$2.25 per unit as of March 16, 2017 given as consideration (see Note 13 — Issuance of Units). The receivable relating to the consideration settled with the issuance of 13,076,923 Navios Partners' common units in the amount of \$29,423 has been classified contra equity within the Consolidated Statements of Changes in Partners' Capital as "Note receivable". The receivable from Navios Holdings is payable on maturity in December 2023 and Navios Partners will receive approximately \$50,937. Interest will accrue through maturity and will be recognized within "Interest income" for the receivable relating to the cash consideration of \$4,050. As of December 31, 2018, the long-term note receivable from Navios Holdings amounted to \$4,525 (including the non-cash interest income of \$475), presented under the caption "Note receivable from affiliates". Navios Partners may require Navios Holdings, under certain conditions, to repurchase the loans after the third anniversary of the date of the transaction based on the then outstanding balance of the loans.

Others: Navios Partners has entered into an omnibus agreement with Navios Holdings (the "Partners Omnibus Agreement") in connection with the closing of Navios Partners' IPO governing, among other things, when Navios Holdings and Navios Partners may compete against each other as well as rights of first offer on certain drybulk carriers. Pursuant to the Partners Omnibus Agreement, Navios Partners generally agreed not to acquire or own Panamax or Capesize drybulk carriers under time charters of three or more years without the consent of an independent committee of Navios Partners. In addition, Navios Holdings has agreed to offer to Navios Partners the opportunity to purchase vessels from Navios Holdings when such vessels are fixed under time charters of three or more years.

Navios Partners entered into an omnibus agreement with Navios Acquisition and Navios Holdings (the "Acquisition Omnibus Agreement") 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 containerships 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 drybulk carriers subject to specific exceptions. Under the Acquisition Omnibus Agreement, Navios Acquisition and its subsidiaries granted 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 it might own. These rights of first offer will not apply to a (i) sale, transfer or other disposition of vessels between any affiliated subsidiaries, or pursuant to the terms of any charter or other agreement with a counterparty, or (ii) merger with or into, or sale of substantially all of the assets to, an unaffiliated third party.

In connection with the Navios Midstream initial public offering and effective November 18, 2014, Navios Partners entered into an omnibus agreement with Navios Midstream, Navios Acquisition and Navios Holdings pursuant to which Navios Acquisition, Navios Holdings and Navios Partners have agreed not to acquire or own any VLCCs, crude oil tankers, refined petroleum product tankers, LPG tankers or chemical tankers under time charters of five or more years and also providing rights of first offer on certain tanker vessels.

NAVIOS MARITIME PARTNERS L.P.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
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In connection with the Navios Containers private placement and listing on the N-OTC market effective June 8, 2017, Navios Partners entered into an omnibus agreement with Navios Containers, Navios Holdings, Navios Acquisition and Navios Midstream, pursuant to which Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream have granted to Navios Containers a right of first refusal over any containerships to be sold or acquired in the future. The omnibus agreement contains significant exceptions that will allow Navios Partners, Navios Holdings, Navios Acquisition and Navios Midstream to compete with Navios Containers under specified circumstances.

On November 15, 2012 (as amended in March 2014), Navios Holdings and Navios Partners entered into an agreement (the “Navios Holdings Guarantee”) by which Navios Holdings will provide supplemental credit default insurance with a maximum cash payment of \$20,000. The final settlement of the amount due will take place at any time but in no case later than December 31, 2019, in accordance with a letter of agreement effective as of December 29, 2017. During the year ended December 31, 2018, the Company did not submit any claims to Navios Holdings for charterers’ default under this agreement. During the years ended December 31, 2017 and 2016, the Company submitted claims for charterers’ default under this agreement to Navios Holdings for a total amount of \$7,242 and \$9,153, respectively, net of applicable deductions, of which \$7,623 and \$9,635 was recorded as “Other income”. Net of the \$2,000 write down, the claim amounted to \$17,612, including accrued interest and discount unwinding of \$389 for the year ended December 31, 2018, presented under the caption “Amounts due from related parties-short term” in the Consolidated Balance Sheets.

As of December 31, 2018, Navios Holdings held an 18.0% common unit interest in Navios Partners, represented by 31,053,233 common units and it also held a general partner interest of 2.0%.

NOTE 19 – NOTES RECEIVABLE

On July 15, 2016, the Company entered into a charter restructuring agreement for the reduction of the hire rate for five Containerships chartered out to Hyundai Merchant Marine Co. (“HMM”) which resulted in a decrease in cash charter hire to be received of approximately \$38,461. More specifically, the reduction of the hire rate will be applied as follows:

- With effect from (and including) July 18, 2016 until (and including) December 31, 2019, hire rate shall be reduced to \$24,400 per day pro rata.
- With effect from (and including) January 1, 2020, hire rate shall be restored to the rate of \$30,500 per day pro rata until redelivery.

In exchange for the reduction of the hire rate, the Company received (i) \$7,692 on principal amount of senior, unsecured notes, amortizing subject to available cash flows, accruing interest at 3% per annum payable on maturity in July 2024 and (ii) 3,657 freely tradable securities of HMM (publicly traded at the Stock Market Division of the Korean Exchange).

On July 18, 2016, the Company recognized the fair value of the HMM securities totaling \$40,277 and also recognized the fair value of the senior unsecured notes totaling \$5,931. The total fair value of the non-cash compensation received was recognized as deferred revenue, which will be amortized over the remaining duration of the each time charter. The Company recognized non-cash interest income and discount unwinding totaling to \$420, \$410 and \$180, respectively, for these instruments under the caption “Interest income” in the Consolidated Statements of Operations for each of the years ended December 31, 2018, 2017 and 2016, respectively. As of December 31, 2018 and December 31, 2017, the outstanding balance of the notes receivable, including accrued interest and discount unwinding, amounted to \$6,942 and \$6,522, respectively.

For each of the years ended December 31, 2018, 2017 and 2016, the Company recorded an amount of \$12,102, \$12,102 and \$5,537, respectively, of deferred revenue amortization in the Consolidated Statements of Operations under the caption “Time charter and voyage revenues”.

As of December 31, 2018, the outstanding balances of the current and non-current portion of deferred revenue in relation to HMM amounted to \$12,101 and \$4,366, respectively. As of December 31, 2017, the outstanding balances of the current and non-current portion of deferred revenue in relation to HMM amounted to \$12,102 and \$16,468, respectively.

During August 2016, the Company sold all the shares for net proceeds on sale of \$20,842 resulting in a loss on sale of \$19,435, which was presented under the caption “Loss on sale of securities” in the Consolidated Statements of Operations for the year ended December 31, 2016 and the proceeds were classified as investing activities in the Consolidated Statements of Cash Flows for the year ended December 31, 2016.

NAVIOS MARITIME PARTNERS L.P.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
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On January 12, 2017, the Company sold the vessel the MSC Cristina (see Note 7 — Vessels, net) for a gross sale price of \$126,000 and received a cash payment of \$107,250 and a note receivable of \$18,750 accruing interest at 6% per annum payable in 16 quarterly instalments. As of December 31, 2018, the outstanding balances of the current and non-current note receivable amounted to \$4,688 and \$4,687, respectively. For each of the years ended December 31, 2018 and 2017, the Company recorded interest income of \$710 and \$961, respectively, including accrued interest income of \$76 and \$115 under the caption “Interest income” in the Consolidated Statements of Operations.

NOTE 20 – INVESTMENT IN AFFILIATES

Navios Europe I: On October 9, 2013, Navios Holdings, Navios Acquisition and Navios Partners established Navios Europe I and have ownership 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 facilities (the “Senior Loans 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 have made available to Navios Europe I revolving loans of 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.

On an ongoing basis, Navios Europe I is required to distribute cash flows (after payment of operating expenses and amounts due pursuant to the terms of the Senior Loans I and repayments of the Navios Revolving Loans I) according to a defined waterfall calculation. Navios Partners evaluated its investment in Navios Europe I under ASC 810 and concluded that Navios Europe I is a variable interest entity (“VIE”) and that they are not the party most closely associated with Navios Europe I and, accordingly, is not the primary beneficiary of Navios Europe I. Navios Partners further evaluated its investment in the common stock of Navios Europe I under ASC 323 and concluded that it has the ability to exercise significant influence over the operating and financial policies of Navios Europe I and, therefore, its investment in Navios Europe I is accounted for under the equity method.

As of December 31, 2018 and December 31, 2017, the estimated maximum potential loss by Navios Partners in Navios Europe I would have been \$11,705 and \$1,705, respectively, excluding accrued interest which represents the Company’s carrying value of the investment of \$500 as of December 31, 2018 (December 31, 2017: \$500) plus the Company’s balance of the Navios Revolving Loans I of \$11,205 as of December 31, 2018 (December 31, 2017: \$1,205), excluding accrued interest, and does not include the undrawn portion of the Navios Revolving Loans I.

As of December 31, 2018, the Navios Partners’ portion of the Navios Revolving Loan I outstanding was \$11,205. No investment income was recognized for the year ended December 31, 2018. Investment loss of \$(140) was recognized in the Consolidated Statements of Operations under the caption of “Equity in net earnings of affiliated companies” for the year ended December 31, 2017.

Navios Europe II: On February 18, 2015, Navios Holdings, Navios Acquisition and Navios Partners established Navios Europe II and have ownership interests of 47.5%, 47.5% and 5.0%, respectively. From June 8, 2015 through December 31, 2015, Navios Europe II acquired fourteen vessels for aggregate consideration consisting of: (i) cash consideration of \$145,550 (which was funded with the proceeds of a \$131,550 senior loan facilities net of loan discount amounting to \$3,375 (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, at the acquisition date. In addition to the Navios Term Loans II, Navios Holdings, Navios Acquisition and Navios Partners have also made available to Navios Europe II revolving loans up to \$43,500 to fund working capital requirements (collectively, the “Navios Revolving Loans II”). In March 2017, the amount of funds available under the Navios Revolving Loans II was increased by \$14,000.

On an ongoing basis, Navios Europe II is 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. Navios Partners evaluated its investment in Navios Europe II under ASC 810 and concluded that Navios Europe II is a variable interest entity (“VIE”) and that it is not the party most closely associated with Navios Europe II and, accordingly, is not the primary beneficiary of Navios Europe II. Navios Partners further evaluated its investment in the common stock of Navios Europe II under ASC 323 and concluded that it has the ability to exercise significant influence over the operating and financial policies of Navios Europe II and, therefore, its investment in Navios Europe II is accounted for under the equity method.

NAVIOS MARITIME PARTNERS L.P.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

As of December 31, 2018 and December 31, 2017, the estimated maximum potential loss by Navios Partners in Navios Europe II would have been \$16,097 and \$10,472, respectively, excluding accrued interest, which represents the Company's carrying value of the investment of \$700 as of December 31, 2018 (December 31, 2017: \$700) plus the Company's balance of the Navios Revolving Loans II of \$15,397 as of December 31, 2018 (December 31, 2017: \$9,772), excluding accrued interest, and does not include the undrawn portion of the Navios Revolving Loans II.

As of December 31, 2018, the Navios Partners' portion of the Navios Revolving Loan II outstanding was \$15,397. No investment income was recognized for year ended December 31, 2018. Investment income of \$84 was recognized in the Consolidated Statements of Operations under the caption of "Equity in net earnings of affiliated companies" for the year ended December 31, 2017.

Navios Containers: On June 8, 2017, Navios Containers closed its private placement and issued 10,057,645 shares for \$50,288 of gross proceeds at a subscription price of \$5.00 per share. Navios Partners invested \$30,000 and received 6,000,000 shares, and Navios Holdings invested \$5,000 and received 1,000,000 shares. Each of Navios Partners and Navios Holdings also received warrants, with a five-year term, for 6.8% and 1.7% of the equity, respectively. On August 29, 2017, Navios Containers closed its private placement and issued 10,000,000 shares for \$50,000 of gross proceeds at a subscription price of \$5.00 per share. Navios Partners invested \$10,000 and received 2,000,000 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the equity. On November 9, 2017, Navios Containers closed a private placement of 9,090,909 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$50,000. Navios Partners invested \$10,000 and received 1,818,182 shares. Navios Partners also received warrants, with a five-year term, for 6.8% of the newly issued equity. On March 13, 2018, Navios Containers closed a private placement of 5,454,546 shares at a subscription price of \$5.50 per share, resulting in gross proceeds of approximately \$30,000. Navios Partners invested \$14,460 and received 2,629,095 shares and Navios Holdings invested \$500 and received 90,909 shares. Navios Partners and Navios Holdings also received 9,273 warrants, with a five-year term, respectively.

On December 3, 2018, Navios Partners distributed 855,001 units of Navios Containers to the unitholders of Navios Partners, approximately 2.5% of the Navios Containers' outstanding equity. In connection with this transaction, Navios Partners recognized an other-than-temporary impairment of \$560 on the units distributed, which was presented under the caption "Equity in net earnings of affiliated companies" in the Consolidated Statements of Operations. The amount of the distribution was \$4,243 based on the last trading price of Navios Containers' shares in the N-OTC market as of November 23, 2018. Following the distribution, Navios Partners owns approximately 33.5% of the equity in Navios Containers.

As of December 31, 2018, Navios Partners held 11,592,276 common units and Navios Holdings held 1,263,276 common units of Navios Containers. Investment income of \$3,957 and \$922 was recognized in the Consolidated Statements of Operations under the caption of "Equity in net earnings of affiliated companies" for each of the years ended December 31, 2018 and 2017, respectively.

The fair value of Navios Partners' equity investment in Navios Containers is based on unadjusted quoted prices in active markets for Navios Containers' common units. The fair value of Navios Partners' equity investment in Navios Containers as at December 31, 2018 and 2017 was \$32,806 and \$57,566, respectively, compared with its carrying value of \$65,096 and \$50,922, respectively. Based on Navios Partners' evaluation of the duration and magnitude of the fair value decline, Navios Containers' financial condition and near-term prospects, and Navios Partners' intent and ability to hold its investment in Navios Containers until recovery, Navios Partners concluded that the decline in fair value of its investment in Navios Containers below its carrying value is temporary and, therefore, no impairment was recorded.

NAVIOS MARITIME PARTNERS L.P.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in thousands of U.S. Dollars except unit and per unit data)

Following the results of the significant tests performed by the Company, it was concluded that one affiliate met the significant threshold requiring summarized financial information to be presented.

	Navios Containers	
	December 31, 2018	December 31, 2017
Balance Sheet		
Cash and cash equivalents, including restricted cash	\$ 18,892	\$ 14,501
Current assets	6,245	6,870
Non-current assets	388,390	245,440
Current liabilities	19,758	7,060
Long-term debt including current portion, net	133,196	119,033
Non-current liabilities	78,100	—

	Navios Containers	
	Year ended December 31, 2018	Period from April 28, 2017 (date of inception) to December 31, 2017
Income Statement		
Revenue	\$ 133,921	\$ 39,188
Net income	\$ 12,700	\$ 2,638

NOTE 21 – CASH DISTRIBUTIONS AND EARNINGS PER UNIT

Navios Partners intends to make distributions to the holders of common and general partner units on a quarterly basis, to the extent and as may be declared by the Board and to the extent it has sufficient cash on hand to pay the distribution after the Company establishes cash reserves and pays fees and expenses. There is no guarantee that Navios Partners will pay a quarterly distribution on the common and general partner units in any quarter. On February 3, 2016, Navios Partners announced that its Board of Directors decided to suspend the quarterly cash distributions to its unitholders, including the distribution for the quarter ended December 31, 2015. In March 2018, the board determined to reinstate a distribution and any continued distribution will be at the discretion of our Board of Directors, taking into consideration the terms of its partnership agreement. The Company is prohibited from making any distributions to unitholders if it would cause an event of default, or an event of default exists, under its existing credit facilities.

There is incentive distribution rights held by the General Partner, which are analyzed as follows:

	Total Quarterly Distribution Target Amount	Marginal Percentage Interest in Distributions	
		Common Unitholders	General Partner
Minimum Quarterly Distribution	up to \$0.35	98%	2%
First Target Distribution	up to \$0.4025	98%	2%
Second Target Distribution	above \$0.4025 up to \$0.4375	85%	15%
Third Target Distribution	above \$0.4375 up to \$0.525	75%	25%
Thereafter	above \$0.525	50%	50%

The first 98% of the quarterly distribution is paid to all common unitholders. The incentive distributions rights (held by the General Partner) apply only after a minimum quarterly distribution of \$0.4025.

In April 2018, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended March 31, 2018 of \$0.02 per unit. The distribution was paid on May 14, 2018 to all unitholders of common and general partner units of record as of May 10, 2018. The aggregate amount of the declared distribution was \$3,420.

NAVIOS MARITIME PARTNERS L.P.
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In July 2018, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended June 30, 2018 of \$0.02 per unit. The distribution was paid on August 10, 2018 to all unitholders of common and general partner units of record as of August 7, 2018. The aggregate amount of the declared distribution was \$3,420.

In October 2018, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended September 30, 2018 of \$0.02 per unit. The distribution was paid on November 14, 2018 to all unitholders of common and general partners units of record as of November 7, 2018. The aggregate amount of the declared distribution was \$3,420.

In January 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended December 31, 2018 of \$0.02 per unit. The distribution was paid on February 14, 2019 to all unitholders of common and general partner units of record as of February 11, 2019, which included the unitholders of restricted common units issued on February 1, 2019. The aggregate amount of the declared distribution was \$3,458.

Navios Partners calculates earnings per unit by allocating reported net income for each period to each class of units based on the distribution waterfall for available cash specified in Navios Partners' partnership agreement, net of the unallocated earnings (or losses). Basic earnings/(losses) per unit is determined by dividing net income/(loss) attributable to Navios Partners common unitholders by the weighted average number of common units outstanding during the period. Diluted earnings per unit is calculated in the same manner as basic earnings per unit, except that the weighted average number of outstanding units increased to include the dilutive effect of outstanding unit options or phantom units. Net loss per unit undistributed is determined by taking the distributions in excess of net income and allocating between common units and general partner units on a 98%-2% basis. There were no options or phantom units outstanding during each of the years ended December 31, 2018, 2017 and 2016.

The calculations of the basic and diluted earnings per unit are presented below.

	Year Ended December 31, 2018	Year Ended December 31, 2017	Year Ended December 31, 2016
Net loss	\$ (13,081)	\$ (15,090)	\$ (52,549)
Loss attributable to:			
Common unitholders	\$ (12,819)	\$ (14,788)	\$ (51,498)
Weighted average units outstanding (basic and diluted)			
Common unitholders	162,353,865	132,610,330	83,107,066
Loss per unit (basic and diluted):			
Common unitholders	\$ (0.08)	\$ (0.11)	\$ (0.62)
Earnings per unit - distributed (basic and diluted):			
Common unitholders	\$ 0.08	—	—
Loss per unit - undistributed (basic and diluted):			
Common unitholders	\$ (0.16)	\$ (0.11)	\$ (0.62)

Potential common units of 3,154,112 and 1,353,335 relating to unvested restricted common units for each of the years ended December 31, 2018 and 2017, respectively, have an anti-dilutive effect (i.e. those that increase income per unit or decrease loss per unit) and are therefore excluded from the calculation of diluted earnings per unit.

NOTE 22 – OTHER INCOME

On November 15, 2012 (as amended in March 2014), Navios Holdings and Navios Partners entered into an agreement (the "Navios Holdings Guarantee") by which Navios Holdings will provide supplemental credit default insurance with a maximum cash payment of \$20,000. The final settlement of the amount due will take place at any time but in no case later than December 31, 2019, in accordance with a letter of agreement effective as of December 29, 2017. During the year ended December 31, 2018, the Company did not submit any claims to Navios Holdings for charterers' default under this agreement. During the years ended December 31, 2017 and 2016, the Company submitted claims for charterers' default under this agreement to Navios Holdings for a total amount of \$7,242 and \$9,153, respectively, net of applicable deductions, of which \$7,623 and \$9,635 was recorded as "Other income". Net of the \$2,000 write down, the claim amounted to \$17,612, including accrued interest and discount unwinding of \$389 for the year ended December 31, 2018, presented under the caption "Amounts due from related parties-short term" in the Consolidated Balance Sheets.

On November 10, 2016, Navios Partners repaid \$28,052 in cash for the settlement of a nominal amount of \$30,192 of the July 2012 Credit Facility achieving a \$2,140 gain on debt repayment.

NAVIOS MARITIME PARTNERS L.P.
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NOTE 23 – OTHER EXPENSE

As of December 31, 2018, the amount of \$2,000 related to the write down of the guarantee claim receivable is included under the caption “Other expense” of the Consolidated Statements of Operations.

As of December 31, 2018, the amount of \$777 related to the discount of the Navios Holdings Guarantee is included under the caption “Other expense” of the Consolidated Statements of Operations.

As of December 31, 2017, the amount of \$1,495 relating to an allowance for doubtful accounts is included in under the caption “Other expense” of the Consolidated Statements of Operations.

On January 12, 2017, Navios Partners sold the MSC Cristina, which was classified as held for sale as of December 31, 2016, to an unrelated third party. The carrying value of the vessel was \$125,000 and sale proceeds less costs to sell totaled \$123,740. As of December 31, 2017, a loss of \$1,260 had been recognized under the caption “Other expense” of the Consolidated Statements of Operations.

NOTE 24 – SUBSEQUENT EVENTS

On April 5, 2019, Navios Partners prepaid \$21,000 and released two vessels from the collateral package of the Term Loan B facility.

On April 5, 2019, Navios Partners entered into a new credit facility with DNB Bank ASA (the “April 2019 Credit Facility”) of up to \$40,000 (divided into two tranches) in order to refinance two Capesize vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 275 bps per annum. No amount has yet been drawn under this facility.

On March 21, 2019, Navios Partners agreed to sell the Navios Galaxy I, a 2001-built Panamax vessel of 74,195 unit, to an unrelated third party, for a net sale price of approximately \$5,978. The sale is expected to be completed by the end of April 2019.

In February 2019, Navios Partners was required to fund the amount of \$4,000 under Navios Europe I’s Revolving Loan.

On February 12, 2019, Navios Partners entered into a new credit facility with DVB Bank S.E. (the “February 2019 Credit Facility”) of up to \$66,000 (divided into four tranches) in order to refinance four Capesize vessels. The credit facility has a term of approximately 5.0 years and bears interest at LIBOR plus 260 bps per annum. No amount has yet been drawn under this facility.

In January 2019, the Board of Directors of Navios Partners authorized a common unit repurchase program for up to \$50,000 of the Company’s common units over a two year period. Common unit repurchases will be 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 will be determined by Navios Partners’ management based upon market conditions and other factors. Repurchases may be made pursuant to a program adopted under Rule 10b5-1 under the Securities Exchange Act of 2 1934, as amended. The program does not require any minimum repurchase or any specific number of common units and may be suspended or reinstated at any time in the Company’s discretion and without notice. The Board of Directors will review the program periodically. Repurchases will be subject to restrictions under the Company’s credit facilities.

In January 2019, the Board of Directors of Navios Partners authorized its quarterly cash distribution for the three month period ended December 31, 2018 of \$0.02 per unit. The distribution was paid on February 14, 2019 to all unitholders of common and general partner units of record as of February 11, 2019, which included the unitholders of restricted common units issued on February 1, 2019. The aggregate amount of the declared distribution was \$3,458.

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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 PARTNERS L.P.

By: /s/ Angeliki Frangou
Angeliki Frangou
Chief Executive Officer

Date: April 9, 2019

Dated 28 December 2018

**VELVET SHIPPING CORPORATION
GOLEM NAVIGATION LIMITED and
COASTERS VENTURES LTD**
as joint and several Borrowers

and

**THE BANKS AND FINANCIAL INSTITUTIONS
listed in Schedule 1**
as Lenders

and

NIBC BANK N.V.
as Mandated Lead Arranger

and

NIBC BANK N.V.
as Agent and Security Trustee

LOAN AGREEMENT

relating to
a \$28,500,000 term loan facility secured on
m.vs. “Navios La Paix”, “Navios Soleil” and “Navios Christine B”

**WATSON FARLEY
&
WILLIAMS**

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THIS LOAN AGREEMENT is made on 28 December 2018

PARTIES

- (1) **VELVET SHIPPING CORPORATION, GOLEM NAVIGATION LIMITED and COASTERS VENTURES LTD**, each a corporation incorporated and existing under the laws of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960, as joint and several **Borrowers**.
- (2) **THE BANKS AND FINANCIAL INSTITUTIONS** listed in Schedule 1, as **Lenders**.
- (3) **NIBC BANK N.V.**, acting through its office at Carnegieplein 4, 2517 KJ, The Hague, Netherlands as **Mandated Lead Arranger**.
- (4) **NIBC BANK N.V.**, acting through its office at Carnegieplein 4, 2517 KJ, The Hague, Netherlands as **Agent and Security Trustee**.

WHEREAS

The Lenders have agreed to make available to the Borrowers, in three advances, a senior secured term loan facility:

- (A) Advance A shall be in an amount equal to the lesser of (a) \$12,000,000 and (b) 55 per cent. of the Market Value of Ship A which shall be made available for the purpose of refinancing the Existing Indebtedness relating to Ship A;
- (B) Advance B shall be in an amount equal to the lesser of (a) \$8,250,000 and (b) 55 per cent. of the Market Value of Ship B which shall be made available for the purpose of refinancing the Existing Indebtedness relating to Ship B; and
- (C) Advance C shall be in an amount equal to the lesser of (a) \$8,250,000 and (b) 55 per cent. of the Market Value of Ship C which shall be made available for the purpose of refinancing the Existing Indebtedness relating to Ship C.
- (D) **IT IS AGREED** as follows:

1 INTERPRETATION

1.1 Definitions

Subject to Clause 1.5, in this Agreement:

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

“**Account Bank**” means:

- (a) in relation to the Retention Account and the Liquidity account, NIBC BANK N.V., acting through its office at Carnegieplein 4, 2517 KJ, The Hague, Netherlands; and
- (b) in relation to the Earnings accounts, HSH Nordbank AG acting through its office at Gerhart-Hauptmann-Platz 50, D-20095 Hamburg, Germany;

“**Account Pledge**” means, in relation to each Earnings Account, the Liquidity Account and Retention Account, a deed of pledge of that Account in such form as the Lenders may approve or require, and in the plural means all of them;

“**Advance A**” means, in relation to Ship A, an amount equal to the lesser of (i) \$12,000,000 and (b) 55 per cent. of the Market Value of Ship A which shall be made available for the purpose of refinancing the Existing Indebtedness of Ship A;

“**Advance B**” means, in relation to Ship B, an amount equal to the lesser of (i) \$8,250,000 and (b) 55 per cent. of the Market Value of Ship B which shall be made available for the purpose of refinancing the Existing Indebtedness of Ship B;

“**Advance C**” means, in relation to Ship C, an amount equal to the lesser of (i) \$8,250,000 and (b) 55 per cent. of the Market Value of Ship C which shall be made available for the purpose of refinancing the Existing Indebtedness of Ship C;

“**Advances**” means, together, Advance A, Advance B and Advance C or the principal amount of each borrowing by the Borrowers under this Agreement and, in the singular, means any of them;

“**Agency and Trust Deed**” means the agency and trust deed executed or to be executed between the Borrowers, the Lenders, the Mandated Lead Arranger, the Agent and the Security Trustee in such form as the Lenders may approve or require;

“**Agent**” means NIBC BANK N.V., acting through its office at Carnegieplein 4, 2517 KJ, The Hague, Netherlands, or any successor of it appointed under clause 5 of the Agency and Trust Deed;

“**Applicable Person**” has the meaning given in Clause 29.4;

“**Approved Broker**” means any of VesselsValue.com, Arrow Valuations Ltd, Braemar ACM Shipbroking, H Clarkson & Co. Ltd., Fearnleys, Simpson Spencer & Young, Maersk Broker K.S. and Maritime Strategies International (to include, in each case, their successors or assigns and such subsidiary or other company in the same corporate group through which valuations are commonly issued by each of these brokers), or such other first-class independent broker as the Borrowers and the Agent (acting on the instructions of the Majority Lenders) may agree in writing from time to time;

“**Approved Classification Society**” means, in relation to a Ship, as at the date of this Agreement, Bureau Veritas, American Bureau of Shipping, Lloyd’s Register, DNV-GL and Nippon Kaiji Kyokai or any other classification society which is a member of IACS approved in writing by the Agent acting with the authorisation of the Majority Lenders;

“**Approved Flag**” means, in relation to a Ship, the flag of Panama or Liberia or the Marshall Islands or such other flag as the Agent (acting on the instructions of the Lenders) may approve as the flag on which that Ship is or, as the case may be, shall be registered;

“**Approved Flag State**” means, in relation to a Ship, the Republic of Panama, the Republic of Liberia, the Marshall Islands or any other country in which the Agent (acting on the instructions of the Lenders) may approve that that Ship is or, as the case may be, shall be registered;

“Approved Manager” means in respect of the commercial and technical management of each Ship, Kleimar and/or Navios Shipmanagement Inc., a corporation domesticated under the laws of the Marshall Islands having its registered address at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro MH96960, Marshall Islands or any other company (for the avoidance of doubt, other than an affiliate of Navios Shipmanagement Inc.) which the Agent (acting on the instructions of the Majority Lenders) may approve from time to time as the commercial and technical manager of any Ship;

“Approved Manager’s Undertaking” means, in relation to a Ship, a letter of undertaking including, without limitation, an assignment of the Approved Manager’s rights, title and interest in the Insurances of the relevant Ship executed or to be executed by the Approved Manager in favour of the Security Trustee agreeing certain matters in relation to the Approved Manager serving as the manager of that Ship and subordinating the rights of the Approved Manager against that Ship and that Borrower to the rights of the Creditor Parties under the Finance Documents, in such form as the Security Trustee, with the authorisation of the Lenders, may approve or require and, in the plural, means all of them;

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

- (a) 31 March 2019, excluding the period between 21 December 2018 to 31 December 2018 (both dates inclusive), or such later date as the Agent may, with the authorisation of the Majority Lenders, agree with the Borrowers; or
- (b) if earlier, the date on which the Total Commitments are fully borrowed, cancelled or terminated;

“Bail-In Action” means the exercise of any Write-down and Conversion Powers;

“Bail-In Legislation” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation;

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

“Basel III” means:

- (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 each of Borrower A, Borrower B and Borrower C, and, in the plural, means all of them;

“**Borrower A**” has the meaning given to that term in Schedule 5;

“**Borrower B**” has the meaning given to that term in Schedule 5;

“**Borrower C**” has the meaning given to that term in Schedule 5;

“**Break Costs**” means the amount (if any) by which:

(a) the interest, excluding the Margin, which a Lender should have received for the period from the date of receipt of all or any part of its participation in an Advance or an Unpaid Sum to the last day of the current Interest Period in relation to that Advance, the relevant part of that Advance or that Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds

(b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the London interbank market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period;

“**Business Day**” means a day on which banks are open in London, Athens and Amsterdam and in respect of a day on which a payment is required to be made under a Finance Document, also in New York City;

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

(a) a Borrower, a change in:

(i) the beneficial ownership of any of the shares in that Borrower; or

(ii) the legal ownership of any of those shares; or

the Corporate Guarantor, change which results in the Designated Unitholders being the ultimate beneficial owner of, or having ultimate control of the voting rights attaching to, less than 15 per cent. of all the Common Units in the Corporate Guarantor;

“**Charterparty**” means, in relation to a Ship, any charterparty in respect of that Ship of a duration exceeding or capable of exceeding 12 months, made on terms and with a charterer acceptable in all respects to the Lenders;

“**Charterparty Assignment**” means, in relation to a Ship, the deed of assignment of any Charterparty in favour of the Security Trustee, in such form as the Lenders may approve or require;

“**Code**” means the United States 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);

“**Common Units**” has the meaning given to such term in the Third Amended and Restated Agreement of Limited Partnership of the Corporate Guarantor;

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in a recommended form of the Loan Market Association (LMA) or in any other form agreed between the Borrowers and the Agent;

“**Confidential Information**” means all information relating to the Borrowers, any Security Party, the Group, the Finance Documents or the Loan of which a Creditor Party becomes aware in its capacity as, or for the purpose of becoming, a Creditor Party or which is received by a Creditor Party in relation to, or for the purpose of becoming a Creditor Party under, the Finance Documents or the Loan from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Creditor Party, if the information was obtained by that Creditor Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by that Creditor Party of Clause 30; or
 - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
 - (C) is known by that Creditor Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Creditor Party after that date, from a source which is, as far as that Creditor Party is aware, unconnected with the Group and which, in either case, as far as that Creditor Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (ii) any Funding Rate or any quotation supplied to the Agent by a Reference Bank;

“**Confidential Rate**” means any quotation supplied to the Agent by a Reference Bank or any Funding Rate;

“**Contractual Currency**” has the meaning given in Clause 21.5;

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

“**Corporate Guarantee**” means the guarantee to be given by the Corporate Guarantor in favour of the Security Trustee, guaranteeing the obligations of the Borrowers under this Agreement and the other Finance Documents, in such form as the Lenders may approve or require;

“**Corporate Guarantor**” means Navios Maritime Partners L.P. a limited partnership formed and existing under the laws of the Marshall Islands whose registered address at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands, MH96960 and listed on the New York Stock Exchange;

“**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;

“**Designated Unitholders**” means 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, either individually or together, the ultimate beneficial owner(s) of, or having ultimate control of the voting rights attaching to, at least 15 per cent. of all the Common Units in the Corporate Guarantor and in the plural means all of them;

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

“**Drawdown Date**” means, in relation to an Advance, the date requested by the Borrowers for the Advance to be made, or (as the context requires) the date on which the Advance is actually made;

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

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

- (a) all freight, hire and passage moneys, compensation payable to that Borrower or the Security Trustee in the event of requisition of the Ship owned by it for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of that Ship;
- (b) all moneys which are at any time payable under Insurances in respect of loss of earnings; and

- (c) if and whenever that Ship is employed on terms whereby any moneys falling within paragraphs (a) or (b) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to that Ship;

“**Earnings Account**” means, in relation to a Ship, an account in the name of the Borrower owning that Ship with the Account Bank which is approved by the Lenders in writing as the Earnings Account in respect of that Ship for the purposes of this Agreement, and, in the plural, means all of them;

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway;

“**Environmental Approval**” means any present or future permit, ruling, variance or other consent required under Environmental Laws;

“**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 in relation to a Ship:

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

“**Environmental Law**” means any law 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;

“Existing Indebtedness” means:

- (a) in relation to Borrower A, the relevant part of the Term B Loan relating to Ship A;
- (b) in relation to Borrower B, the relevant part of the Term B Loan relating to Ship B; and
- (c) in relation to Borrower C, the relevant part of the Term B Loan relating to Ship C;

“EU Bail-In Legislation Schedule” means the document described as such and published by the Loan Market Association (or any successor person) from time to time;

“Event of Default” means any 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 any Finance Document required by or under FATCA;

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

“FATCA FFI” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if any Creditor Party is not a FATCA Exempt Party, could be required to make a FATCA Deduction;

“Fee Letter” means any letter or letters dated on or about the date of this Agreement made between any Creditor Party and any of the Borrowers and the other Security Parties setting out any of the fees referred to in Clause 20;

“Finance Documents” means:

- (a) this Agreement;
- (b) the Agency and Trust Deed;
- (c) the Corporate Guarantee;
- (d) the General Assignments;

- (e) the Mortgages;
- (f) the Account Pledges;
- (g) the Charterparty Assignments;
- (h) the Approved Manager's Undertakings;
- (i) the Shares Pledges; and
- (j) any other document (whether creating a Security Interest or not) which is executed at any time by a Borrower, the Corporate Guarantor, the Approved Manager, the Shareholder 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;

"Financial Indebtedness" means, in relation to a person (the "**debtor**"), a liability of the debtor:

- (a) for principal, interest or any other sum payable in respect of any moneys borrowed or raised by the debtor;
- (b) under any loan stock, bond, note or other security issued by the debtor;
- (c) under any acceptance credit, guarantee or letter of credit facility or dematerialised equivalent made available to the debtor;
- (d) under a financial lease, a deferred purchase consideration arrangement or any other agreement having the commercial effect of a borrowing or raising of money by the debtor;
- (e) under any foreign exchange transaction, any interest or currency swap or any other kind of derivative transaction entered into by the debtor or, if the agreement under which any such transaction is entered into requires netting of mutual liabilities, the liability of the debtor for the net amount; or
- (f) under a guarantee, indemnity or similar obligation entered into by the debtor in respect of a liability of another person which would fall within (a) to (e) if the references to the debtor referred to the other person;

"Funding Rate" means any rate notified to the Agent by a Lender pursuant to Clause 5.9;

"General Assignment" means, in relation to a Ship, a general assignment of the Earnings, the Insurances and any Requisition Compensation, in such form as the Lenders may approve or require and in the plural means all of them;

"Group" means together, the Borrowers, the Corporate Guarantor and their wholly- owned subsidiaries (direct or indirect) from time to time during the Security Period and "**member of the Group**" shall be construed accordingly;

"IACS" means the International Association of Classification Societies;

“**IFRS 9**” means the International Financial Reporting Standard (IFRS) by the International Accounting Standards Board (IASB) designated as “IFRS 9” and replacing IAS 39;

“**Insurances**” means in relation to a Ship:

- (a) all policies and contracts of insurance, including entries of that Ship in any protection and indemnity or war risks association, which are effected in respect of that Ship, the Earnings or otherwise in relation to it whether before, on or after the date of this Agreement; and
- (b) all rights 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 LIBOR for an Interest Period, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than 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 11.00 a.m. (London time) on the Quotation Date for the currency of the Loan;

each at or about 11 a.m. (London time) on the relevant Quotation Date;

“**ISM Code**” means, in relation to its application to the Borrowers, the Ships and their operation:

- (a) ‘The International Management Code for the Safe Operation of Ships and for Pollution Prevention’, currently known or referred to as the ‘ISM Code’, adopted by the Assembly of the International Maritime Organisation by Resolution A.741(18) on 4 November 1993 and incorporated on 19 May 1994 into chapter IX of the International Convention for the Safety of Life at Sea 1974 (SOLAS 1974); and
- (b) all further resolutions, circulars, codes, guidelines, regulations and recommendations which are now or in the future issued by or on behalf of the International Maritime Organisation or any other entity with responsibility for implementing the ISM Code, including without limitation, the ‘Guidelines on implementation or administering of the International Safety Management (ISM) Code by Administrations’ produced by the International Maritime Organisations pursuant to Resolution A.788(19) adopted on 25 November 1995,

as the same may be amended, supplemented or replaced from time to time;

“ISM Code Documentation” includes, in relation to a Ship:

- (a) the document of compliance (DOC) and safety management certificate (SMC) issued pursuant to the ISM Code within the periods specified by the ISM Code; and
- (b) all other documents and data which are relevant to the ISM SMS and its implementation and verification which the Agent may require; and
- (c) any other documents which are prepared or which are otherwise relevant to establish and maintain that Ship’s or that Borrower’s compliance with the ISM Code which the Agent may require;

“ISM SMS” means the safety management system which is required to be developed, implemented and maintained under the ISM Code;

“ISPS Code” means the International Ship and Port Facility Security Code constituted pursuant to resolution A.924 (22) of the International Maritime Organisation (**“IMO”**) adopted by a Diplomatic conference of the IMO on Maritime Security on 13 December 2002 and now set out in Chapter XI-2 of the Safety of Life at Sea Convention (SOLAS) 1974 (as amended) to take effect on 1 July 2004;

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

“Kleimar” means Kleimar N.V., a company incorporated in Belgium and having its registered office at 5 Suikerrui, 2000 Antwerp, Belgium and is a wholly owned indirect subsidiary of Navios Maritime Holdings Inc.;

“Lender” means:

- (a) a bank or financial institution listed in Schedule 1 and acting through its branch or office indicated in Schedule 1 (or through another branch notified to the Borrowers under Clause 26.13) unless it has delivered a Transfer Certificate or Certificates covering the entire amounts of its Commitment and its Contribution; and
- (b) the holder for the time being of a Transfer Certificate;

“LIBOR” means, for an Interest Period:

- (a) the applicable Screen Rate;
- (b) (if no Screen Rate is available for that Interest Period) the Interpolated Screen Rate; or
- (c) if:
 - (i) no Screen Rate is available for the currency of the Loan; or
 - (ii) no Screen Rate is available for that Interest Period and it is not possible to calculate an Interpolated Screen Rate, the Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11.00 a.m. (London time) on the Quotation Date for the currency of the Loan and for a period equal in length to that Interest Period and, if any such rate is below zero, LIBOR will be deemed to be zero;

“**Liquidity Account**” means an interest bearing account in the name of the Borrowers with the Account Bank and is designated by the Agent as the Liquidity Account for the purposes of this Agreement;

“**Loan**” means the principal amount for the time being outstanding under this Agreement;

“**Major Casualty**” means, in relation to a Ship, any casualty to that 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 an Advance has been made, Lenders whose Commitments total 66.66 per cent. of the Total Commitments; and
- (b) after an Advance has been made, Lenders whose Contributions total 66.66 per cent. of the Loan;

“**Mandated Lead Arranger**” means NIBC Bank N.V. acting through its office at Carnegieplein 4, 2517 KJ, The Hague, Netherlands;

“**Margin**” means 2.75 per cent. per annum;

“**Market Value**” means the market value of the Ship determined from time to time in accordance with Clause 15.4;

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

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Group taken as a whole;
- (b) the ability of any borrower or the Corporate Guarantor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Creditor Party under any of the Finance Documents;

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

“**Maturity Date**” means, in respect of each Advance, the earlier of:

- (a) the date falling on the fifth anniversary of the relevant Drawdown Date; and
- (b) 15 December 2023;

“**Minimum Liquidity**” has the meaning given in Clause 11.24;

“**Mortgage**” means, in relation to a Ship, the first preferred or, as the case may be, priority ship mortgage and, if applicable, deed of covenant collateral thereto on that Ship, executed by the Borrower which is the owner thereof in favour of the Security Trustee or (as the case may be) the Lenders, in such form as the Lenders may approve or require and in the plural means all of them;

“**Negotiation Period**” has the meaning given in Clause 5.9;

“**Notifying Lender**” has the meaning given in Clause 23.1 or Clause 24.2 as the context requires;

“**Financial Statements**” means the annual unaudited consolidated financial statements of the Group for the quarter ended 30 September 2018 as publicly available on SEC (<https://www.sec.gov>);

“**Payment Currency**” has the meaning given in Clause 21.5;

“**Permitted Financial Indebtedness**” means:

- (a) any Financial Indebtedness incurred under the Finance Documents; and
- (b) in relation to each Borrower, until the Drawdown Date of the relevant Advance, the Existing Indebtedness;

“**Permitted Security Interests**” means:

- (a) Security Interests created by the Finance Documents and, until the Drawdown Date of the relevant Advance, the Term B Loan in relation to the Ship relating to such Advance;
- (b) liens for unpaid crew’s wages in accordance with usual maritime practice;
- (c) liens for salvage;
- (d) liens arising by operation of law for not more than 2 months’ prepaid hire under any charter in relation to a 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 a Ship, provided such liens do not secure amounts more than 45 days overdue (unless the overdue amount is being contested by the relevant Borrower in good faith by appropriate steps) and subject, in the case of liens for repair or maintenance, to Clause 14.13(f);
- (f) any Security Interest created in favour of a plaintiff or defendant in any action of the court or tribunal before whom such action is brought as security for costs and expenses where the relevant Borrower is prosecuting or defending such action in good faith by appropriate steps; and
- (g) Security Interests arising by operation of law in respect of taxes which are not overdue for payment other than taxes being contested in good faith by appropriate steps and in respect of which appropriate reserves have been made;

“**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’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 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 or which would have such jurisdiction if their assistance were requested by the courts of a country referred to in paragraphs (b) or (c) above;

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

“**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 London 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 Bank**” means, in relation to the determination of LIBOR and any mandatory costs, ABN AMRO Bank N.V., ING Bank N.V., Coöperatieve Rabobank U.A. or such other bank as may be appointed by the Agent after consultation with the Borrowers;

“**Reference Bank Rate**” means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks, as the rate at which each Reference Bank could borrow funds in the London interbank market, in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period;

“**Related Fund**” means in relation to a fund (the “**first fund**”), a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an affiliate of the investment manager or investment adviser of the first fund;

“**Relevant 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;

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

“Repayment Instalment” has the meaning given to it in Clause 8.1;

“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 Borrowers, 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 Borrowers, an appropriate successor to a Screen Rate.;

“Representative” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

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

“Resolution Authority” means any body which has authority to exercise any Write-down and Conversion Powers;

“Restricted Party” means a person:

- (a) that is listed on any Sanctions List (whether designated by name or by reason of being included in a class of person);
- (b) that is domiciled, registered as located or having its main place of business in, or is incorporated under the laws of, a country which is subject to Sanctions Laws; or
- (c) that is directly or indirectly owned or controlled by a person referred to in (a) and/or (b) above; or
- (d) with which any Lender is prohibited from dealing or otherwise engaging in a transaction with by any Sanctions Laws;

“Retention Account” means, in relation to a Ship, an account in the name of the Borrowers with the Account Bank which is approved by the Lenders in writing as the Retention Account for the purposes of this Agreement;

“Sanctions Authority” means The Netherlands, the United Nations, the European Union, the United Kingdom, the United States of America, the Monetary Authority of Singapore and the Hong Kong Monetary Authority and any authority acting on behalf of any of them in connection with Sanctions Laws;

“Sanctions Laws” means the economic or financial sanctions laws and/or regulations, trade embargoes, prohibitions, restrictive measures, decisions, Executive Orders or notices from regulators implemented, adapted, imposed, administered, enacted and/or enforced by any Sanctions Authority;

“Sanctions List” means any list of persons or entities published in connection with Sanctions Laws by or on behalf of any Sanctions Authority;

“Screen Rate” means the London interbank offered rate administrated by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on the relevant pages 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 Borrowers;

“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 Borrowers 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
- (c) in the opinion of the Majority Lenders and the Borrowers, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement;

“Security Cover Ratio” means, at any relevant time on or after the first Drawdown Date, the aggregate of (i) the aggregate of the Market Value of the Mortgaged Ships and (ii) the net realisable value of any additional security provided at that time under Clause 15, at that time expressed as a percentage of the Loan;

“Secured Liabilities” means all liabilities which the Borrowers, the Security Parties or any of them have, at the date of this Agreement or at any later time or times, under or by virtue of the Finance Documents or any judgment relating to the Finance Documents; 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 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 the plaintiff under an action *in rem* in which the vessel concerned has been arrested or a writ has been issued or similar step taken;

“Security Party” means the Corporate Guarantor, the Approved Manager, the Shareholder and any other person (except a Creditor Party, the Approved Manager unless it is a wholly owned subsidiary of Navios Maritime Partners L.P. or any charterer) 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 Borrowers, the Security Parties and the other Creditor Parties that:

- (a) all amounts which have become due for payment by a Borrower or any Security Party under the Finance Documents have been paid in full;
- (b) no amount is owing or has accrued (without yet having become due for payment) under any Finance Document;
- (c) no Borrower nor any Security Party has any future or contingent liability under Clause 20, 21 or 22 below or any other provision of this Agreement or another Finance Document; and

- (d) the Agent, the Security Trustee, the Mandated Lead Arranger and the 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 a Borrower 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 NIBC BANK N.V., acting through its office at Carnegieplein 4, 2517 KJ, The Hague, Netherlands or any successor of it appointed under clause 5 of the Agency and Trust Deed;

“**Shares Pledge**” means, in respect of all the issued shares in any Borrower, a pledge of such shares executed or to be executed by the Shareholder in favour of the Security Trustee, in such form as the Lenders may approve or require and in the plural means all of them;

“**Shareholder**” means Navios Maritime Operating L.L.C., a limited liability company formed and existing under the laws of the Republic of the Marshall Islands whose registered office is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH96960;

“**Ship**” means each of Ship A, Ship B and Ship C, and, in the plural, means all of them;

“**Ship A**” has the meaning given to that term in Schedule 5;

“**Ship B**” has the meaning given to that term in Schedule 5;

“**Ship C**” has the meaning given to that term in Schedule 5;

“**Term B Loan**” means the credit agreement dated as of 14 March 2017 (as amended, restated, supplemented or otherwise modified from time to time), by and among the Corporate Guarantor and Navios Partners Finance (US) Inc., a Delaware corporation, as borrowers, the lenders from time to time party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent for the lenders;

“**Total Loss**” means in relation to a Ship:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Ship;
- (b) any expropriation, confiscation, requisition or acquisition of that Ship whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, excluding a requisition for hire for a fixed period not exceeding one year without any right to an extension unless that Ship is within 30 days redelivered to the full control of the Borrower owning that Ship;
- (c) any condemnation of that 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 that Ship (including any hijacking or theft) unless it is within the Relevant Period redelivered to the full control of the Borrower owning that Ship;

- (e) “Relevant Period” means:
- (i) in the case of any arrest of a Ship, 1 month; and
 - (ii) in the case of piracy or capture, seizure, confiscation or detention of a Ship (including any hijacking or theft), 90 days **Provided that** 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 relevant Ship is subject to an approved piracy insurance cover, the earlier of 270 days after the date on which that Ship is captured by pirates and the date on which the piracy insurance cover expires;

“**Total Loss Date**” means in relation to a Ship:

- (a) in the case of an actual loss, the date on which it occurred or, if that is unknown, the date when that Ship was last heard of;
- (b) in the case of a constructive, compromised, agreed or arranged total loss of that Ship, the earlier of:
 - (i) the date on which a notice of abandonment is given to the insurers; and
 - (ii) the date of any compromise, arrangement or agreement made by or on behalf of the Borrower owning that Ship, with that Ship’s insurers in which the insurers agree to treat that Ship as a total loss; and
- (c) in the case of any other type of total loss, on the earlier of:
 - (i) the date at which a total loss is subsequently admitted by such insurers;
 - (ii) the date at which a total loss is subsequently adjudged by a competent court of law or arbitration tribunal to have occurred, if such insurers do not immediately admit such claim; or
 - (iii) 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 Deed;

“**Unpaid Sum**” means any sum due and payable but unpaid by a Borrower or any Security Party under the Finance Documents;

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

“**US GAAP**” means generally accepted international accounting principles as from time to time in effect in the United States of America;

“**US Tax Obligor**” means:

- (a) a person which is resident for tax purposes in the United States of America; or
- (b) a person some or all of whose payments under the Finance Documents are from sources within the United States for US federal income tax purposes;

“**Write-down and Conversion Powers**” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
 - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that Bail-In Legislation.

1.2 Construction of certain terms

In this Agreement:

“**approved**” means, for the purposes of the definition of “Total Loss” in Clause 1.1 and in Clause 13, approved in writing by the Agent;

“**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, in relation to a Ship, 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;

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

“**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, in relation to a Ship, all insurances effected, or which the Borrower owning that Ship, is obliged to effect, 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 entity, 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, freight demurrage and defence 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 therein of clause 1 of the Institute Time Clauses (Hulls)(1/10/83) 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 (either having the force of law or compliance with which is reasonable in the ordinary course of business of the party concerned) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

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

“**successor**” includes any person who is entitled (by assignment, novation, merger or otherwise) to any other 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;

“**war risks**” means the risks according to Institute War and Strike Clauses (Hull Time) (1/10/83) or (1/11/95), or equivalent conditions, including, but not limited to risk of mines, blocking and trapping, missing vessel, confiscation, piracy and all risks excluded from the standard form of English or other marine policy; and

“**which is continuing**” or “**is continuing**”, a Potential Event of Default is continuing if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived.

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) a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; or
 - (b) P has direct or indirect control over a majority of the voting rights attached to the issued shares of S;
- and any company of which S is a subsidiary is a parent company of S **Provided** that there shall be excluded from this definition any subsidiaries which are listed on a public stock exchange.

1.5 General Interpretation

- (a) In this Agreement:
 - (i) 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;
 - (ii) 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; and
 - (iii) words denoting the singular number shall include the plural and vice versa.

- (b) Clauses 1.1 to 1.4 and paragraph (a) of this Clause 1.5 apply unless the contrary intention appears.
- (c) References in Clause 1.1 to a document being in the form of a particular Appendix include references to that form with any modifications to that form which the Agent (with the authorisation of the Lenders in the case of substantial modifications) approves or requires.
- (d) The clause headings shall not affect the interpretation of this Agreement.

2 LOAN FACILITY

2.1 Amount of loan facility

Subject to the other provisions of this Agreement, the Lenders shall make available to the Borrowers a senior secured term loan facility in 3 Advances as follows:

- (a) Advance A shall be in an amount equal to the lesser of (a) \$12,000,000 and (b) 55 per cent. of the Market Value of Ship A; and
- (b) Advance B shall be in an amount equal to the lesser of (a) \$8,250,000 and (b) 55 per cent. of the Market Value of Ship B .
- (c) Advance C shall be in an amount equal to the lesser of (a) \$8,250,000 and (b) 55 per cent. of the Market Value of Ship C .

2.2 Lenders' participations in Advances

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

2.3 Purpose of Advances

The Borrowers undertake with each Creditor Party to use each Advance to refinance the Existing Indebtedness relating to the Ship to which that Advance.

3 POSITION OF THE LENDERS

3.1 Interests of Lenders several

The rights of the Creditor Parties under this Agreement are several; accordingly each Lender shall be entitled to sue for any amount which has become due and payable by the Borrowers to it under this Agreement without joining the Security Trustee or any other Creditor Party as additional parties in the proceedings, save that the Security Interests created by any of the Finance Documents may only be enforced in accordance with Clause 19.2.

3.2 Proceedings by individual Creditor Party

However, without the prior consent of the Lenders, no Creditor Party may bring proceedings in respect of:

- (a) any other liability or obligation of any Borrower or a Security Party under or connected with a Finance Document; or
- (b) any misrepresentation or breach of warranty by any Borrower or a Security Party in or connected with a Finance Document.

3.3 Obligations of Creditor Parties 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) a Borrower, any Security Party or any other Lender being discharged (in whole or in part) from its obligations under any Finance Documents, and in no circumstances shall a Lender have any responsibility for a failure of another Lender to perform its obligations under this Agreement.

3.4 Parties bound by certain actions of Lenders

Every Lender, any Borrower and each Security Party shall be bound by:

- (a) any determination made, or action taken, by the Lenders under any provision of a Finance Document;
- (b) any instruction or authorisation given by the Lenders to the Agent or the Security Trustee under or in connection with any Finance Document; and
- (c) any action taken (or in good faith purportedly taken) by the Agent or the Security Trustee in accordance with such an instruction or authorisation.

3.5 Reliance on action of Agent

However, any Borrower and each Security Party:

- (a) shall be entitled to assume that the Lenders have duly given any instruction or authorisation which, under any provision of a Finance Document, is required in relation to any action which the Agent has taken or is about to take; and
- (b) shall not be entitled to require any evidence that such an instruction or authorisation has been given.

3.6 Construction

In Clauses 3.4 and 3.5 references to action taken include (without limitation) the granting of any waiver or consent, an approval of any document and an agreement to any matter.

4 DRAWDOWN

4.1 Request for Advance

Subject to the following conditions, the Borrowers may request an Advance to be advanced by ensuring that the Agent receives a completed Drawdown Notice not later than 11.00 a.m. (The Hague time) 3 Business Days prior to the intended Drawdown Date (or such other shorter period as the Lenders may agree).

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 amount of each Advance shall not exceed an amount equal to the lesser of:
 - (i) in respect of each Advance B and Advance C:
 - (A) 55 per cent. of the Market Value of the Ship relevant to such Advance; and
 - (B) \$8,250,000; and
 - (ii) in respect of Advance A:
 - (A) 55 per cent. of the Market Value of Ship A relevant to such Advance;
 - (B) \$12,000,000; and
- (c) the aggregate amount of the Advances shall not exceed the Total Commitments.

4.3 Notification to Lenders of receipt of a Drawdown Notice

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

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

4.4 Drawdown Notice irrevocable

A Drawdown Notice must be signed by an officer or other authorised person of each Borrower; and once served a Drawdown Notice cannot be revoked without the prior consent of the Agent, acting on the authority of the Majority 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 Borrowers the amount due from that Lender under Clause 2.2.

4.6 Disbursement of Advance

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

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

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 Borrowers 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 each Advance in respect of an Interest Period shall be the aggregate of (i) the Margin and (ii) LIBOR for that Interest Period subject to Clause 5.6 and 5.7.

5.3 Payment of accrued interest

In the case of an Interest Period longer than 3 months, accrued interest shall be paid every 3 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 Borrowers 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 Bank to quote

Each of the Reference Banks 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 26.2.

5.6 Absence of quotations by Reference Bank

If any Reference Bank fails to supply 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) LIBOR is to be determined by reference to the Reference Banks and no Reference Bank does, before 1.00 p.m. (London time) on the Quotation Date for an Interest Period, provide quotations to the Agent in order to fix LIBOR; or
- (b) at least 1 Business Day before the start of an Interest Period, a Lender or Lenders (whose participation in an Advance or the relevant part of such Advance exceeds 35 per cent of that Advance or the relevant part of such Advance) may notify the Agent that LIBOR fixed by the Agent would not accurately reflect the cost to that Lender or, as the case may be, those Lenders of funding its or their respective Contribution(s) (or any part of it) during the Interest Period in the London Interbank Market at or about 11.00 a.m. (London time) on the Quotation Date for the Interest Period.

5.8 Notification of market disruption

The Agent shall promptly notify the Borrowers and each of the Lenders stating the circumstances falling within Clause 5.7 which have caused its notice to be given in which case Clause 5.9 shall apply.

5.9 Cost of funds

- (a) If this Clause 5.9 applies, the rate of interest on the relevant Advance or the relevant part of that Advance for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
- (i) the Margin; and
 - (ii) the weighted average of the rates notified to the Agent by each Lender as soon as practicable and in any event within 5 Business Days of the first day of that Interest Period (or, if earlier, on the date falling 3 Business Days before the date on which interest is due to be paid in respect of that Interest Period) to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Advance or that part of that Advance from whatever source it may reasonably select.
- (b) If this Clause 5.9 applies and the Agent or the Borrowers so require, the Agent, the Lenders and the Borrowers shall enter into negotiations (for a period of not more than 30 days after the date on which the Agent serves its notice under Clause 5.8 (the “**Negotiation Period**”)) with a view to agreeing an alternative interest rate or (as the case may be) an alternative basis for the Lenders to fund or continue to fund their or its Contribution during the Interest Period concerned.
- (c) Any substitute or alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of the Lenders and the Borrowers, be binding on all parties.

5.10 Application of agreed alternative rate of interest

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

5.11 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, the Agent shall set an interest period, with the agreement of each Lender, and interest rate (which shall be determined in accordance with Clause 5.9(a)); and the procedure provided for by this Clause 5.11 shall be repeated if the relevant circumstances are continuing at the end of the interest period so set by the Agent.

5.12 Notice of prepayment

If the Borrowers do not agree with an interest rate set by the Agent under Clause 5.11, the Borrowers may give the Agent not less than 10 Business Days’ notice of their intention to prepay at the end of the interest period set by the Agent.

5.13 Prepayment; termination of Commitments

A notice under Clause 5.12 shall be irrevocable; the Agent shall promptly notify the Lenders of the Borrowers' notice of intended prepayment; and on the last Business Day of the interest period set by the Agent, the Borrowers shall prepay (without premium or penalty) the relevant Advance or, as the case may be, part of such Advance, together with accrued interest thereon at the applicable rate plus the Margin.

5.14 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 applicable to an Advance shall commence on the Drawdown Date applicable to that Advance 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 months; or
- (b) such other period as the Agent, with the authorisation of all Lenders, may agree with the Borrowers.

6.3 Duration of Interest Periods for Repayment Instalments

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

6.4 Non-availability of matching deposits for Interest Period selected

If, after the Borrowers have selected an Interest Period longer than 3 months, any Lender notifies the Agent by 11.00 a.m. (London 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 London Interbank Market when the Interest Period commences, the Interest Period shall be 3 months.

7 DEFAULT INTEREST

7.1 Payment of default interest on overdue amounts

The Borrowers shall pay interest in accordance with the following provisions of this Clause 7 on any amount payable by any 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

- (a) If a Borrower fails to pay any amount payable by it under a Finance Document on its due date or if there is an Event of Default related to a breach under Clause 15.1, interest shall accrue on the Unpaid Sum from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2 per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the relevant Advance in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Agent (acting on the instructions of the Lenders). Any interest accruing under this Clause 7.2 shall be immediately payable by the Borrowers on demand by the Agent.
- (b) If an Unpaid Sum consists of all or part of that Advance which became due on a day which was not the last day of an Interest Period relating to that Advance or that part of that Advance:
 - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to the relevant Advance or that part of that Advance; and
 - (ii) the rate of interest applying to that Unpaid Sum during that first Interest Period shall be 2 per cent. per annum higher than the rate which would have applied if that Unpaid Sum had not become due.

7.3 Notification of interest periods and default rates

- (a) The Agent shall promptly notify the Lenders and the Borrowers of the determination of a rate of interest under Clause 7.
- (b) The Agent shall promptly notify the Borrower of each Funding Rate relating to the relevant Advance, any part of that Advance or any Unpaid Sum.

7.4 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.

7.5 Compounding of default interest

- (a) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

8 REPAYMENT AND PREPAYMENT

8.1 Amount of repayment instalments

The Borrowers shall repay each Advance by:

- (a) in respect of Advance B and Advance C, 20 equal consecutive quarterly instalments, each in the amount of \$305,000 and in respect of Advance A, 20 equal consecutive quarterly instalments, each in the amount of \$255,000 (each a “**Repayment Instalment**” and, together, the “**Repayment Instalments**”); and
- (b) in respect of Advance B and Advance C, a balloon instalment in the amount of \$2,150,000 and in respect of Advance A, a balloon instalment in the amount of \$6,900,000 (each, a “**Balloon Instalment**”),

Provided that if:

- (a) the amount made available in respect of each of Advance B and Advance C is less than \$8,250,000, and in respect of Advance C, \$12,000,000, the aggregate amount of the Repayment Instalments and the Balloon Instalment in respect of the relevant Advance shall be reduced by an amount equal to the undrawn amount on a *pro rata* basis; and
- (b) the Drawdown Date in respect of any Advance falls [on or] after 15 March 2019, the Repayment Instalments in respect of that Advance referred to in paragraph (a) above shall be reduced to 19 and the Balloon Instalment in respect of that Advance shall be increased by an amount equal to one Repayment Instalment in respect of that Advance.

8.2 Repayment Dates

The first Repayment Instalment in respect of each Advance shall be repaid on the date falling 3 months after the Drawdown Date relating to that Advance with the remaining Repayment Instalments (other than the last Repayment Instalment in respect of each Advance) to be repaid at 3-monthly intervals thereafter or such dates as the Agent may specify in order to align the repayment schedule of all the Advances and the last Repayment Instalment together with the Balloon Instalment shall be paid on the relevant Maturity Date.

8.3 Final Repayment Date

On the final Repayment Date, the Borrowers 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 Borrowers may prepay the whole or any part of the Loan on the last day of an Interest Period in respect thereof.

8.5 Conditions for voluntary prepayment

The conditions referred to in Clause 8.4 are that:

- (a) a partial prepayment shall be in a minimum amount of \$500,000 or in integral multiple of \$100,000 or such lesser amount as is acceptable to the Agent (acting on the instructions of the Majority Lenders);
- (b) the Agent has received from the Borrowers at least 5 Business Days' prior written notice specifying the amount to be prepaid and the date on which the prepayment is to be made (such date shall be the last day of an Interest Period);
- (c) the prepayment shall be applied proportionately between each Advance and thereafter pro rata against the Instalments in respect of each Advance which are at the time being outstanding and each Balloon Instalment; and
- (d) the Borrowers have provided evidence satisfactory to the Agent that any consent required by the Borrowers or any Security Party in connection with the prepayment has been obtained and remains in force, and that any requirement relevant to this Agreement which affects the Borrowers or any Security Party has been complied with and shall include a representation to that effect in the notice referred to in (b) above.

8.6 Voluntary cancellation

The Borrowers may, if they give the Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part of an Advance. Any cancellation under this Clause 8.6 shall reduce the Commitments of the Lenders proportionally under that Advance.

8.7 Effect of notice of prepayment

A prepayment notice may not be withdrawn or amended without the consent of the Agent, given with the authority of the Majority Lenders, and the amount specified in the prepayment notice shall become due and payable by the Borrowers on the date for prepayment specified in the prepayment notice.

8.8 Notification of notice of prepayment

The Agent shall notify the Lenders promptly upon receiving a prepayment notice, and shall provide any Lender which so requests with a copy of any document delivered by the Borrowers under Clause 8.5(b).

8.9 Mandatory prepayment

The Borrowers shall be obliged to prepay the Relevant Amount:

- (a) if a Ship is sold, on or before the date on which the sale is completed by delivery of that Ship to the buyer; or
- (b) if a Ship 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.

In this Clause 8.9 "**Relevant Amount**" means an amount equal to the higher of:

- (A) the Advance to which the ship being sold or which has become a Total Loss relates; and

- (B) an amount, which after giving credit to the prepayment required to be made pursuant to this Clause 8.9, results in the Security Cover Ratio to be maintained pursuant to Clause 15.1 being no less than the greater of (1) 120 per cent and (2) the Security Cover Ratio which applied immediately prior to the applicable event described in paragraphs (a) or (b) of this Clause 8.9.

8.10 Amounts payable on prepayment

A prepayment shall be made together with accrued interest (and any other amount payable under Clause 21 below 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 21.1(b) but (subject to Clause 20.4) without premium or penalty.

8.11 Application of partial prepayment

Any prepayment shall be applied:

- (a) if made pursuant to Clause 8.4, pro rata against the Repayment Instalments and of the Balloon Instalment of the Advance being prepaid or in such other manner as the Agent (acting on the instructions of the Lenders) may agree with the Borrowers;
- (b) if made pursuant to Clause 8.9:
- (i) **FIRSTLY:** against the Advance which has been used in part financing the relevant Ship and thereafter any balance shall be applied proportionally against the other Advances and in relation to each Advance, pro rata against the then outstanding Repayment Instalments and the Balloon Instalment of such other Advances; and
 - (ii) **SECONDLY:** pro rata towards repayment of any overdue interest, any Break Costs, any accrued interest relating to the Loan, any other costs, fees, expenses, commissions due under this Agreement; and
 - (iii) **THIRDLY:** any surplus shall be released to the Borrowers **Provided that** no Event of Default or Potential Event of Default has occurred or is continuing.
- (c) If made pursuant to Clause 15.2, pro rata against the Advances and in relation to each Advance, pro rata against the Balloon Instalment and the Repayment Instalments of the Advance being prepaid or in such other manner as the Agent (acting on the instructions of the Lenders) may agree with the Borrowers.

8.12 No reborrowing

No amount repaid, cancelled or prepaid may be reborrowed.

9 CONDITIONS PRECEDENT

9.1 Documents, fees and no default

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

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

- (b) that the Agent has received the commitment fee and arrangement fee on behalf of the Lenders referred to in Clauses 20.1 and 20.2 respectively and the first annual agency fee pursuant to Clause 20.3;
- (c) that, on or before the service of each Drawdown Notice, the Agent receives the documents described in Part B of Schedule 3 in form and substance satisfactory to the Agent and its lawyers;
- (d) that at the date of each Drawdown Notice and at each Drawdown Date:
 - (i) no Event of Default or Potential Event of Default has occurred or is continuing or would result from the borrowing of the relevant Advance; and
 - (ii) the representations and warranties in Clause 10 and those of the Borrowers 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 in the business, management, condition (financial or otherwise), results of operations, state of affairs, operation, performance, prospects or properties of the Borrowers or any of them and/or the Corporate Guarantor and its affiliates since the Financial Statements;
- (e) that, if the ratio set out in Clause 15.1 were applied immediately following the making of an Advance, the Borrower would not be obliged to provide additional security or prepay part of the Loan under that Clause; and
- (f) 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 Borrowers prior to the Drawdown Date.

9.2 Waiver of conditions precedent

If the Majority Lenders, at their discretion, permit an Advance to be borrowed before certain of the conditions referred to in Clause 9.1 are satisfied, the Borrowers 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 authority of the Majority Lenders, specify).

10 REPRESENTATIONS AND WARRANTIES

10.1 General

Each Borrower represents and warrants (which representations and warranties (other than the ones in Clauses 10.11 and 10.12) shall survive the execution of this Agreement and shall be deemed to be repeated throughout the Security Period on the first day of each Interest Period with respect to the facts and circumstances then existing) to each Creditor Party as follows.

10.2 Status

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

10.3 Share capital and ownership

Borrower A is authorised to issue 500 registered shares with a par value of one USD per share, all of which are fully paid and held by the Shareholder free of any Security Interest other than Existing Indebtedness or other claim. Each of Borrower B and Borrower C is authorised to issue 500 registered and/or bearer shares, without par value all of which have been issued in registered form and are fully paid and held by the Shareholder free of any Security Interest or other claim. The sole member of the Shareholder is the Corporate Guarantor.

10.4 Corporate power

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

- (a) continue to own the Ship owned by it under the relevant Approved Flag;
- (b) execute the Finance Documents to which that Borrower is a party; and
- (c) borrow under this Agreement and to make all the payments contemplated by, and to comply with, those Finance Documents to which that 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 that Borrower is a party, do 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 that Borrower's legal, valid and binding obligations enforceable against that Borrower in accordance with their respective terms; and
- (b) create legal, valid and binding Security Interests 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 a Borrower is a party:

- (a) each 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 a Borrower of each Finance Document to which it is a party, and the borrowing by that Borrower of the Loan, and its compliance with each Finance Document to which it is a party will not involve or lead to a contravention of:

- (a) any law or regulation; or
- (b) the constitutional documents of that Borrower; or
- (c) any contractual or other obligation or restriction which is binding on that Borrower or any of its assets.

10.9 No withholding taxes

All payments which each 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 and is continuing or would result from the entry into, the performance of, or any transaction contemplated by, any Finance Document.

10.11 Information

All information which has been provided in writing by or on behalf of the Borrowers or any member of the Group to any Creditor Party in connection with any Finance Document satisfied the requirements of Clause 11.5; all audited and unaudited accounts which have been so provided satisfied the requirements of Clause 11.7; and there has been no material adverse change in the financial position or state of affairs, operation, performance or prospects of the Borrower or any of them or any Security Party (excluding the Approved Manager) as at 30 September 2018 from that disclosed to the Agent.

10.12 No litigation

No material, legal or administrative action involving any Borrower or any Security Party (excluding the Approved Manager) has been commenced or taken or, to a Borrower's knowledge, is likely to be commenced or taken.

10.13 Compliance with certain undertakings

At the date of this Agreement, each Borrower is in compliance with Clauses 11.2, 11.3, 11.9 and 11.13.

10.14 Taxes paid

Each Borrower has paid all taxes applicable to, or imposed on or in relation to that Borrower, its business or the Ship owned by it.

10.15 No money laundering; anti-bribery

None of the Borrowers, the Security Parties and the Designated Unitholders nor any of their subsidiaries, directors or officers, or, to their best knowledge, any affiliate or employee of them, have engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws, regulations or rules in any applicable jurisdiction and each of the Borrowers, the Security Parties and the Designated Unitholders has instituted and maintains policies and procedures designed to prevent violation of such laws, regulations and rules.

10.16 ISM Code, ISPS Code Compliance and Environmental Laws

All requirements of the ISM Code, ISPS Code and Environmental Laws as they relate to the Borrowers, the Approved Manager and the Ships have been complied with.

10.17 No immunity

No Borrower, nor any of its assets is entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit attachment prior to judgement, execution or other enforcement).

10.18 Sanctions

- (a) Each Borrower, each Security Party and each other member of the Group and to the best of their knowledge (having made due inquiry), their joint ventures, and their respective directors, officers, employees, agents or representatives has been and is in compliance with Sanctions Laws;
- (b) No Borrower, nor any Security Party, nor any other member of the Group, their joint ventures, and their respective directors, officers, employees, agents or representatives:
 - (i) is a Restricted Party, or is involved in any transaction through which it is reasonably likely to become a Restricted Party; or
 - (ii) is subject to or involved in any inquiry, claim, action, suit, proceeding or investigation against it with respect to Sanctions Laws by any Sanctions Authority.

10.19 Insolvency

In relation to each Borrower, no corporate action, legal proceeding or other procedure or step described in Clause 19.1(h) or creditors' process described in that clause has been taken or, to its knowledge, threatened in relation to it, and none of the circumstances described in Clause 19.1(h) applies to it.

11 GENERAL UNDERTAKINGS

11.1 General

Each 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 may, with the authority of the Majority Lenders, otherwise permit in writing.

11.2 Title and negative pledge

Each Borrower will:

- (a) hold the legal title to, and own the entire beneficial interest in the Ship owned by it, the 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;
- (b) not create or permit to arise any Security Interest (except for Permitted Security Interests) over any other asset, present or future; and
- (c) procure that its liabilities under the Finance Documents to which it is party do and will rank at least pari passu with all other present and future unsecured liabilities, except for liabilities which are mandatorily preferred by law.

11.3 No disposal of assets

- (a) No Borrower will transfer, lease or otherwise dispose of:
- (b) all or a substantial part of its assets, whether by one transaction or a number of transactions, whether related or not; or
- (c) 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,
- (d) but paragraph (a) does not apply to any charter of a Ship as to which clause 14.13 applies.

11.4 No other liabilities or obligations to be incurred

No Borrower will incur any liability or obligation except:

- (a) liabilities and obligations under the Finance Documents to which it is a party;
- (b) under the unsecured guarantee issued by that Borrower in respect of obligations of the Corporate Guarantor under the Term B Loan;
- (c) subject to other provisions of this Agreement, liabilities or obligations reasonably incurred in the ordinary course of trading, maintaining, repairing, operating and chartering the Ship owned by it; and
- (d) Save for the Permitted Financial Indebtedness to any other corporation which is a member of the Group or individual who is a shareholder or majority shareholder in a member of the Group **Provided that** such Financial Indebtedness shall be fully subordinated to the Loan and the Borrower shall, promptly following the Agent's demand, execute or procure the execution of any documents which the Agent specifies to create or maintain the subordination of the rights of the relevant member of the Group against the relevant Borrower to those of the Creditor Parties under the Finance Documents.

11.5 Information provided to be accurate

All financial and other information which is provided in writing by or on behalf of a Borrower under or in connection with any Finance Document will be true, correct, accurate and not misleading and will not omit any material fact or consideration.

11.6 Provision of financial statements

Each Borrower will send or procure that they are sent to the Agent:

- (a) as soon as possible, but in no event later than 90 days after the end of each 3-month period ending on 31 March, 30 June and 30 September in each financial year of the Corporate Guarantor (commencing with the 3-month period ending on 31 March 2019), the quarterly unaudited consolidated accounts (including profit and loss statement, balance sheet and cash flow statement) of the Group duly certified as to their correctness by an officer of the Corporate Guarantor; and
- (b) as soon as possible, but in no event later than 180 days after the end of each financial year of the Corporate Guarantor (commencing with the financial year ended on 31 December 2019), the annual audited consolidated financial statements of the Group; and
- (c) promptly after each request by the Agent, such further financial information about that Borrower, the Ship owned by it and the Corporate Guarantor or any other member of the Group (including, but not limited to, information regarding the charter arrangements, Financial Indebtedness and operating expenses) as the Agent may require.

11.7 Form of financial statements

All accounts (audited and unaudited) delivered under Clause 11.6 will:

- (a) be prepared in accordance with all applicable laws and US GAAP or IFRS (as applicable);
- (b) give a true and fair view of the state of affairs of the relevant person at the date of those accounts and of its profit for the period to which those accounts relate; and
- (c) fully disclose or provide for all significant liabilities of the Group.

11.8 Shareholder notices

Each Borrower will send to the Agent following a request by the Agent, and at the same time as they are despatched, copies of all communications which are despatched to that Borrower's shareholders or any class of them.

11.9 Consents

Each Borrower will, and will procure that each Security Party will, maintain in force and promptly obtain or renew, and will promptly send certified copies to the Agent of, all consents required:

- (a) for that Borrower and that Security Party to perform its obligations under any Finance Document or any Charterparty to which it is party;
 - (b) for the validity or enforceability of any Finance Document and any Charterparty to which it is party; and
 - (c) for that Borrower to continue to own and operate the Ship owned by it,
- and that Borrower will, and will procure that each Security Party will, comply with the terms of all such consents.

11.10 Maintenance of Security Interests

Each 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) above, 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

Each Borrower will provide the Agent with details of any legal or administrative action involving that Borrower, any Security Party, the Approved Manager, the Ship owned by it, the Earnings or the Insurances in respect of that Ship as soon as such action is instituted or it becomes apparent to that 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.

11.12 Principal place of business

Each Borrower will maintain its place of business, and keep its corporate documents and records, at the address stated in Clause 28.2(a); and no Borrower will establish, or do anything as a result of which it would be deemed to have, a place of business in the United States or the United Kingdom or in any place other than its current place of business.

11.13 Confirmation of no default

The Borrower will, within 2 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 11.13 from time to time; this Clause 11.13 does not affect the Borrowers' obligations under Clause 11.14.

11.14 Notification of default

Each Borrower will notify the Agent as soon as that Borrower becomes aware of the occurrence of an Event of Default or a Potential Event of Default and will thereafter keep the Agent fully up-to-date with all developments.

11.15 Provision of further information

Each Borrower will, as soon as practicable after receiving the request, provide the Agent with any additional financial or other information relating:

- (a) to that Borrower, the Ship owned by it, the Insurances, the Earnings or the Corporate Guarantor; or
- (b) to any other matter relevant to, or to any provision of, a Finance Document;
- (c) any information requested in respect of that Borrower, the Corporate Guarantor, the Shareholder and the Designated Unitholders in connection with the Creditor Parties' and/or the Account Bank's "Know your customer" regulations, including, but not limited to information required pursuant to all applicable laws and regulations, including, without limitation, the laws of the European Union, The Netherlands, United Kingdom and the United States of America in connection with that Borrower, the Corporate Guarantor and any other Security Party and their respective beneficial owners,

which may be requested by the Agent, the Security Trustee or any Lender at any time.

11.16 Provision of copies and translation of documents

Each Borrower will supply the Agent with a sufficient number of copies of the documents referred to above to provide 1 copy for each Creditor Party; if the Agent so requires in respect of any of those documents, that Borrower will provide a certified English translation prepared by a translator approved by the Agent.

11.17 "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 status of any 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 Borrowers shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or 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.

11.18 Use of proceeds

No proceeds of any Advance of the Loan shall be made available, directly or indirectly, to or for the benefit of a Restricted Person nor shall they otherwise be applied in a manner or for a purpose prohibited by Sanctions Laws.

11.19 Sanctions

Each Borrower shall ensure that none of them, nor any Security Party, any other member of the Group or to the best of their knowledge (having made due inquiry) any of their joint ventures, or their respective directors, officers employees, agents or representatives or any other persons acting on any of their behalf, is or will become a Restricted Party.

11.20 Information: sanctions

The Borrowers shall, and shall procure that the Security Parties shall, supply to the Agent:

- (a) promptly upon becoming aware of them, the details of any inquiry, claim, action, suit, proceeding or investigation pursuant to Sanctions Laws against it, any of its direct or indirect owners, subsidiaries, other members of the Group, any of their joint ventures or any of their respective directors, officers, employees, agents or representatives, as well as information on what steps are being taken with regards to answer or oppose such.
- (b) promptly upon becoming aware that it, any of its direct or indirect owners, subsidiaries, other members of the Group, any of their joint ventures or any of their respective directors, officers, employees, agents or representatives has become or is reasonably likely to become a Restricted Party.

11.21 Hedging of interest rate risks – Right of first refusal

The Borrowers hereby grant to the Lenders a right of first refusal for the purpose of hedging any part of the interest rate risk under this Agreement throughout the Security Period. In the event that the Borrowers decide to hedge their exposure under this Agreement, they shall enter into such documentation as may be required by the relevant Lender (in such capacity the “**Swap Bank**”) and the provisions of this Agreement will be amended to incorporate the amendments required, including, but not limited to, Clause 17 reflecting pari passu sharing in the security and receipts between the Lenders and the Swap Bank.

11.22 Dividends

The Borrowers may make or pay any dividend or other distribution (in cash or in kind) in respect of their share capital **Provided that** (i) all conditions precedent listed in Schedule 3 are satisfied, (ii) no Event of Default has occurred or is continuing or will result from the making or payment of such dividend or distribution and (iii) compliance with Clause 15 as certified in the compliance certificate provided on the quarter immediately preceding to the dividend.

11.23 No change in financial year

No Borrower shall and shall procure that no Security Party will change the end of its financial year.

11.24 Minimum Liquidity

The Borrowers shall maintain in the Liquidity Account credit balances in an aggregate amount of not less than \$250,000 in respect of each Mortgaged Ship (amounting to \$750,000 in aggregate) ("**Minimum Liquidity**"), to be placed in time deposit with the Account Bank, commencing from the Drawdown Date in respect of the Advance which will finance the relevant Ship and at all times thereafter throughout the remainder of the Security Period.

12 CORPORATE UNDERTAKINGS

12.1 General

Each 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 may, with the authorisation of the Majority Lenders, otherwise permit.

12.2 Maintenance of status

Each Borrower will maintain its separate corporate existence as a corporation and remain in good standing under the laws of the Republic of the Marshall Islands.

12.3 Negative undertakings

No Borrower will:

- (a) carry on any business other than the ownership, chartering and operation of the Ship owned by it; or
- (b) provide any form of credit or financial assistance or issue guarantees in favour of any other corporation or individual other than:
 - (i) in the normal course of its business; and
 - (ii) the unsecured guarantees issued by that Borrower in respect of obligations of the Corporate Guarantor under the Term B Loan, **Provided that** the corporation or individual to whom the of credit or financial assistance has been granted or in favour of whom the guarantee has been issued fully subordinates its rights to the rights of the Creditor Parties under the Finance Documents on terms acceptable to the Agent;
- (c) provide any form of credit or financial assistance to:
 - (i) a person who is directly or indirectly interested in that 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 that Borrower than those which it could obtain in a bargain made at arms' length; or

- (d) open or maintain any account with any bank or financial institution except accounts with the Account Bank for the purposes of the Finance Documents and any accounts disclosed to the Agent on or prior to the date of this Agreement; or
- (e) issue, allot or grant any person a right to any shares in its capital or repurchase or reduce its issued share capital; or
- (f) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks, or enter into any transaction in a derivative; or
- (g) enter into any form of amalgamation, merger or de-merger or any form of reconstruction or reorganisation; or
- (h) change its legal name and shall procure that no Security Party will change its legal name.

13 INSURANCE

13.1 General

Each Borrower 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 may, with the authority of the Majority Lenders, otherwise permit in writing.

13.2 Maintenance of obligatory insurances

Each Borrower shall keep the Ship owned by it, at all times during the Security Period, insured at the expense of that Borrower against:

- (a) fire and usual marine risks (including hull and machinery and excess risks); and
- (b) war risks including blocking and trapping; and
- (c) protection and indemnity mean the usual risks including liability for oil pollution and excess war risk P&I cover (including FD&D cover); and
- (d) any other risks against which the Lenders consider, having regard to practices and other circumstances prevailing at the relevant time, it would in the opinion of the Lenders be reasonable for that Borrower to insure and which are specified by the Security Trustee by notice to that Borrower.

13.3 Terms of obligatory insurances

Each Borrower shall effect such insurances:

- (a) in Dollars;
- (b) in the case of fire and usual marine risks, including hull and machinery, and war risks, on an agreed value basis in such amounts as shall from time to time be approved by the Agent but in any event in an amount not less than the greater of (i) the Market Value of the Ship owned by it and (ii) an amount which, when aggregated with the amount for which the other ship then subject to a Mortgage is insured, is equal to 120 per cent. of the Loan; and

- (c) in the case of oil pollution liability risks, for an aggregate 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);
- (d) in relation to protection and indemnity risks in respect of the relevant Ship's full value and tonnage;
- (e) on such terms as shall from time to time be approved in writing by the Agent (including, without limitation, a blocking and trapping clause); and
- (f) through approved brokers and with approved insurance companies and/or underwriters 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 Associations.

13.4 Further protections for the Creditor Parties

In addition to the terms set out in Clause 13.3, each Borrower shall procure that the obligatory insurances shall:

- (a) subject always to paragraph (b), name that Borrower as the sole named assured unless the interest of every other named assured is limited:
 - (i) in respect of any obligatory insurances for hull and machinery and war risks;
 - (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
 - (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
 - (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it;
- (b) name (or be amended to name) the Security Trustee as mortgagee for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation 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) name the Security Trustee as sole loss payee with such directions for payment as the Security Trustee may specify;
- (d) 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;

- (e) 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 (d) from making personal claims against persons (other than any Borrower or any Creditor Party) in circumstances where the insurers have fully discharged their liabilities and obligations under the relevant obligatory insurances;
- (f) provide that such obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Trustee;
- (g) provide that the Security Trustee may make proof of loss if that Borrower fails to do so; and
- (h) 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 not be effective with respect to the Security Trustee for 30 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

Each Borrower shall:

- (a) at least 14 days before the expiry of any obligatory insurance:
 - (i) notify the Security Trustee of the brokers (or other insurers) and any protection and indemnity or war risks association through or with whom that Borrower proposes to renew that insurance and of the proposed terms of renewal; and
 - (ii) in case of any substantial change in insurance cover, obtain the Lenders' approval to the matters referred to in paragraph (i) above;
- (b) at least 7 days before the expiry of any obligatory insurance, renew the insurance; 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

Each Borrower shall ensure that all approved brokers provide the Security Trustee with copies of all policies relating to the obligatory insurances which they effect or renew and of a letter or letters or undertaking in a form required by the Lenders 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 13.3(f);
- (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 that 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 owned by it under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that 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 that Ship forthwith upon being so requested by the Security Trustee.

13.7 Copies of certificates of entry

Each Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Ship owned by it is entered provides the Security Trustee with:

- (a) a certified copy of the certificate of entry for that Ship; and
- (b) a letter or letters of undertaking in such form as may be required by the Lenders; and
- (c) where required to be issued under the terms of insurance/indemnity provided by that 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 that Borrower in relation to that Ship 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 in relation to that Ship.

13.8 Deposit of original policies

Each Borrower shall ensure that all policies relating to obligatory insurances are deposited with the approved brokers through which the insurances are effected or renewed.

13.9 Payment of premiums

Each Borrower shall punctually pay all premiums or other sums payable in respect of the obligatory insurances and produce all relevant receipts when so required by the Security Trustee.

13.10 Guarantees

Each 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 Restrictions on employment

No Borrower shall employ the Ship owned by it, nor permit her to be employed, outside the cover provided by any obligatory insurances.

13.12 Compliance with terms of insurances

No Borrower shall either do or omit to do (or permit to be done or not to be done) any act or thing which would or might render any obligatory insurance invalid, void, voidable or unenforceable or render any sum payable thereunder repayable in whole or in part; and in particular:

- (a) each Borrower shall 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 Clause 13.6(c) above) 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) no Borrower shall make any changes relating to the classification or classification society or manager or operator of the Ship owned by it approved by the underwriters of the obligatory insurances;
- (c) each Borrower shall make all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Ship owned by it 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
- (d) no Borrower shall employ the Ship owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances (including but not limited to any applicable laws and Sanctions), without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

13.13 Alteration to terms of insurances

No Borrower shall make or agree to any alteration to the terms of any obligatory insurance or waive any right relating to any obligatory insurance without the prior written consent of the Security Trustee.

13.14 Settlement of claims

No Borrower shall 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.

13.15 Provision of copies of communications

Each Borrower shall provide the Security Trustee, at the time of each such communication, copies of all written communications in case of, but not limited to, an Event of Default, Total Loss or Major Casualty between that Borrower and:

- (a) the approved brokers; and

- (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) that 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 that Borrower and any of the persons referred to in paragraphs (a) or (b) above relating wholly or partly to the effecting or maintenance of the obligatory insurances.

13.16 Provision of information

In addition, each 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 appointed by the Agent 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 13.17 below or dealing with or considering any matters relating to any such insurances,

and that 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) above.

13.17 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 marine insurance in relation to the Ships in an amount equal to 120 per cent. of the Loan, providing for the indemnification of the Creditor Parties for any losses under or in connection with any Finance Document which directly or indirectly result from loss of or damage to a Ship or a liability of that Ship or of the Borrower owning that Ship, 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 that Borrower, of any operator, charterer, manager or sub-manager of that Ship or of any officer, employee or agent of that 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 that Borrower, any other person referred to in paragraph (i) above, or of any officer, employee or agent of that Borrower or of such a person, including the casting away or damaging of that Ship and/or that 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;
- (b) a mortgagee's interest additional perils policy in relation to the Ships in an amount equal to 120 per cent. of the Loan, providing for the indemnification of the Security Trustee 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 a Ship, the imposition of any Security Interest over that 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 the Borrowers 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.

13.18 Review of insurance requirements

The Lenders 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 Lenders, significant and capable of affecting any Borrower or any Ship and its or their Insurances (including, without limitation, changes in the availability or the cost of Insurances or the risks to which the Borrower owning that Ship may be subject), and may appoint insurance consultants in relation to this review at the cost of the Borrowers, such review to be carried out at the Agent's request, at any time during the Security Period if the Agent (acting on the instructions of the Lenders) considers necessary (the reasonable fees of the insurance consultants to conduct such review shall be deducted from the Earnings Accounts (or any of them) and each Borrower hereby irrevocably authorises the Agent to debit its Earnings Account in order to pay such fees) **Provided that** the Borrowers shall not be required to pay the fees of the insurance consultants to conduct such review more often than once a year unless an Event of Default has occurred.

13.19 Modification of insurance requirements

The Security Trustee shall notify the Borrowers of any proposed modification under Clause 13.18 to the requirements of this Clause 13 which the Lenders consider appropriate in the circumstances, and such modification shall take effect on and from the date it is notified in writing to the Borrowers as an amendment to this Clause 13 and shall bind the Borrowers accordingly.

13.20 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 a 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 owning that Ship implements any amendments to the terms of the obligatory insurances and any operational changes required as a result of a notice served under Clause 13.19.

14 SHIP COVENANTS

14.1 General

Each 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, with the authorisation of the Majority Lenders, may otherwise permit in writing.

14.2 Ship's name and registration

Each Borrower shall keep the Ship owned by it registered in its name under an Approved Flag; shall not 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 that Ship.

14.3 Repair and classification

Each Borrower shall keep the Ship owned by it in a good, safe and seaworthy condition and state of repair:

- (a) consistent with first-class ship ownership and management practice;
- (b) so as to maintain the highest class with an Approved Classification Society free of overdue recommendations and conditions of such classification society;
- (c) so as to comply with all laws and regulations applicable to vessels registered at ports of the Approved Flag State or to vessels trading to any jurisdiction to which such Ship may trade from time to time, including but not limited to the ISM Code and the ISM Code Documentation and the ISPS Code; and
- (d) each Borrower shall use its best efforts to allow the Agent (or its agents), at any time, to inspect the original class and related records of that Borrower and the Ship owned by it electronically (through the classification society directly) and to take copies of such records.

14.4 Modification

No Borrower shall make any modification or repairs to, or replacement of, the Ship or equipment installed on the Ship owned by it which would or might materially alter the structure, type or performance characteristics of that Ship or materially reduce its value.

14.5 Removal of parts

No Borrower shall remove any material part of the Ship owned by it, or any item of equipment installed on, that 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 relevant Ship the property of that Borrower and subject to the security constituted by the relevant Mortgage **Provided that** each Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to its Ship.

14.6 Surveys

Each Borrower shall submit the Ship owned by it regularly to all periodical or other surveys which may be required for classification purposes and, if so required by the Lenders provide the Security Trustee, with copies of all survey reports.

14.7 Technical Survey

Without prejudice to each Borrower's obligations pursuant to Clause 14.6, each Borrower promptly following the request of the Agent (acting on the instructions of the Majority Lenders) will, submit the Ship for a technical survey by an independent surveyor or surveyors appointed by the Agent (provided such technical survey does not interfere with the ordinary trading of the Ship owned by it). All fees and expenses incurred in relation to the appointment of the surveyor or surveyors and the preparation and issue of all technical reports pursuant to this Clause 14.7 shall be for the account of the Borrowers.

14.8 Inspection

Each Borrower shall permit the Security Trustee (by surveyors or other persons appointed by it for that purpose) to board the Ship owned by it at all times (but in any event without interfering with the ordinary trading of the Ship owned by it) to inspect its condition or to satisfy themselves about proposed or executed repairs, shall afford all proper facilities for such inspections and pay to the Agent the amount of all fees, costs and expenses incurred in respect of such inspections **Provided that** so long as no Event of Default shall have occurred that Borrower shall not be obliged to pay any fees and expenses in respect of more than one inspection of its Ship in any calendar year.

14.9 Prevention of and release from arrest

Each 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 owned by it, the Earnings or the Insurances;
- (b) all taxes, dues and other amounts charged in respect of the Ship owned by it, the Earnings or the Insurances; and
- (c) all other outgoings whatsoever in respect of the Ship owned by it, the Earnings or the Insurances,

and, forthwith upon receiving notice of the arrest of that Ship, or of her detention in exercise or purported exercise of any lien or claim, that Borrower shall procure her release by providing bail or otherwise as the circumstances may require.

14.10 Compliance with laws etc.

The Borrowers shall (and shall ensure that each Security Party and each other member of the Group and their respective directors, officers, employees, as well as any manager and charterer of any Ship):

- (a) comply with all laws or regulations:
 - (i) applicable to its business; and
 - (ii) applicable to the Ship owned, chartered or managed by it, its ownership, employment, operation, management and registration.

- including the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions Laws and the laws of the state of registration of that Ship;
- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environment Approvals;
 - (c) without limiting paragraph (a) above, not employ that Ship nor allow its employment, operation or management in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions Laws; and
 - (d) in the event of hostilities in any part of the world (whether war is declared or not), not cause or permit it to enter or trade to any zone which is declared a war zone by any government or by that Ship's war risks insurers unless the prior written consent of the Lenders has been given and that Borrower has (at its expense) effected any special, additional or modified insurance cover which the Lenders may require.

14.11 Provision of information

Each Borrower shall promptly provide the Security Trustee with any information which the Lenders request regarding:

- (a) the Ship owned by it, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to that Ship's master and crew of that Ship;
- (c) any expenses incurred, or likely to be incurred, in connection with the operation, maintenance or repair of that Ship and any payments made in respect of that Ship;
- (d) any towages and salvages;
- (e) any intended dry-docking of that Ship;
- (f) that Borrower's, the Approved Manager's compliance or the compliance of that Ship with the ISM Code and the ISPS Code; and
- (g) any other information which the Creditor Parties (or any of them) may reasonably request,

and, upon the Security Trustee's request, provide copies of any current charter relating to that Ship, and copies of that Borrower's or the Approved Manager's Document of Compliance or any other document issued under ISM Code Documentation.

14.12 Notification of certain events

Each Borrower shall immediately notify the Security Trustee by letter of:

- (a) any casualty which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which the Ship owned by it has become or is, by the passing of time or otherwise, likely to become a Total Loss;

- (c) any requirement or recommendation made by any insurer or classification society or by any competent authority which is not complied with in accordance with its terms;
- (d) any arrest or detention of the Ship owned by it, any exercise or purported exercise of any lien on the Ship or its Earnings or any requisition of such Ship for hire;
- (e) any dry docking of the Ship owned by it;
- (f) any Environmental Claim made against that Borrower or in connection with the Ship owned by it, or any Environmental Incident;
- (g) any claim for breach of the ISM Code or the ISPS Code being made against that Borrower, the Approved Manager or otherwise in connection with the Ship owned by it; or
- (h) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and that Borrower shall keep the Security Trustee advised in writing on a regular basis and in such detail as the Security Trustee shall require of that Borrower's, the Approved Manager's or any other person's response to any of those events or matters.

14.13 Restrictions on chartering, appointment of managers etc.

No Borrower shall, in relation to the Ship owned by it:

- (a) let that Ship on demise charter for any period;
- (b) enter into any charter in relation to that Ship under which more than 2 months' hire (or the equivalent) is payable in advance;
- (c) charter that Ship otherwise than on bona fide arm's length terms at the time when that Ship is fixed;
- (d) appoint a manager of that Ship other than the Approved Manager or agree to any material alteration to the terms of the Approved Manager's appointment which could lead to an Event of Default ("material alterations" to include, without limitation, alterations concerning fees, duration and parties);
- (e) de-activate or lay up that Ship; or
- (f) put that Ship into the possession of any person for the purpose of work being done upon her 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 that Ship or her Earnings for the cost of such work or otherwise.

14.14 Notice of Mortgage

Each Borrower shall keep the Mortgage relative to its Ship registered against its Ship as a valid first priority or the case may be preferred mortgage, carry on board that Ship a certified copy of that Mortgage and place and maintain in a conspicuous place in the navigation room and the Master's cabin of that Ship a framed printed notice stating that that Ship is mortgaged by that Borrower to the Security Trustee.

14.15 Sharing of Earnings

No Borrower shall:

- (a) enter into any agreement or arrangement for the sharing of any Earnings;
- (b) enter 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 that Borrower to any Earnings; or
- (c) enter into any agreement or arrangement for the release of, or adverse alteration to, any guarantee or Security Interest relating to any Earnings.

14.16 Time Charter Assignment

If a Borrower enters into any Charterparty, that Borrower shall, at the request of the Agent, execute in favour of the Security Trustee a Charterparty Assignment, and shall deliver to the Agent such other documents equivalent to those referred to at paragraphs 3, 4 and 5 of Part A and 6 of Part B of Schedule 3 hereof as the Agent may require.

14.17 ISM Code, ISPS Code compliance and Environmental Laws

All requirements of the ISM Code, ISPS Code and Environmental Laws as they relate to each Borrower, the Approved Manager, the Ship owned by the relevant Borrower shall be complied with at all times.

14.18 Green scrapping

- (a) Each Borrower shall and shall procure that the Corporate Guarantor shall ensure that any scrapping of a ship owned by it (directly or indirectly) is carried out in accordance with the IMO Convention for the Safe and Environmentally Sound Recycling of Ships.
- (b) Each Borrower shall obtain (in its first survey) and to maintain (in subsequent surveys) a green passport notification (based on the inventory of hazardous materials) for the Ship owned by it from the Approved Classification Society.

15 SECURITY COVER

15.1 Minimum required security cover

Clause 15.2 applies if the Agent (acting on the instructions of the Lenders) notifies the Borrowers that the Security Cover Ratio is below (i) 130 per cent. for the first nine financial quarters falling after the date of the first Drawdown Date and (ii) 140 per cent. thereafter. Compliance to this Clause is applicable at all times during the Security Period.

15.2 Provision of additional security; prepayment

If the Agent serves a notice on the Borrowers under Clause 15.1 the Borrowers shall prepay such part (at least) of the Loan as will eliminate the shortfall on or before the date falling 45 days after the date on which the Agent's notice is served under Clause 15.1 (the "**Prepayment Date**") unless at least 1 Business Day before the Prepayment Date it has provided, or ensured that a third party has provided, additional security which, in the reasonable opinion of the Lenders, has a net realisable value at least equal to the shortfall is documented in such terms as the Agent, acting reasonably, may approve or require and, for this purpose, it is agreed that acceptable additional security shall include cash collateral in Dollars (which shall be valued at par).

In this Clause 15.2 “**security**” means a Security Interest over an asset or assets (whether securing a Borrower’s liabilities under the Finance Documents or a guarantee in respect of those liabilities), or a guarantee, letter of credit or other security (including any cash pledged to the Security Trustee) in respect of that Borrower’s liabilities under the Finance Documents.

15.3 Requirement for additional documents

The Borrowers shall not be deemed to have complied with Clause 15.2 above until the Agent has received in connection with the additional security certified copies of documents of the kinds referred to in paragraphs 3, 4 and 5 of Schedule 3, Part A and such legal opinions in terms acceptable to the Majority Lenders from such lawyers as they may select.

15.4 Valuation of Ship

(a) The market value of a Ship at any date is that shown (i) in a valuation or (ii) (at the Agent’s request acting in its sole discretion) by taking the average of 2 valuations, in each case prepared:

- (i) as at a date not more than 30 days previously;
- (ii) by an Approved Broker selected by and appointed by the Borrower (unless the Borrower has not appointed an Approved Broker within 14 days of the Agent’s request in which case the Agent will be entitled to select and appoint an Approved Broker);
- (iii) with or without physical inspection of that Ship (as the Agent may require); and
- (iv) 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 (as the Agent may require).

(b) In case 2 valuations are obtained, by taking the arithmetic average of the 2 valuations provided that if there is a difference, of 10 per cent. or more between the 2 valuations, a third valuation from an Approved Broker shall be obtained by the Agent and the market value shall be determined as the arithmetic average of the two lowest valuations.

15.5 Value of additional security

The net realisable value of any additional security which is provided under Clause 15.1 and which consists of a Security Interest over a vessel shall be that shown by a valuation complying with the requirements of Clause 15.4.

15.6 Valuations binding

Any valuation under Clause 15.2, 15.4 or 15.5 shall be binding and conclusive as regards the Borrowers, as shall be any valuation which the Majority Lenders make of a security which does not consist of or include a Security Interest.

15.7 Provision of information

The Borrowers shall promptly provide the Agent and any Approved Broker or expert acting under Clause 15.4 or 15.5 with any information which the Agent or the Approved Broker or expert may request for the purposes of the valuation; and, if the Borrowers fail to provide the information by the date specified in the request, the valuation may be made on any basis and assumptions which the Approved Broker or the Majority Lenders (or the expert appointed by them) consider prudent.

15.8 Payment of valuation expenses

Without prejudice to the generality of the Borrowers' obligations under Clauses 20.4, 20.6 and 20.5, the Borrowers 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.

15.9 Frequency of valuations

The Borrowers acknowledge and agree that the Agent may commission valuation(s) of any Ship on a quarterly basis (for the purpose of this Loan on 31 March, 30 June, 30 September, 31 December), including for the purposes of calculating the Relevant Amount in Clause 8.9 or at such times as the Agent may request on the occurrence of an Event of Default.

16 PAYMENTS AND CALCULATIONS

16.1 Currency and method of payments

All payments to be made:

- (a) by the Lenders to the Agent; or
- (b) by any Borrower to the Agent, the Security Trustee or any Lender,
under a Finance Document shall be made to the Agent or to the Security Trustee, in the case of an amount payable to it:
 - (i) by not later than 11.00 a.m. (Amsterdam time) on the due date;
 - (ii) 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);
 - (iii) to the account of Agent, as the Agent may from time to time notify to the Borrowers and the other Creditor Parties; and
 - (iv) in the case of an amount payable to the Security Trustee, to such account as it may from time to time notify to the Borrowers and the other Creditor Parties.

16.2 Payment on non-Business Day

If any payment by any 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 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 5 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 Borrowers or any Lender any sum which the Agent is expecting to receive for remittance or distribution to the Borrowers 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 Borrowers or a Lender, without first having received that sum, the Borrowers 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 Borrowers and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrowers 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 Borrowers and each Security Party under the Finance Documents and all payments in respect of those amounts made by the Borrowers 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 a 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 proportions:
 - (i) first, in or towards satisfaction pro rata of all amounts then due and payable to the Creditor Parties under the Finance Documents other than those amounts referred to at (ii) and (iii) below (including, but without limitation, all amounts payable by any Borrower under Clauses 20, 21 and 22 of this Agreement or by any Borrower or any Security Party under any corresponding or similar provision in any other Finance Document);
 - (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;

- (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 Borrowers (or any of them), the Security Parties and the other Creditor Parties, states in its opinion will 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 foregoing provisions of this Clause 17.1(a);
- (c) **THIRDLY:** in or towards satisfaction of any amounts representing management fees then due and payable by the Borrowers (or any of them) to the Approved Manager in connection with the Ships; and
- (d) **FOURTHLY:** any surplus shall be paid to the Borrowers (or any of them) or to any other person appearing to be entitled to it.

17.2 Variation of order of application

The Agent may, with the authorisation of the Majority Lenders by notice to the Borrowers, the Security Parties and the other Creditor Parties provide for a different manner of application from that set out in Clause 17.1 either as regards a specified sum or sums or as regards sums in a specified category or categories.

17.3 Notice of variation of order of application

The Agent may give notices under Clause 17.2 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.

17.4 Appropriation rights overridden

This Clause 17 and any notice which the Agent gives under Clause 17.2 shall override any right of appropriation possessed, and any appropriation made, by any Borrower or any Security Party.

18 APPLICATION OF EARNINGS

18.1 Payment of Earnings

Each Borrower undertakes with each Creditor Party that, throughout the Security Period (and subject only to the provisions of the General Assignment to which it is a party):

- (a) it shall maintain the Earnings Accounts opened in its name (whether individually or jointly) with the Account Bank; and
- (b) it shall ensure that all Earnings of the Ship owned by it are paid to the Earnings Account for that Ship.

18.2 Application of Earnings

Each Borrower undertakes with the Lenders that money from time to time credited to, or for the time being standing to the credit of, its Earnings Account shall, unless and until an Event of Default shall have occurred (whereupon the provisions of Clause 17.1 shall be and become applicable), be available for application in the following manner:

- (a) in or towards making payments of all amounts due and payable by the Borrowers under this Agreement (other than payments of principal and interest);
- (b) in or towards satisfaction of all amounts of interest or default interest payable to the Creditor Parties under the Finance Documents;
- (c) in or towards satisfaction of the Loan;
- (d) in or towards making payments of all fees due to the Approved Manager and thereafter meeting the costs and expenses from time to time incurred by or on behalf of a Borrower in connection with the operation of the Ship owned by it; and
- (e) as to any surplus from time to time arising on an Earnings Account following application as aforesaid, to be paid to the Borrower owning that Ship or to whomsoever it may direct.

18.3 Location of account

Each Borrower shall promptly:

- (a) comply with any requirement of the Agent as to the location or re-location of its Earnings Account; 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) its Earnings Account.

18.4 Debits for expenses etc.

The Agent shall be entitled (but not obliged) from time to time to debit the Earnings Accounts without prior notice in order to discharge any amount due and payable under Clause 20 or 21 to a Creditor Party or payment of which any Creditor Party has become entitled to demand under Clause 20 or 21.

18.5 Borrowers' obligations unaffected

The provisions of this Clause 18 (as distinct from a distribution effected under Clause **Error! Reference source not found.**18.7 do not affect:

- (a) the liability of the Borrowers to make payments of principal and interest on the due dates; or
- (b) any other liability or obligation of the Borrowers or any Security Party under any Finance Document.

18.6 Monthly retentions

The Borrowers undertake with each Creditor Party to ensure that, on and from the date falling one month after each Drawdown Date, and at monthly intervals thereafter during the Security Period, there are transferred to the Retention Account out of the Earnings received in the Earnings Accounts during the preceding month:

- (a) one-third of the amount of the Repayment Instalment falling due under Clause 8.1 on the next Repayment Date; and

- (b) the relevant fraction of the aggregate amount of interest on that Advance which is payable on the next due date for payment of interest under this Agreement,
- (c) and the Borrowers irrevocably authorise the Agent to make those transfers (in its sole discretion and without any obligation) if the Borrowers fail to do so.

The “**relevant fraction**” in relation to paragraph (b), is a fraction of which:

- (i) the numerator is one; and
- (ii) the denominator is:
 - (A) the number of months comprised in the then relevant current Interest Period; or
 - (B) if the amount Interest Period in respect of that Advance and after the next due date for payment of interest under this Agreement, the number of months from the later of the commencement of the relevant current Interest Period in respect of that Advance or the last due date for payment of interest to the next due date for payment of interest of that Advance under this Agreement.

18.7 Restriction on withdrawal

During the Security Period no sum may be withdrawn by a Borrower from the Liquidity Account or the Retention Account (other than interest pursuant to Clause 18.10, provided that no Event of Default has occurred which is continuing), without the prior written consent of the Agent.

The Borrowers 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 18.6, withdraw any surplus (a “**Surplus**”) from the Earnings Accounts (or any of them) as they 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 relevant Earnings Account and the Borrowers 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 Ships (or any of them).

18.8 Minimum Liquidity

Each Borrower shall maintain all Minimum Liquidity amounts pursuant to Clause 11.24 in the Liquidity Account.

18.9 Interest accrued on the Liquidity Account

Any credit balance on the Liquidity Account shall bear interest at the rate from time to time offered by the Account Bank to its customers for Dollar deposits of similar amounts and for periods similar to those for which such balances appear to the Account Bank likely to remain on the Liquidity Account.

18.10 Release of accrued interest

Interest accruing under Clause 18.9 shall be credited to the Liquidity Account and may be released to the Borrowers pursuant to Clause 18.7.

19 EVENTS OF DEFAULT

19.1 Events of Default

An Event of Default occurs if:

- (a) any 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 payment is made within 3 Business Days of such date or, its failure to pay is caused by administrative or technical error, payment is made within 10 days; or
- (b) any breach occurs of Clause 9.2, 10.15, 10.18, 11.2, 11.3, 11.19, 11.20, 12.2, 12.3, 13.2, 13.3, 14.2, or 14.10 (insofar as that Clause relates to Sanctions Laws) and such default continues unremedied 20 Business Days of receipt of the notice from the Agent; or
- (c) any breach under clause 15 or clause 12.3 (financial covenants) of the Corporate Guarantee and such default continues unremedied 20 Business Days of receipt of the notice from the Agent;
- (d) any breach by any Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraphs (a) or (b) above) if, in the opinion of the Majority Lenders, such default is capable of remedy, and such default continues unremedied 30 Business Days after the earlier of (i) written notice from the Agent requesting action to remedy the same and (ii) any Borrower becoming aware of such breach; or
- (e) (subject to any applicable grace period specified in the Finance Document) any breach by any Borrower or any Security Party occurs of any provision of a Finance Document (other than a breach covered by paragraphs (a), (b), (c) or(d) above); or
- (f) any representation, warranty or statement made or repeated by, or by an officer of, any Borrower or a Security Party in a Finance Document or in a 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
- (g) any of the following occurs in relation to any Financial Indebtedness of a Relevant Person (for an amount exceeding, in the case of the Corporate Guarantor \$10,000,000 and in the case of the Borrowers \$500,000 (or the equivalent in any other currency) in aggregate):
 - (i) any Financial Indebtedness of a Relevant Person is not paid when due or, if so payable, on demand; or
 - (ii) any Financial Indebtedness of a Relevant Person becomes due and payable or capable of being declared due and payable prior to its stated maturity date as a consequence of any event of default unless the Relevant Person is contesting the declaration of an event of default or of the Financial Indebtedness becoming due and payable in good faith and on substantial grounds by appropriate proceedings and adequate reserves have been set aside for its payment if such proceedings fail; or

- (iii) a lease, hire purchase agreement or charter creating any Financial Indebtedness of a Relevant Person is terminated by the lessor or owner as a consequence of any termination event; or
 - (iv) 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 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
 - (v) any Security Interest securing any Financial Indebtedness of a Relevant Person becomes enforceable; or
- (h) any of the following occurs in relation to a Relevant Person:
- (i) a Relevant Person becomes, in the reasonable opinion of the 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 (in respect of a sum of, or sums aggregating, \$10,000,000 or more, in the case of the Corporate Guarantor, the equivalent in another currency) and such execution, attachment, arrest, sequestration or distress is not withdrawn or discharged within thirty (30) 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 members, shareholders, officers or directors 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 any Borrower or the Corporate Guarantor 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 3 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 administrator 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 members, 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 members, 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 country 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
- (i) any Borrower or any Security Party 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
- (j) it becomes unlawful in any Pertinent Jurisdiction or impossible:
 - (i) for any Borrower 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

- (k) any official consent necessary to enable any Borrower to own, operate or charter the Ship owned by it or to enable any Borrower or any Security Party to comply with any provision which the Majority Lenders reasonably consider material of a Finance 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 the relevant Borrower contests any denial, expiration or revocation (other than with respect to a Finance Documents) and on the condition that, in the reasonable opinion of the Majority Lenders (i) there are real prospects of such contest being successfully granted/upheld by the relevant Borrower (ii) such contest being made in good faith; or
- (l) it appears to the reasonable opinion of the Majority Lenders that, without their prior written consent:
 - (i) a change has occurred or probably has occurred after the date of this Agreement in the legal or direct beneficial ownership of any of the shares in any Borrower or the Shareholder in the voting rights attaching to any of those shares; or
 - (ii) a Change of Control has occurred or probably has occurred after the date of this Agreement; or
 - (iii) the Corporate Guarantor ceases being the direct legal and beneficial owner of the shares in the Shareholder and the voting rights attaching to those shares; or
 - (iv) the units of the Corporate Guarantor cease to be listed on the New York Stock Exchange (NYSE) or any other US or European stock exchange acceptable to the Agent; or
- (m) any provision which the Majority Lenders 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; or
- (n) the security constituted by a Finance Document is in any way imperilled or in jeopardy; or
- (o) any other event occurs or any other circumstances arise or develop including, without limitation:
 - (i) a Material Adverse Change in the business, condition (financial or otherwise), operation, state of affairs or prospects of any Borrower, the Corporate Guarantor or the Group; or
 - (ii) any accident or other event involving any Ship or another vessel owned, chartered or operated by a Relevant Person,in the light of which the Majority Lenders reasonably consider that there is a significant risk that any Security Party is, or will later become, unable to discharge its liabilities under the Finance Documents as they fall due or the enforceability of any Finance Document may be adversely affected; or

- (p) any 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 that Borrower, the Approved Manager or that Security Party or person is a party; or
- (q) any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency are started or threatened, or any judgment or order of a court, arbitral body or agency is made, in relation to any of the Finance Documents or the transactions contemplated in any of the Finance Documents or against any Borrower, the Approved Manager or any Security Party or its assets which has a Material Adverse Effect.

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 Borrowers a notice stating that all or part of the Commitments and all other obligations of each Lender to the Borrowers under this Agreement are terminated; and/or
 - (ii) serve on the Borrowers a notice stating that all or part of the Loan, all accrued interest and all other amounts accrued or owing under this Agreement are immediately due and payable or are due and payable on demand; and/or
 - (iii) take any other action which, as a result of the Event of Default or any notice served under paragraph (i) or (ii) above, 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 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 (ii) above, the Security Trustee, the Agent, the Mandated Lead Arranger and/or the Majority 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 Borrowers under this Agreement shall terminate.

19.4 Acceleration of Loan

On the service of a notice under paragraph (a)(ii) of Clause 19.2, the Loan, all accrued interest and all other amounts accrued or owing from the Borrowers 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 (ii) of Clause 19.2 simultaneously or on different dates and it and/or the Security Trustee may take any action referred to in that Clause 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 and each Security Party a copy or the text of any notice which the Agent serves on the Borrowers under Clause 19.2; but the notice shall become effective when it is served on the Borrowers, 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 Borrowers or any Security Party with any form of claim or defence.

19.7 Creditor Party's 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 Borrowers 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 caused by the gross negligence 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 a Borrower, a Security Party (excluding the Approved Manager), and any company which is a subsidiary of any Borrower or of a Security Party or of which any Borrower is a subsidiary.

19.10 Interpretation

In Clause 19.1(h) 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 Clause 19.1(i) "**petition**" includes an application.

20 FEES AND EXPENSES

20.1 Commitment fee

The Borrowers shall pay to the Agent a non-refundable commitment fee, at the rate of 1.00 per cent. per annum on the undrawn or un-cancelled 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) the date of this Agreement to the earlier of (i) the last Drawdown Date to occur under the Loan Agreement and (ii) the last day of the Availability Period (and on the last day of such period).

20.2 Arrangement fee

The Borrowers shall pay to the Agent on the date of this Agreement, a non-refundable arrangement fee in the amount set out in the Fee Letter.

20.3 Agency fee

The Borrowers shall pay to the Agent on the date of this Agreement and on each anniversary thereof a non-refundable annual fee in the amount of \$10,000 per Lender.

20.4 Prepayment and cancellation fee

- (a) Subject to paragraph (c) below, the Borrowers must pay to the Agent for distribution to each pro rata to their Commitment Lender a prepayment and cancellation fee on the date of prepayment of all or any part of the Loan and on the date of cancellation of any part of the Total Commitments.
- (b) The amount of the prepayment and cancellation fee is:
 - (i) if the prepayment or cancellation occurs on or before the first anniversary of the first Drawdown Date, 2 per cent. of the amount prepaid or cancelled;
 - (ii) if the prepayment or cancellation occurs after the first but on or before the second anniversary of the first Drawdown Date, 1 per cent. of the amount prepaid or cancelled; and
 - (iii) if the prepayment or cancellation occurs after the second but on or before the third anniversary of the first Drawdown Date, 0.5 per cent. of the amount prepaid or cancelled; and
 - (iv) if the prepayment occurs after the date falling on the third anniversary of the Drawdown Date, no amount of prepayment and cancellation fee shall be payable;
- (c) No prepayment or cancellation fee shall be payable under this Clause if the prepayment or cancellation is made under Clause 5.7, 8.9(a) (on the basis that the sale of the relevant Ship is to a third party not affiliated to the Group), 8.9(b), cancellation of the Loan pursuant to Clause 4.2(b), Clause 15.2, Clause 24 or pursuant to a refinancing with NIBC Bank N.V. or any other refinancing if NIBC Bank N.V. has been invited to refinance and is unable to.
- (d) **Provided** however that if any Ship is refinanced by the Term B Loan or any Term B facility that refinances in whole or in part the Term B Loan, the applicable prepayment fee shall be reduced by 50%.

20.5 Costs of negotiation, preparation etc.

The Borrowers shall pay to the Agent on its demand the amount of all 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 (including, without limitation, out of pocket expenses, legal fees and any related VAT).

20.6 Costs of variations, amendments, enforcement etc.

The Borrowers shall pay to the Agent, on the Agent's demand, the amount of all documented expenses incurred by a Creditor Party in connection with:

- (a) any amendment or supplement to a Finance Document, or any proposal for such an amendment to be made;
- (b) any consent or waiver by the Lenders, the Majority Lenders or the Creditor Party concerned under or in connection with a Finance Document, or any request for such a consent or waiver;
- (c) the valuation of any security provided or offered under Clause 15 or any other matter relating to such security;
- (d) where the Agent, acting on the instructions of the Majority Lenders, considers that there has been a material change to the insurances in respect of a Ship, the review of the insurances of a Ship pursuant to Clause 13.18;
- (e) the opinions of the independent insurance consultant referred to in paragraph 5 of Part B, Schedule 3; and
- (f) any step taken by any Lender concerned with a view to the protection, exercise or enforcement of any right or Security Interest created by a Finance Document or for any similar purpose.

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.

20.7 Documentary taxes

The Borrowers 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 liabilities, claims losses and expenses resulting from any failure or delay by the Borrowers to pay such a tax.

20.8 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 Borrowers 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) an Advance not being borrowed on the date specified in the Drawdown Notice for any reason other than a default by the Lender claiming the indemnity;
 - (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 including, without limitation, where such receipt or recovery is made as a result of the voluntary or mandatory repayment or prepayment of the Loan, or any part thereof;
 - (c) any failure (for whatever reason) by the Borrowers 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 Borrowers on the amount concerned under Clause 7);
 - (d) any claim, action, civil penalty or fine against, any settlement, and any other kind of loss or liability, and all reasonable costs and expenses (including reasonable counsel fees and disbursements) incurred by the Agent or any Lender as a result of conduct of any Borrower any Security Party or any of their partners, directors, officers, employees, agents or advisors, that violates any Sanctions Laws; and
 - (e) the occurrence and/or continuance of an Event of Default and/or the acceleration of repayment of the Loan under Clause 18.6, and in respect of any tax (other than tax on its overall net income or 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.
- Without prejudice to its generality, this Clause 21.1 covers any claims, expenses, liabilities and losses which arise, or are asserted, under or in connection with any law relating to safety at sea, the ISM Code, the ISPS Code, any Environmental Law or any Sanctions Laws.

21.2 Break costs

- (a) The Borrowers shall, within 3 Business Days of demand by a Creditor Party, pay to that Creditor Party its Break Costs attributable to all or any part of the relevant Advance or Unpaid Sum being paid by a Borrower on a day other than the last day of an Interest Period for that Advance, the relevant part of that Advance or that Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

21.3 Miscellaneous indemnities

The Borrowers shall fully indemnify each Creditor Party severally on their respective demands in respect of all claims, demands, proceedings, liabilities, taxes, losses and expenses of every kind (“**liability items**”) which may be made or brought against, or incurred by, a Creditor Party, in any country, in relation to:

- (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; and

- (b) any other event, matter or question which occurs or arises at any time during the Security Period and which has any connection with, or any bearing on, any Finance Document, any payment or other transaction relating to a Finance Document or any asset covered (or previously covered) by a Security Interest created (or intended to be created) by a Finance Document, other than claims, expenses, liabilities and losses which are shown to have been directly and mainly caused by the dishonesty or wilful misconduct of the officers or employees of the Creditor Party concerned.

21.4 Extension of indemnities; environmental indemnity

Without prejudice to its generality, Clause 21.2(a) covers:

- (a) any matter which would be covered by Clause 21.2(a) if any of the references in that Clause to a Lender were a reference to the Agent or (as the case may be) to the Security Trustee; and
- (b) any liability items which arise, or are asserted, under or in connection with any law relating to safety at sea, pollution or the protection of the environment, the ISM Code, the ISPS Code or any Environmental Law.

21.5 Currency indemnity

If any sum due from a Borrower or any Security Party to a Creditor Party under a Finance Document or under any order or judgment relating to a Finance Document has to be converted from the currency in which the Finance Document provided for the sum to be paid (the “**Contractual Currency**”) into another currency (the “**Payment Currency**”) for the purpose of:

- (a) making or lodging any claim or proof against a Borrower or any Security Party, whether in its liquidation, any arrangement involving it or otherwise; or
- (b) obtaining an order or judgment from any court or other tribunal; or
- (c) enforcing any such order or judgment,

the Borrowers shall indemnify the Creditor Party concerned against the loss arising when the amount of the payment actually received by that Creditor Party is converted at the available rate of exchange into the Contractual Currency.

In this Clause 21.5, 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 concerned to purchase the Contractual Currency with the Payment Currency.

This Clause 21.5 creates a separate liability of each 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.

21.6 Certification of amounts

A notice which is signed by 2 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 of the amounts due) 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.

21.7 Sums deemed due to a Lender

For the purposes of this Clause 21, a sum payable by the Borrowers to the Agent or the Security Trustee for distribution to a Lender shall be treated as a sum due to that Lender.

21.8 Sanctions

- (a) The Borrowers shall, within three (3) Business Days of demand by a Creditor Party, indemnify each Creditor Party against any cost, loss or liability incurred by it as a result of any civil penalty or fine against, and all reasonable costs and expenses (including reasonable counsel fees and disbursements) incurred in connection with the defence thereof by, the Agent or any Lender as a result of conduct of the Borrowers or any Security Party or any of their partners, directors, officers, employees, agents or advisors, that violates any Sanctions.
- (b) The indemnity in Clause 21.8(a) above shall cover any losses incurred by each Creditor Party in any jurisdiction arising or asserted under or in connection with any law relating to any Sanctions.

22 NO SET-OFF OR TAX DEDUCTION

22.1 No deductions

All amounts due from the Borrowers under a Finance Document shall be paid:

- (a) without any form of set-off, cross-claim or condition; and
- (b) free and clear of any tax deduction except a tax deduction which a Borrower is required by law to make.

22.2 Grossing-up for taxes

If a Borrower is required by law to make a tax deduction from any payment:

- (a) that Borrower shall notify the Agent as soon as it becomes aware of the requirement;
- (b) that Borrower shall pay the tax deducted to the appropriate taxation authority promptly, and in any event before any fine or penalty arises; and
- (c) the amount due in respect of the payment shall be increased by the amount necessary to ensure that each Creditor Party receives and retains (free from any liability relating to the tax deduction) a net amount which, after the tax deduction, is equal to the full amount which it would otherwise have received.

22.3 Evidence of payment of taxes

Within 1 month after making any tax deduction, the Borrower concerned shall deliver to the Agent 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 for or on account of any present or future tax except tax on a Creditor Party’s overall net income or a FATCA Deduction.

22.5 FATCA information

- (a) Subject to paragraph (c) below, each party to the Finance Documents shall, within 5 Business Days of a reasonable request by another party to the Finance Documents:
- (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 to any Finance Document 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, and paragraph (a)(iii) above shall not oblige any other Party to a Finance Document, 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 to any Finance Document fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such party shall be treated for the purposes of the Finance Documents 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 Borrower is or becomes a US Tax Obligor or a FATCA FFI, it shall as soon as reasonably practicable inform the Agent of the same;
- (f) Where the Agent reasonably believes that its obligations under FATCA require it, the relevant Borrower or the relevant Security Party shall provide the Agent, upon request, with a W-8 BEN-E form (or any successor form) or any other forms or documentation the Agent may reasonably require, as soon as reasonably practicable. The Agent shall not be liable for any action which it takes or refrains from taking under or in connection with this paragraph (f);
- (g) If a Borrower is or becomes a US Tax Obligor or a FATCA FFI, or where the Agent reasonably believes that its obligations under FATCA require it, each Creditor Party shall, within 10 Business Days of the date of a request from the Agent supply to the Agent:
 - (i) a withholding certificate on Form W-8 or Form W-9 (or any successor form) (as applicable); and/or
 - (ii) any withholding statement and other documentation, authorisations and waivers as the Agent may require to certify or establish the status of such Creditor Party under FATCA,the Agent shall provide any withholding certificate, withholding statement, documentation, authorisations and waivers it receives from a Creditor Party pursuant to this paragraph (g) to that Borrower or the relevant Security Party 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 which it takes or refrains from taking under or in connection with this paragraph (g); and
- (h) The Borrowers, each Security Party and each Creditor Party agrees that if any withholding certificate, withholding statement, documentation, authorisations and waivers provided to the Agent pursuant to paragraphs (f) to (g) 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, if applicable, provide any such updated withholding certificate, withholding statement, documentation, authorisations and waivers to the Borrowers or the relevant Security Party. The Agent shall not be liable for any action which it takes or refrains from taking under or in connection with this paragraph (h).

22.6 FATCA Deduction

- (a) Each party to a Finance Document may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and shall not 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 to a Finance Document 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 a Finance Document to whom it is making the payment and, in addition, shall notify the Borrowers 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 maintain or give effect to any of its obligations under this Agreement in the manner contemplated by this Agreement.

23.2 Notification of illegality

The Agent shall promptly notify the Borrowers, 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 Borrowers under Clause 23.2, the Notifying Lender’s Commitment shall terminate; 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 Borrowers shall prepay the Notifying Lender’s Contribution in accordance with Clause 8.

24 INCREASED COSTS

24.1 Increased costs

- (a) Each Borrower shall, within 3 Business Days of a demand by the Agent, pay for the account of a Creditor Party the amount of any Increased Costs incurred by that Creditor Party or any of its affiliates as a result of:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
 - (ii) compliance with any law or regulation made,
after the date of this Agreement.
- (b) In this Agreement, “**Increased Costs**” means:
 - (i) a reduction in the rate of return from the Loan or on a Creditor Party’s (or its affiliate’s) overall capital;
 - (ii) an additional or increased cost; or
 - (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Creditor Party or any of its affiliates to the extent that it is attributable to that Creditor Party having entered into its Commitment or funding or performing its obligations under any Finance Document and, for the avoidance of doubt, includes any Increased Costs incurred or suffered by a Creditor Party or any of its affiliates as a result of or with connection to Basel III, IFRS-9 or any other changes in relevant reporting standards,

but not an item attributable to a change in the rate of tax on the overall net income of the Notifying Lender (aa) (or a parent company of it) or (bb) an item covered by the indemnity for tax in Clause 21.1 or by Clause 22 or (cc) a FATCA Deduction.

24.2 Increased cost claims

- (a) A Creditor Party (the “**Notifying Lender**”) intending to make a claim pursuant to Clause 24.1 shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Creditor Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

24.3 Notification to Borrowers of claim for increased costs

The Agent shall promptly notify the Borrowers and the Security Parties of the notice which the Agent received from the Notifying Lender under Clause 24.2.

24.4 Payment of increased costs

The Borrowers shall pay to the Agent, on the Agent’s demand, for the account of the Notifying Lender the amounts which the Agent from time to time notifies the Borrowers 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 Borrowers are not willing to continue to compensate the Notifying Lender for the increased cost under Clause 24.4, the Borrowers may give the Agent not less than 15 days’ notice of their intention to prepay the Notifying Lender’s Contribution at the end of an Interest Period and/or to cancel the Notifying Lender’s Available Commitment.

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 Borrowers’ 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 Borrowers shall prepay (without premium or penalty) the Notifying Lender’s Contribution, together with accrued interest thereon at the applicable rate plus the Margin.

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:

- (a) apply any balance (whether or not then due) which at any time stands to the credit of any account in the name of a Borrower at any office in any country of that Creditor Party in or towards satisfaction of any sum then due from that 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 that 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 Borrowers 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 any Borrower.

26 TRANSFERS AND CHANGES IN LENDING OFFICES

26.1 Transfer by Borrowers and the Corporate Guarantor

No Borrower will:

- (a) transfer any of its rights or obligations under any Finance Document; or
- (b) enter into any merger, de-merger or other reorganisation, or carry out any other act, as a result of which any of its rights or liabilities would vest in, or pass to, another person.

26.2 **Transfer by a Lender**

Subject to Clause 26.4, a Lender (the “**Transferor Lender**”) may, without the prior consent of the Borrowers and without having to consult any of them, at any time allow:

- (a) its rights in respect of all or part of its Contribution; or
- (b) its obligations in respect of all or part of its Commitment; or
- (c) a combination of (a) and (b),

to be (in the case of its rights) transferred to, or (in the case of its obligations) assumed by, (i) another bank or financial institution or (ii) a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets which is advised by or the assets of which are managed or serviced by the Lender, (a “**Transferee Lender**”), by delivering to the Agent a completed certificate in the form set out in Schedule 4 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 Deed.

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, each Borrower, the Security Parties, the Security Trustee and each of the other Lenders, upon completion of its “know your customer” checks in relation to the relevant Transferee Lender;
- (b) on behalf of the Transferee Lender, send to each 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**

No assignment or transfer of any right or obligation of a Lender under any Finance Document is binding on, or effective in relation to, any Borrower, any Security Party, the Agent or the Security Trustee unless it is effected, evidenced or perfected by a Transfer Certificate.

26.6 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 Borrowers 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 any 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 any 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.

26.7 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 Borrowers during normal banking hours, subject to receiving at least 3 Business Days prior notice not more than once a month.

26.8 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.

26.9 Authorisation of Agent to sign Transfer Certificates

The Borrowers, the Security Trustee and each Lender irrevocably authorise the Agent to sign Transfer Certificates on its behalf.

26.10 Registration fee

In respect of any Transfer Certificate, the Agent shall be entitled to recover a registration fee of \$2,500 (and all costs, fees and expenses incidental to the transfer (including, but not limited to legal fees and expenses)) from the Transferor Lender or the Transferee Lender (as agreed by them).

26.11 Sub-participation; subrogation assignment

A Lender may sub-participate all or any part of its rights and/or obligations under or in connection with the Finance Documents without the consent of, or any notice to, the Borrowers, any Security Party, the Agent or the Security Trustee; and the Lenders may assign, 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 Disclosure of information

Subject to Clause 26.4, a Lender may, disclose to a potential Transferee Lender or to any sub-participant or to a person through whom that Lender assigns or transfers or may potentially transfer or assign all or any of its rights and obligations, any information which the Lender has received in relation to the Borrowers and the Security Parties or their affairs under or in connection with any Finance Document, unless the information is clearly of a confidential nature in which case the consent of the Corporate Guarantor would be required **Provided that** a potential Transferee Lender or any sub-participant to whom disclosure is made agrees to be bound by the terms of the confidentiality undertaking in this Clause 26.12 by way of a confidential agreement in a form acceptable to the Borrowers in the event that the potential Transferee Lender is a fund, such disclosure shall include disclosure to any prospective holders of obligations owed, or securities issued, by that fund and any rating agency or its professional advisers.

The Borrowers agree that the terms and conditions of this Agreement shall remain confidential and shall not, or shall procure that the Corporate Guarantor shall not, disclose (whether, without limitation, in writing or orally) to third parties (other than any disclosure to the Corporate Guarantor's shareholders, officers, employees or professional advisers **Provided that** the person to whom disclosure is made agrees to be bound by the terms of the confidentiality undertaking in this Clause 26.12 any information required to be disclosed by law, regulation or any governmental or competent regulatory authority (including without limitation, any securities exchange), provided that, to the extent reasonably practicable, the Corporate Guarantor shall inform the Agent on the proposed form, timing, nature and purpose of the disclosure) the existence of this Agreement or the terms and conditions contained herein without the prior written consent of the Lenders.

26.13 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.

26.14 Notification

On receiving such a notice, the Agent shall notify the Borrowers 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.

26.15 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 any 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 Borrowers 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.

27 VARIATIONS AND WAIVERS BY MAJORITY LENDERS

27.1 Variations, waivers etc. by Lenders

Subject to Clause 27.2, a document shall be effective to vary, waive, suspend or limit any provision of a Finance Document, or any Creditor Party's rights or remedies under such a provision or the general law, only if the document is signed, or specifically agreed to in writing, by the Borrowers and the Agent and/or the Security Trustee (acting on behalf of the requisite Lenders) and, if the document relates to a Finance Document to which a Security Party is party, by that Security Party.

27.2 Variations, waivers etc. requiring agreement of all Lenders

However, as regards the following, Clause 27.1 applies as if the words “by the Agent on behalf of the Majority Lenders” were replaced by the words “by or on behalf of every Lender”:

- (a) a change in the purpose of the Loan;
- (b) a reduction in the Margin;
- (c) a postponement to the date for, or a reduction in the amount of, any payment of principal, interest, fees or other sum payable under this Agreement;
- (d) an increase in any Lender’s Commitment;
- (e) a change to the definition of “**Majority Lenders**”;
- (f) a change in any of the provisions in Clause 8.9 dealing with circumstances in which a mandatory prepayment arises;
- (g) a change to the financial covenants set out in clause 12.3 (*Financial Covenants*) of the Corporate Guarantee;
- (h) a change to the Security Cover Ratio to be maintained pursuant to clause 15.1;
- (i) a change to Clause 3, Clause 23 or this Clause 27;
- (j) a change of the currency of any amount payable under the Finance Documents;
- (k) a waiver of any breach of any of the provisions set out in Clause 10.18, Clause 11.18, Clause 11.19 or Clause 11.20;
- (l) any release of, or material variation to, a Security Interest, guarantee, indemnity or subordination arrangement set out in a Finance Document; and
- (m) any other change or matter as regards which this Agreement or another Finance Document expressly provides that each Lender’s consent is required.

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 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 any Borrower 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 Replacement of Screen Rate

- (a) 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 Borrowers.

- (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 Borrowers 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 shall be sent:

- (a) to a Borrower: c/o Navios Shipmanagement Inc.
85 Akti Miaouli
Piraeus 185 38
Fax No: +30 210 4172070
- for the attention of: Vassiliki Papaefthymiou
E-mail: vpapaefthymiou@Navios.com
- (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 the Security Trustee: Carnegieplein 4
2517 KJ The Hague
Netherlands
E-mail: maritime@nibc.com
- For the attention of: Shipping & Intermodal

Frederik de Haas van Dorsser / Petro Zyuber 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 Borrowers, 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, 2 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 1 hour after the time at which the notice would otherwise be deemed to be served that the notice has been received in a form which is illegible in a material respect.

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 English language

Any notice under or in connection with a Finance Document shall be in English.

28.8 Meaning of “notice”

In this Clause “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 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.

29.4 Waiver of Banking Secrecy

The Borrowers hereby irrevocably authorise and give consent to each Creditor Party and, each of its affiliates, and their respective subsidiaries, branches and representative offices and their respective directors, officers, employees and agents (the “**Authorised Persons**” and each an “**Authorised Person**”), to disclose and transmit to the Applicable Persons, whether orally, in writing or by any other means, information and documents which relates to, or are connected with, the Borrowers, their beneficial owner, any other member of the Group, their business, dealings or assets (the “**Information**”), from time to time and to the extent that the Authorised Person deems such disclosure or transmission to be necessary or desirable for or incidental to the carrying out of its duties, obligations, commitments and activities whether arising under contract or by operation of law and/or consolidated supervision and risk management policy, to the extent that the Information is covered by banking secrecy under any applicable law in general and banking secrecy rules in England and the Netherlands in particular and/or:

- (a) necessary or desirable for the purposes of its internal cross-selling enabling the Borrowers and/or any other member of the Group to benefit from the Creditor Party’s or any other Authorised Person’s business activities; and/or
- (b) necessary or desirable to insure a risk related to the Borrowers and/or any other member of the Group; and/or
- (c) necessary or desirable to syndicate a risk related to the Borrowers and/or any other member of the Group; and/or
- (d) necessary or desirable to securitise a risk related to the Borrowers and/or any other member of the Group; and/or
- (e) necessary or desirable to open an account or to start a business relation with the Creditor Party’s or any other Authorised Person’s parent company or any of its subsidiaries or branches.

In this Clause 29.4, “**Applicable Person**” means any or all of the following persons:

- (i) any authority or person against which, pursuant to any applicable law, administrative order or court ruling, banking secrecy may not be validly asserted by an Authorised Person;
- (ii) each Creditor Party or any other Authorised Person’s parent company, any of its subsidiaries, branches or representative offices;
- (iii) any rating agency, auditor, insurance and reinsurance company, broker or professional adviser, to the extent such entity or person is bound by a statutory or contractual duty of confidentiality;
- (iv) any financial institution and institutional or other investor who is or might be involved in securitisation schemes, hedging agreements, participations, credit derivatives or any other risk transfer or sharing arrangements, including, inter alia, a bank and/or other financial institution’s participation in, or syndication in respect of, the Loan;

- (v) any potential assignee or transferee or person who has entered into or is proposing to enter into contractual arrangements with the Authorised Person in relation to a Borrower; and
- (vi) any external computer services provider, for the purpose of maintenance or repair of a Creditor Party's or any other Authorised Person's computer systems and date provided that such external computer services provider is bound by the confidentiality policy of such Creditor Party.

29.5 Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an affiliate) ceases to be a Lender, the Agent may (in consultation with the Borrowers) appoint another Lender or an affiliate of a Lender to replace that Reference Bank.

29.6 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Agent but may do so at the Agent's request.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any quotation provided to the Agent.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any quotation provided to the Agent, and any officer, employee or agent of each Reference Bank may rely on this clause subject to clause 29.3 and the provisions of the Third Parties Act.

29.7 Third party Reference Banks

Any Reference Bank which is not a party to this Agreement may rely on Clause 29.6 subject to Clause 29.3 and the provisions of the Third Parties Act.

29.8 Counterparts

A Finance Document may be executed in any number of counterparts.

30 CONFIDENTIALITY

30.1 Confidential Information

Each Creditor Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clauses 30.2 and 30.3 and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information taking also into account the public nature of the Corporate Guarantor.

30.2 Disclosure of Confidential Information

Any Creditor Party may disclose:

- (a) to any of its affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Creditor Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent and, in each case, to any of that person's affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrowers and/or any Security Party and to any of that person's affiliates, Related Funds, Representatives and professional advisers;
 - (iii) appointed by any Creditor Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
 - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
 - (vii) to whom or for whose benefit that Creditor Party charges, assigns or otherwise creates a Security Interest (or may do so) pursuant to Clause 26;
 - (viii) who is a party to a Finance Document, a member of the Group or any related entity of the Borrowers or any Security Party; or
 - (ix) with the consent of the Borrowers;

in each case, such Confidential Information as that Creditor Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Creditor Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Creditor Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrowers and the relevant Creditor Party; and
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrowers and/or the Security Parties.

30.3 Disclosure to numbering service providers

- (a) Any Creditor Party may disclose to any national or international numbering service provider appointed by that Creditor Party to provide identification numbering services in respect of this Agreement, the Loan and/or the Borrowers and/or the Security Parties the following information:
- (i) names of the Borrowers and the Security Parties;
 - (ii) country of domicile of the Borrowers and the Security Parties;
 - (iii) place of incorporation of the Borrowers and the Security Parties;
 - (iv) date of this Agreement;

- (v) governing law;
 - (vi) the names of the Agent and the Mandated Lead Arranger;
 - (vii) date of each amendment and restatement of this Agreement;
 - (viii) amount of the Loan;
 - (ix) amount of Total Commitments;
 - (x) currency of the Loan;
 - (xi) type of facility;
 - (xii) ranking of facility;
 - (xiii) final Repayment Date;
 - (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
 - (xv) such other information agreed between such Creditor Party and the Borrowers,
- to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The parties to this Agreement acknowledge and agree that each identification number assigned to this Agreement, the Loan and/or the Borrowers and/or any Security Party by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
 - (c) The Borrowers represent that none of the information set out in paragraphs (a)(i) to (a)(xv) above is, nor will at any time be, unpublished price-sensitive information.
 - (d) The Agent shall notify the Borrowers and the other Creditor Parties of:
 - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Loan and/or the Borrowers and/or the Security Parties; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Loan and/or the Borrowers and/or the Security Parties by such numbering service provider.

30.4 Entire agreement

This Clause 30 constitutes the entire agreement between the parties to this Agreement in relation to the obligations of the Creditor Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

30.5 Inside information

Each of the Creditor Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Creditor Parties undertakes not to use any Confidential Information for any unlawful purpose.

30.6 Notification of disclosure

Each of the Creditor Parties agrees (to the extent permitted by law and regulation) to inform the Borrowers:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 30.2 except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 30.

30.7 Continuing obligations

The obligations in this Clause 30 are continuing and, in particular, shall survive and remain binding on each Creditor Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Borrowers and the Security Parties under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Creditor Party otherwise ceases to be a Creditor Party.

31 LAW AND JURISDICTION

31.1 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.

31.2 Exclusive English jurisdiction

Subject to Clause 31.3, the courts of England shall have exclusive jurisdiction to settle any Dispute.

31.3 Choice of forum for the exclusive benefit of the Creditor Parties

Clause 31.2 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.

No Borrower shall commence any proceedings in any country other than England in relation to a Dispute.

31.4 Process agent

Each 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.

31.5 Creditor Party rights unaffected

Nothing in this Clause 31 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.

31.6 Meaning of “proceedings” and “Dispute”

In this Clause 31, “**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.

32 BAIL-IN

32.1 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each party hereto acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
- (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

EXECUTION PAGE

BORROWERS

SIGNED by Maria Trivela) /s/ Maria Trivela
for and on behalf of)
COASTERS VENTURES LTD)

SIGNED by Maria Trivela) /s/ Maria Trivela
for and on behalf of)
GOLEM NAVIGATION LIMITED)

SIGNED by Maria Trivela) /s/ Maria Trivela
for and on behalf of)
VELVET SHIPPING CORPORATION)

LENDERS

SIGNED by Ilias Vassilios Tsigos) /s/ Ilias Vassilios Tsigos
for and on behalf of)
NIBC BANK N.V.)

MANDATED LEAD ARRANGER

SIGNED by Ilias Vassilios Tsigos) /s/ Ilias Vassilios Tsigos
for and on behalf of)
NIBC BANK N.V.)

AGENT

SIGNED by Ilias Vassilios Tsigos) /s/ Ilias Vassilios Tsigos
for and on behalf of)
NIBC BANK N.V.)

SECURITY TRUSTEE

SIGNED by Ilias Vassilios Tsigos) /s/ Ilias Vassilios Tsigos
for and on behalf of)
NIBC BANK N.V.)

Witness to all the above)
Signature) /s/ Aikaterina Dimitriou
Name: Aikaterina Dimitriou
Address: Watson Farley & Williams
348 Syngrou Avenue
17674 Kallithea
Athens, Greece

US\$66,000,000

FACILITY AGREEMENT

Dated 12 February 2019

for

**KOHYLIA SHIPMANAGEMENT S.A.
FLORAL MARINE LTD.
IANTHE MARITIME S.A.
CUSTOMIZED DEVELOPMENT S.A.**
as joint and several Borrowers

guaranteed by

NAVIOS MARITIME PARTNERS L.P.
as Guarantor

arranged by

DVB BANK SE
as Arranger

with

DVB BANK SE
acting as Facility Agent

DVB BANK SE
acting as Security Agent

and

DVB BANK SE
acting as Account Bank

FACILITY AGREEMENT

relating to
the refinancing of certain existing indebtedness secured on m.vs. “NAVIOS LUZ”, “NAVIOS BUENA
VENTURA”, “NAVIOS ASTER” and “NAVIOS FULVIA”

**WATSON FARLEY
&
WILLIAMS**

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PARTIES

- (1) **KOHYLIA SHIPMANAGEMENT S.A.**, 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 MH 96960 as a borrower ("**Borrower A**")
- (2) **FLORAL MARINE LTD.**, 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 MH 96960 ("**Borrower B**")
- (3) **IANTHE MARITIME S.A.**, 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 MH 96960 ("**Borrower C**")
- (4) **CUSTOMIZED DEVELOPMENT S.A.**, a corporation incorporated in the Republic of Liberia whose registered address is at 80 Broad Street, Monrovia, Liberia ("**Borrower D**")
- (5) **NAVIOS MARITIME PARTNERS L.P.**, a limited partnership formed in the Republic of the Marshall Islands whose registered address is at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 as guarantor (the "**Guarantor**")
- (6) **DVB Bank SE, Amsterdam Branch**, a *societas europaea* incorporated with limited liability in the Federal Republic of Germany, acting through its principal place of business in The Netherlands at WTC Schiphol Tower F, 6th Floor, Schiphol Boulevard 255, 1118 BH Schiphol, The Netherlands, as arranger (the "**Arranger**")
- (7) **THE FINANCIAL INSTITUTIONS** listed in Part B of Schedule 1 (*The Parties*) as lenders (the "**Original Lenders**")
- (8) **DVB BANK SE, Amsterdam Branch**, a *societas europaea* incorporated with limited liability in the Federal Republic of Germany, acting through its principal place of business in The Netherlands at WTC Schiphol Tower F, 6th Floor, Schiphol Boulevard 255, 1118 BH Schiphol, The Netherlands, as agent of the other Finance Parties (the "**Facility Agent**")
- (9) **DVB BANK SE, Amsterdam Branch**, a *societas europaea* incorporated with limited liability in the Federal Republic of Germany, acting through its principal place of business in The Netherlands at WTC Schiphol Tower F, 6th Floor, Schiphol Boulevard 255, 1118 BH Schiphol, The Netherlands, as security agent for the Creditor Parties (the "**Security Agent**")
- (10) **DVB BANK SE**, a *societas europaea* incorporated with limited liability in the Federal Republic of Germany, whose registered office is at Platz der Republik 6, 60325 Frankfurt am Main, Germany as account bank (the "**Account Bank**")

OPERATIVE PROVISIONS

SECTION 1

INTERPRETATION

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“**Account Bank**” means DVB Bank SE acting through its office at Platz der Republik 6, 60325, Frankfurt/Main, Germany.

“**Accounts**” means:

- (a) the Earnings Account;
- (b) the Time Deposit Account; and
- (c) with the express written consent of the Facility Agent, any other accounts opened by the Borrowers or the Shareholder with the Account Bank, the Facility Agent or the Security Agent for the purposes of the Finance Documents.

“**Account Security**” means a document creating Security over any Account in agreed form.

“**Advance**” means a borrowing of all or any part of a Tranche under this Agreement.

“**Affiliate**” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“**Anti-Corruption Laws**” means (i) the US Foreign Corrupt Practices Act of 1977, as amended, (ii) the Bribery Act 2010 of the UK, and (iii) any other applicable anti-bribery or anti-corruption law or regulation in any Relevant Jurisdiction.

“**Anti-Money Laundering Laws**” means the applicable money laundering statutes and regulations of all jurisdictions in which each Transaction Obligor, Charterer and members of its Group conduct business, the rules and regulations made under them and any applicable related or similar rules, regulations or guidelines issued, administered or enforced by any governmental or regulatory agency.

“**Approved Broker**” means any firm or firms of insurance brokers approved in writing by the Facility Agent, acting with the authorisation of the Lenders.

“**Approved Classification**” means, in relation to a Vessel, as at the date of this Agreement, the classification in relation to that Vessel specified in Schedule 8 (*Details of the Vessels*) with the relevant Approved Classification Society or the equivalent classification with another Approved Classification Society.

“**Approved Classification Society**” means, in relation to a Vessel, as at the date of this Agreement, the classification society in relation to that Vessel specified in Schedule 8 (*Details of the Vessels*) or any other classification society approved in writing by the Facility Agent acting with the authorisation of the Lenders.

“**Approved Flag**” means, in relation to a Vessel, as at the date of this Agreement, the flag of the Republic of Panama, the Republic of Liberia or the Republic of the Marshall Islands or such other flag approved in writing by the Facility Agent acting with the authorisation of the Lenders.

“**Approved Manager**” means, in relation to a Vessel, as at the date of this Agreement Navios Shipmanagement Inc., a corporation domesticated under the laws of the Republic of the Marshall Islands having its registered address at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands MH 96960 and/or, or any Affiliate of Navios Maritime Holdings Inc. or any other person approved in writing by the Facility Agent, acting with the authorisation of the Lenders, as the commercial and technical manager of that Vessel.

“**Approved Valuer**” means any one of VesselsValue, Clarkson Platou, Arrow Valuations Ltd, Fearnleys, Braemar ACM Shipbroking, Barry Rogliano and Salles (BRS), Maritime Strategies International Ltd. and Maersk Broker K/S (or, in each case, any Affiliate of such person through which valuations are commonly issued) and any other firm or firms of independent sale and purchase shipbrokers approved in writing by the Facility Agent, acting with the authorisation of the Lenders.

“**Assignable Charter**” means any time charterparty, consecutive voyage charter or other contract of affreightment in respect of a Vessel of a duration of more than 13 months (or capable of exceeding a duration of 13 months taking into account any extension options), including any bareboat charter in respect of a Vessel and any guarantee of the obligations of the Charterer under such bareboat charter, entered or to be entered into by a Borrower and a Charterer or, as the context may require, bareboat charterer and, in the plural, means all of them.

“**Assignment Agreement**” means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, legalisation or registration.

“**Availability Period**” means, in relation to each Tranche, the period from and including the date of this Agreement to and including 31 March 2019, or such later date as may be agreed by the Facility Agent in writing.

“**Available Commitment**” means a Lender’s Commitment minus:

- (a) the amount of its participation in the outstanding Loan; and
- (b) in relation to a proposed Drawdown, the amount of its participation in any Advance that is due to be made on or before the proposed Drawdown Date.

“**Available Facility**” means the aggregate for the time being of each Lender’s Available Commitment.

“**Available Tranche**” means, in relation to a Tranche, the aggregate for the time being of each Lender’s Available Commitment in respect of that Tranche.

“**Bail-In Action**” means the exercise of any Write-down and Conversion Powers.

“Bail-In Legislation” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“Borrower” means each of Borrower A, Borrower B, Borrower C and Borrower D and in the plural means all of them.

“Break Costs” means the amount (if any) by which:

- (a) the interest which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loan or an Unpaid Sum to the last day of the current Interest Period in relation to the Loan, the relevant part of the Loan or that Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period exceeds
- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

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

- (a) (in relation to funding of the Loan only) Frankfurt;
- (b) (in relation only to any date for payment or purchase of dollars) New York;
- (c) and (in relation only to any date for the fixing of an interest rate using LIBOR) London.

“Charter” means, in relation to a Vessel, any charter relating to that Vessel, or other contract for its employment, whether or not already in existence, including (without limitation) any Assignable Charter.

“Charter Guarantee” means any guarantee, bond, letter of credit or other instrument (whether or not already issued) supporting a Charter.

“Charterparty Assignment” means, in relation to a Vessel, the assignment creating Security over the rights of the relevant Borrower under any Assignable Charter and any Charter Guarantee relative thereto in the agreed form.

“Charterer” means any person approved in writing by the Facility Agent, acting with the authorisation of the Majority Lenders, as a charterer under a Charter.

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

“**Commitment**” means each of Tranche A Commitment, Tranche B Commitment, Tranche C Commitment and Tranche D Commitment.

“**Compliance Certificate**” means a certificate in the form set out in Schedule 6 (*Form of Compliance Certificate*) or in any other form agreed between the Guarantor and the Facility Agent.

“**Confidential Information**” means all information relating to any Transaction Obligor, the Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (a) information that:
 - (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 44 (*Confidential Information*); or
 - (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
 - (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (b) any Funding Rate or Reference Bank Quotation.

“**Confidentiality Undertaking**” means a confidentiality undertaking in substantially the appropriate form recommended by the LMA from time to time or in any other form agreed between the Borrowers and the Facility Agent.

“**Corresponding Debt**” means any amount, other than any Parallel Debt, which an Obligor owes to a Creditor Party under or in connection with the Finance Documents.

“**Creditor Party**” means each Finance Party from time to time party to this Agreement, a Receiver or any Delegate.

“**Deed of Release**” means, in respect of the Term B Loan, a deed releasing the Existing Security in a form acceptable to the Security Agent.

“Default” means an Event of Default or a Potential Event of Default.

“Delegate” means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

“Disruption Event” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties or, if applicable, any Transaction Obligor; 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 or, if applicable, any Transaction Obligor preventing that, or any other, Party or, if applicable, any Transaction Obligor:
 - (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with other Parties or, if applicable, any Transaction Obligor 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 or, if applicable, any Transaction Obligor whose operations are disrupted.

“Document of Compliance” has the meaning given to it in the ISM Code.

“dollars” and **“\$”** mean the lawful currency, for the time being, of the United States of America.

“Drawdown” means a drawdown of an Advance.

“Drawdown Date” means the date of a Drawdown, being the date on which the relevant Advance is to be made.

“Drawdown Request” means a notice substantially in the form set out in Part D of Schedule 3 (*Requests*).

“Earnings” means, in relation to a Vessel, all moneys whatsoever which are now, or later become, payable (actually or contingently) to a Borrower or the Security Agent and which arise out of or in connection with or relate to the use or operation of that Vessel, including (but not limited to):

- (a) the following, save to the extent that any of them is, with the prior written consent of the Facility Agent, pooled or shared with any other person:
 - (i) all freight, hire and passage moneys including, without limitation, all moneys payable under, arising out of or in connection with a Charter or a Charter Guarantee;
 - (ii) the proceeds of the exercise of any lien on sub-freights;

- (iii) compensation payable to a Borrower or the Security Agent in the event of requisition of that Vessel for hire or use;
 - (iv) remuneration for salvage and towage services;
 - (v) demurrage and detention moneys;
 - (vi) without prejudice to the generality of sub-paragraph (i) above, damages for breach (or payments for variation or termination) of any charterparty or other contract for the employment of that Vessel;
 - (vii) all moneys which are at any time payable under any Insurances in relation to loss of hire;
 - (viii) all monies which are at any time payable to a Borrower in relation to general average contribution; and
- (b) if and whenever that Vessel is employed on terms whereby any moneys falling within sub-paragraphs (i) to (vii) of paragraph (a) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to that Vessel.

“**Earnings Account**” means an account in the name of the Shareholder with the Account Bank with account number 2910063917.

“**EBITDA**” means, in respect of the Guarantor for any Relevant Period, the aggregate amount of combined pre-tax profits of the Group before extraordinary or exceptional items, interest, depreciation and amortisation as shown, at any relevant time, by the Latest Accounts.

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“**Environmental Approval**” means any present or future permit, ruling, variance or other Authorisation required under Environmental Laws.

“**Environmental Claim**” means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, “**claim**” includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

“**Environmental Incident**” means:

- (a) any release, emission, spill or discharge into any Vessel or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from any Vessel; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water from a vessel other than any Vessel and which involves a collision between any

Vessel and such other vessel or some other incident of navigation or operation, in either case, in connection with which a Vessel is actually or potentially liable to be arrested, attached, detained or injuncted and/or a Vessel and/or any Transaction Obligor and/or any operator or manager of a Vessel is at fault or allegedly at fault or otherwise liable to any legal or administrative action; or

- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, sea, land or soils (including the seabed) or surface water otherwise than from a Vessel and in connection with which a Vessel is actually or potentially liable to be arrested and/or where any Transaction Obligor and/or any operator or manager of a Vessel is at fault or allegedly at fault or otherwise liable to any legal or administrative action, other than in accordance with an Environmental Approval.

“Environmental Law” means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workplace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

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

“EU Bail-In Legislation Schedule” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“Event of Default” means any event or circumstance specified as such in Clause 27 (*Events of Default*).

“Existing Facility Agreement” means the facility agreement dated 28 June 2017 (as amended and/or supplemented from time to time) and entered into between, amongst others, Borrower D and the Existing Vessel D Lender as lender to secured on, inter alia, Vessel D.

“Existing Vessel D Lender” means DVB Bank SE.

“Existing Indebtedness” means:

- (a) in relation to Borrower A, the relevant part of the Term B Loan relating to Vessel A;
- (b) in relation to Borrower B, the relevant part of the Term B Loan relating to Vessel B;
- (c) in relation to Borrower C, the relevant part of the Term B Loan relating to Vessel C; and
- (d) in relation to Borrower D, the outstanding Financial Indebtedness on that date under the Existing Facility Agreement amounting to \$12,250,000 at the date of this Agreement.

“Existing Security” means any Security created to secure the Existing Indebtedness.

“Facility” means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

“Facility Office” means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than 5 Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement.

“FATCA” means:

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

“FATCA Application Date” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
- (b) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

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

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

“Fee Letter” means any letter or letters dated on or about the date of this Agreement between any of the Arranger, the Facility Agent and the Security Agent and any Obligor setting out any of the fees referred to in Clause 11 (*Fees*).

“Finance Document” means:

- (a) this Agreement;
- (b) any Fee Letter;
- (c) each Drawdown Request;
- (d) any Security Document;
- (e) any other document which is executed for the purpose of establishing any priority or subordination arrangement in relation to the Secured Liabilities; or
- (f) any other document designated as such by the Facility Agent and the Borrowers.

“Finance Party” means the Arranger, the Facility Agent, the Security Agent, the Account Bank or a Lender.

“Financial Indebtedness” means any indebtedness for or in relation to:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in relation to any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in relation to a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in relation to any guarantee or indemnity for any of the items referred to in paragraphs (a) to (f) above.

“Fleet Vessel” means any ship (including the Vessels) from time to time owned by the Guarantor (directly or indirectly).

“Funding Rate” means any individual rate notified by a Lender to the Facility Agent pursuant to sub-paragraph (ii) of paragraph (a) of Clause 10.4 (*Cost of funds*).

“GAAP” means generally accepted accounting principles in the US.

“General Assignment” means, in relation to a Vessel, the general assignment creating Security over:

- (a) the Earnings, the Insurances and any Requisition Compensation in relation to that Vessel; and
- (b) any Charter and any Charter Guarantee,

in agreed form.

“**Group**” means the Guarantor and its Subsidiaries for the time being (excluding any Subsidiaries whose shares are listed on any public stock exchange or whose financial statements are not consolidated into the financial statements of the Guarantor) and “**member of the Group**” shall be construed accordingly.

“**Guarantee**” means the guarantee of the Guarantor contained in this Agreement.

“**Holding Company**” means, in relation to a person, any other person in relation to which it is a Subsidiary.

“**Indemnified Person**” has the meaning given to it in Clause 14.2 (*Other indemnities*).

“**Initial Market Value**” means the Market Value of a Vessel determined in accordance with the valuations provided pursuant to paragraph 3.3 of Schedule 2, Part B.

“**Insurances**” means, in relation to a Vessel:

- (a) all policies and contracts of insurance, including entries of that Vessel in any protection and indemnity or war risks association, effected in relation to that Vessel, the Earnings or otherwise in relation to that Vessel whether before, on or after the date of this Agreement; and
- (b) all rights and other assets relating to, or derived from, any of such policies, contracts or entries, including any rights to a return of premium and any rights in relation to any claim whether or not the relevant policy, contract of insurance or entry has expired on or before the date of this Agreement.

“**Interest**” means, in respect of the Guarantor for any Relevant Period, the aggregate amount of interest, commissions, fees, discounts, prepayment fees, premiums, charges or other finance payments paid or payable during the Relevant Period in respect of any borrowings by the Guarantor and its Subsidiaries as shown in or determined from its Latest Accounts or otherwise as would be determined in accordance with GAAP.

“**Interest Cover Ratio**” means, by reference to a Test Date, the ratio of EBITDA to Interest on a trailing four-quarter basis.

“**Interest Payment Date**” has the meaning given to it in paragraph (a) of Clause 8.2 (*Payment of interest*).

“**Interest Period**” means, in relation to the Loan or any part of the Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

“**Interpolated Screen Rate**” means, in relation to the Loan or any part of the Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

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

each as of the Specified Time for dollars.

“**ISM Code**” means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time.

“**ISPS Code**” means the International Ship and Port Facility Security (ISPS) Code as adopted by the International Maritime Organization’s (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

“**ISSC**” means an International Ship Security Certificate issued under the ISPS Code.

“**KYC Documentation**” means any documentation which a Finance Party requires for its “know your customer” due diligence regulation purposes, including but not limited to:

- (a) certificate of incorporation,
- (b) proof of registered address,
- (c) list of directors; and
- (d) list of shareholders (unless the company is listed on a recognised stock exchange).

“**Latest Accounts**” means, in respect of any financial quarter or year of the Group, the latest unaudited (in respect of each financial quarter) or audited (in respect of each financial year) financial statements required to be prepared pursuant to Clause 20.2 (*Financial statements*).

“**Lender**” means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 28 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with this Agreement.

“**LIBOR**” means, in relation to the Loan or any part of the Loan:

- (a) the applicable Screen Rate as of the Specified Time for dollars and for a period equal in length to the Interest Period of the Loan or that part of the Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, LIBOR shall be deemed to be zero.

“**Liquid Funds**” means, by reference to a Test Date or, as the case may be, for any accounting period, the aggregate of any cash deposits legally or beneficially held by all members of the Group and including any funds held with the Facility Agent and other banks from time to time to satisfy minimum liquidity requirements.

“**LMA**” means the Loan Market Association.

“**Loan**” means the aggregate amount of the Advances to be made available under the Facility or the aggregate principal amount outstanding for the time being of the borrowings under the Facility and a “**part of the Loan**” means an Advance, a Tranche or any other part of the Loan as the context may require.

“**Major Casualty**” means, in relation to a Vessel, any casualty to that Vessel in relation to 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) if no Advance has yet been made, a Lender or Lenders whose Commitments aggregate more than $66\frac{2}{3}$ per cent. of the Total Commitments; or
- (b) at any other time, a Lender or Lenders whose participations in the Loan aggregate more than $66\frac{2}{3}$ per cent. of the amount of the Loan then outstanding or, if the Loan has been repaid or prepaid in full, a Lender or Lenders whose participations in the Loan immediately before repayment or prepayment in full aggregate more than $66\frac{2}{3}$ per cent. of the Loan immediately before such repayment.

“**Management Agreement**” means, in relation to a Vessel, the agreement entered into between the Borrower owning that Vessel and the Approved Manager regarding the commercial and technical management of that Vessel.

“**Manager’s Undertaking**” means, in relation to a Vessel, the letter of undertaking from the Approved Manager subordinating the rights of the Approved Manager against that Vessel and the relevant Borrower to the rights of the Finance Parties and assigning the rights and interests of the Approved Manager in the Insurances in relation to that Vessel to the Finance Parties in agreed form.

“**Margin**” means 2.60 per cent. per annum.

“**Market Value**” means, in relation to a Vessel or any other vessel, at any date, the market value of that Vessel or vessel determined in accordance with Clause 25.7 (*Provision of valuations*) and, prepared:

- (a) unless otherwise specified by the Facility Agent, as at a date not more than 30 days previously;
- (b) by an Approved Valuer or Approved Valuers;
- (c) with or without physical inspection of that Vessel or vessel (as the Facility Agent may require); and
- (d) 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 Charter.

“**Market Value Adjusted Leverage**” means, at any relevant time, the ratio of:

- (a) the Total Liabilities Adjusted; to
- (b) the Market Value Adjusted Total Assets.

“Market Value Adjusted Total Assets” means, at any time, Total Assets adjusted to reflect the difference between the book values of all Fleet Vessels and the aggregate market value of all Fleet Vessels as provided in the Latest Accounts.

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

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Group as a whole; or
- (b) the ability of any Transaction Obligor to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or intended to be granted pursuant to any of, the Finance Documents or the rights or remedies of any Finance Party under any of the Finance Documents.

“Maturity Date” means, in relation to each Tranche, the earlier of (i) the date falling 60 months after the Drawdown Date in respect of that Tranche and (ii) 6 February 2024.

“Month” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

“Mortgage” means, in relation to a Vessel, a first preferred Panamanian (as the case may) ship mortgage on that Vessel in agreed form.

“Net Worth” means the amount by which the Total Assets exceed the Total Liabilities.

“Obligor” means a Borrower or the Guarantor.

“Original Financial Statements” means the annual audited consolidated financial statements of the Group for its financial year ended 31 December 2017.

“Original Jurisdiction” means, in relation to a Transaction Obligor, the jurisdiction under whose laws that Transaction Obligor is incorporated as at the date of this Agreement.

“Overseas Regulations” means the Overseas Companies Regulations 2009 (SI 2009/1801).

“Parallel Debt” means any amount which an Obligor owes to the Security Agent under Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) or under that clause as incorporated by reference or in full in any other Finance Document.

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

“Party” means a party to this Agreement.

“Permitted Charter” means, in relation to a Vessel, a Charter:

- (a) which is a time, voyage or consecutive voyage charter;
- (b) the duration of which does not exceed and is not capable of exceeding, by virtue of any optional extensions, 13 months;
- (c) which is entered into on *bona fide* arm’s length terms at the time at which that Vessel is fixed; and
- (d) in relation to which not more than two months’ hire is payable in advance,

and any other Charter which is approved in writing by the Facility Agent acting with the authorisation of the Majority Lenders.

“Permitted Financial Indebtedness” means:

- (a) any Financial Indebtedness incurred under the Finance Documents;
- (b) in relation to each Borrower, until the Drawdown Date of the relevant Advance, the Existing Indebtedness; and
- (c) any Financial Indebtedness (including without limitation, any shareholder or intra-Group loans made available to the Borrowers (or any of them) in the normal course of its business of trading and operating any Vessel) that is subordinated to all Financial Indebtedness incurred under the Finance Documents in writing in a manner acceptable to the Facility Agent in all respects.

“Permitted Security” means:

- (a) Security created by the Finance Documents;
- (b) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (c) liens for unpaid master’s and crew’s wages in accordance with usual maritime practice;
- (d) liens for salvage;
- (e) liens for master’s disbursements incurred in the ordinary course of trading; and

- (f) any other lien arising by operation of law or otherwise in the ordinary course of the operation, repair or maintenance of any Vessel and not as a result of any default or omission by any Borrower and subject, in the case of liens for repair or maintenance, to Clause 24.17 (*Restrictions on chartering, appointment of managers etc.*).

“**Potential Event of Default**” means any event or circumstance specified in Clause 27 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“**Prohibited Person**” means any person (whether designated by name or by reason of being included in a class of persons) against whom Sanctions are directed.

“**Protected Party**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Quotation Day**” means, in relation to any period for which an interest rate is to be determined, two Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market in which case the Quotation Day will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

“**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.

“**Receiver**” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets.

“**Reference Bank Quotation**” means any quotation supplied to the Facility Agent by a Reference Bank.

“**Reference Bank Rate**” means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks:

- (a) if:
- (i) the Reference Bank is a contributor to the Screen Rate; and
 - (ii) it consists of a single figure,
- as the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the Screen Rate are asked to submit to the relevant administrator; or
- (b) in any other case, as the rate at which the relevant Reference Bank could fund itself in dollars for the relevant period with reference to the unsecured wholesale funding market.

“**Reference Banks**” means the principal London offices of any three banks from the ICE LIBOR panel or such other entities as may be appointed by the Facility Agent in consultation with the Borrowers.

“**Related Fund**” in relation to a fund (the “**first fund**”), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

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

“**Relevant Jurisdiction**” means, in relation to a Transaction Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to, or intended to be subject to, any of the Transaction Security created, or intended to be created, by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

“**Relevant Period**” means, by reference to a Test Date, each period of three months ending on that Test Date.

“**Repayment Date**” means each date on which a Repayment Instalment is required to be paid under Clause 6.1 (*Repayment of Loan*).

“**Repayment Instalment**” has the meaning given to it in Clause 6.1 (*Repayment of Loan*).

“**Repeating Representation**” means each of the representations set out in Clause 19 (*Representations*) except Clause 19.10 (*Insolvency*), Clause 19.11 (*No filing or stamp taxes*), Clause 19.12 (*Deduction of Tax*), Clause 19.17 (*No proceedings pending or threatened*), Clause 19.35 (*Sanctions, Anti-Corruption Laws, Anti-Money Laundering Laws*) and any representation of any Transaction Obligor made in any other Finance Document that is expressed to be a “Repeating Representation” or is otherwise expressed to be repeated.

“**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 Borrowers, 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 Borrowers, an appropriate successor to a Screen Rate.

“**Representative**” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“**Requisition**” means, in relation to a Vessel:

(a) any expropriation, confiscation, requisition (excluding a requisition for hire or use which does not involve a requisition for title) or acquisition of that Vessel, whether for full consideration, a consideration less than its proper value, a nominal consideration or without any consideration, which is effected (whether de jure or de facto) by any government or official authority or by any person or persons claiming to be or to represent a government or official authority; and

(b) any capture or seizure of that Vessel (including any hijacking or theft) by any person whatsoever.

“**Requisition Compensation**” includes all compensation or other moneys payable to a Borrower by reason of any Requisition or any arrest or detention of the Vessel owned by that Borrower in the exercise or purported exercise of any lien or claim.

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers.

“**Safety Management Certificate**” has the meaning given to it in the ISM Code.

“**Safety Management System**” has the meaning given to it in the ISM Code.

“**Sanctions**” means any sanctions, embargoes, freezing provisions, prohibitions or other restrictions relating to trading, doing business, investment, exporting, financing or making assets available (or other activities similar to or connected with any of the foregoing):

(a) imposed by law or regulation of the United Kingdom, the Council of the European Union, the United Nations or its Security Council or the United States of America; or

(b) otherwise imposed by any law or regulation.

“**Sanctions Target**” means a target or subject of any Sanctions, including, without limitation, any person or entity,

(a) listed on the OFAC Specially Designated Nationals and Blocked Persons List, the OFAC Foreign Sanctions Evaders List, the OFAC Sectoral Sanctions Identification List, or any other OFAC list of OFAC sanctioned persons or entities, or any entity that is owned 50% or more, directly or indirectly, by such a person or entity;

(b) listed by the US Department of State or the US Department of Commerce on any of the lists published by them of export restricted persons where such restrictions apply to the export or operation of the Vessel, its engines, machinery, boats, tackle, outfit, spare gear, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether owned as at the date of this Deed or later acquired;

- (c) listed on any similar list maintained by the United Nations, the EU or, in the UK, Her Majesty's Treasury;
- (d) based, organised or resident in a country or territory that is the subject of comprehensive country-wide or territory-wide sanctions; or
- (e) controlled by or acting on behalf of any person or entity falling within (a), (b), (c) or (d).

"Screen Rate Contingency Period" means 10 Business Days.

"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 Borrowers 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
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
 - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Borrowers) temporary; or

- (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the Screen Rate Contingency Period; or
- (d) in the opinion of the Majority Lenders and the Borrowers, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

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

“**Secured Liabilities**” means all present and future obligations and liabilities, (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Creditor Party under or in connection with each Finance Document.

“**Security**” means a mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.

“**Security Assets**” means all of the assets of the Transaction Obligors which from time to time are, or are expressed to be, the subject of the Transaction Security.

“**Security Cover Ratio**” means, at any relevant time, the aggregate of (i) the aggregate of the Market Value of the Vessels subject to a Mortgage and (ii) the net realisable value of any additional security provided at that time under Clause 25 (*Security Cover*), at that time expressed as a percentage of the Loan;

“**Security Document**” means:

- (a) any Shares Security;
- (b) any Mortgage;
- (c) any General Assignment;
- (d) any Charterparty Assignment;
- (e) any Account Security;
- (f) any Manager’s Undertaking;
- (g) any other document (whether or not it creates Security) which is executed as security for the Secured Liabilities; or
- (h) any other document designated as such by the Facility Agent and the Borrowers.

“**Security Period**” means the period starting on the date of this Agreement and ending on the date on which the Facility Agent is satisfied that there is no outstanding Commitment in force and that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full.

“**Security Property**” means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Creditor Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Transaction Obligor to pay amounts in relation to the Secured Liabilities to the Security Agent as trustee for the Creditor Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Transaction Obligor or any other person in favour of the Security Agent as trustee for the Creditor Parties;
- (c) the Security Agent’s interest in any turnover trust created under the Finance Documents;
- (d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Creditor Parties,

except:

- (i) rights intended for the sole benefit of the Security Agent; and
- (ii) any moneys or other assets which the Security Agent has transferred to the Facility Agent or (being entitled to do so) has retained in accordance with the provisions of this Agreement.

“**Selection Notice**” means a notice substantially in the form set out in Part E of Schedule 3 (*Requests*) given in accordance with Clause 9 (*Interest Periods*).

“**Servicing Party**” means the Facility Agent or the Security Agent.

“**Shareholder**” means, in relation to each Borrower, Navios Maritime Operating L.L.C., a limited liability company formed 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, Marshall Islands MH 96960.

“**Shares Security**” means, in relation to a Borrower, a document creating Security over the share capital in that Borrower in agreed form.

“**Specified Time**” means a day or time determined in accordance with Schedule 7 (*Timetables*).

“**Subsidiary**” means that a company (S) is a subsidiary of another company (P) if

- (a) a majority of the issued shares in S (or a majority of the issued shares in S which carry unlimited rights to capital and income distributions) are directly owned by P or are indirectly attributable to P; and

(b) P has direct or indirect control over a majority of the voting rights attached to the issued shares of S;

and any company of which S is a subsidiary is a parent company of S.

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Tax Credit**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Tax Deduction**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Tax Payment**” has the meaning given to it in Clause 12.1 (*Definitions*).

“**Term B Loan**” means the credit agreement dated as of 14 March 2017 (as amended, restated, supplemented or otherwise modified from time to time), by and among the Guarantor and Navios Partners Finance (US) Inc., a Delaware corporation, as borrowers, the lenders from time to time party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent for the lenders;

“**Terms and Conditions**” means the Special Conditions for Time Deposit Account for Commercial Clients (including but not limited to the Account Bank’s General Terms and Conditions of Business) as set out in the Application for Opening of the Time Deposit Account.

“**Test Date**” means 31 March, 30 June, 30 September and 31 December, being the last day of the financial quarter to which the Latest Accounts relate.

“**Third Parties Act**” has the meaning given to it in Clause 1.5 (*Third party rights*).

“**Time Deposit Account**” means an account in the name of the Shareholder with the Account Bank with account number 5900000042.

“**Total Assets**” means, as at the date of calculation or, as the case may be, for any accounting period, the total assets of the Group (including, without limitation, the Vessels) as at that date (based on book values) or for that period (which shall have the meaning given thereto under the GAAP) as shown in the Latest Accounts.

“**Total Commitments**” means the aggregate of the Tranche A Commitment, Tranche B Commitment, Tranche C Commitment and Tranche D Commitment being \$66,000,000 at the date of this Agreement.

“**Total Debt**” means, as at the date of calculation or, as the case may be, for any accounting period, the total debt of the Group as at that date or for that period (which shall have the meaning given thereto under GAAP) as shown in the most Latest Accounts.

“**Total Liabilities**” means, as at the date of calculation or, as the case may be, for any accounting period, the total liabilities of the Group as at that date or for that period (which shall have the meaning given thereto under GAAP) as shown in the Latest Accounts.

“**Total Liabilities Adjusted**” means, the Total Liabilities excluding the amount which appears as deferred revenue and relates to the compensation received in respect of m.vs. “HYUNDAI BUSAN”, “HYUNDAI SINGAPORE”, “HYUNDAI SHANGHAI”, “HYUNDAI TOKYO” and “HYUNDAI HONG KONG”, in each case, as such amount reduces from time to time.

“**Total Loss**” means, in relation to a Vessel:

- (a) actual, constructive, compromised, agreed or arranged total loss of that Vessel; or
- (b) in the case of any of the events described in paragraph (a) of the definition “Requisition”, any such Requisition of a Vessel unless that Vessel is returned to the full control of the relevant Borrower within 60 days of such Requisition; and
- (c) in the case of any of the events described in paragraph (b) of the definition “Requisition”, any such Requisition of a Vessel unless that Vessel is returned to the full control of the relevant Borrower within 90 days of such Requisition, provided that in the case of hijacking, if the relevant underwriters confirm to the Facility Agent in writing (in customary terms) prior to the end of the 30 day period that that Vessel will be covered by that Borrower’s war risk insurance, the shorter of 12 months and the period for which such cover is confirmed to attach.

“**Total Loss Date**” means, in relation to the Total Loss of a Vessel:

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

“**Tranche**” means each of Tranche A, Tranche B, Tranche C and Tranche D.

“**Tranche A**” means that part of the Loan made or to be made available to the Borrowers in respect of Vessel A in a principal amount not exceeding, subject to Clause 5.3(b)(v), the lesser of (i) \$16,500,000 and (ii) 57 per cent. of the Initial Market Value of Vessel A.

“**Tranche A Commitment**” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Tranche A Commitment” in Part B of Schedule 1 and the amount of any other Tranche A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Tranche A Commitment transferred to it under this Agreement, to the extent not cancelled, reduced or transferred by it under this Agreement.

“Tranche B” means that part of the Loan made or to be made available to the Borrowers in respect of Vessel B in a principal amount not exceeding, subject to Clause 5.3(b)(v), the lesser of (i) \$16,500,000 and (ii) 57 per cent. of the Initial Market Value of Vessel B.

“Tranche B Commitment” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Tranche B Commitment” in Part B of Schedule 1 and the amount of any other Tranche B Commitment transferred to it under this Agreement; and
 - (b) in relation to any other Lender, the amount of any Tranche B Commitment transferred to it under this Agreement,
- to the extent not cancelled, reduced or transferred by it under this Agreement.

“Tranche C” means that part of the Loan made or to be made available to the Borrowers in respect of Vessel C in a principal amount not exceeding, subject to Clause 5.3(b)(v), the lesser of (i) \$16,500,000 and (ii) 57 per cent. of the Initial Market Value of Vessel C.

“Tranche C Commitment” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Tranche C Commitment” in Part B of Schedule 1 and the amount of any other Tranche C Commitment transferred to it under this Agreement; and
 - (b) in relation to any other Lender, the amount of any Tranche C Commitment transferred to it under this Agreement,
- to the extent not cancelled, reduced or transferred by it under this Agreement.

“Tranche D” means that part of the Loan made or to be made available to the Borrowers in respect of Vessel D in a principal amount not exceeding, subject to Clause 5.3(b)(v), the lesser of (i) \$16,500,000 and (ii) 57 per cent. of the Initial Market Value of Vessel D.

“Tranche D Commitment” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Tranche D Commitment” in Part D of Schedule 1 and the amount of any other Tranche D Commitment transferred to it under this Agreement; and
 - (b) in relation to any other Lender, the amount of any Tranche D Commitment transferred to it under this Agreement,
- to the extent not cancelled, reduced or transferred by it under this Agreement.

“Transaction Document” means:

- (a) a Finance Document;
- (b) a Management Agreement;
- (c) any Assignable Charter and any related Charter Guarantee; or
- (d) any other document designated as such by the Facility Agent and the Borrowers.

“**Transaction Obligor**” means an Obligor, the Shareholder and the Approved Manager who is a member of the Group or any other member of the Group who executes a Transaction Document.

“**Transaction Security**” means the Security created or evidenced or expressed to be created or evidenced under the Security Documents.

“**Transfer Certificate**” means a certificate in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrowers.

“**Transfer Date**” means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Facility Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**UK Establishment**” means a UK establishment as defined in the Overseas Regulations.

“**Unpaid Sum**” means any sum due and payable but unpaid by a Transaction Obligor under the Finance Documents.

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

“**US Tax Obligor**” means:

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

“**VAT**” means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“**VAT Group**” means two or more companies or limited liability partnerships which register as a single taxable entity for VAT purposes.

“**Vessel**” means each of Vessel A, Vessel B, Vessel C and Vessel D and in the plural means all of them.

“**Vessel A**” has the meaning given to that term in Schedule 8 (*Details of the Vessels*).

“**Vessel B**” has the meaning given to that term in Schedule 8 (*Details of the Vessels*).

“**Vessel C**” has the meaning given to that term in Schedule 8 (*Details of the Vessels*).

“**Vessel D**” has the meaning given to that term in Schedule 8 (*Details of the Vessels*).

“**Write-down and Conversion Powers**” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
 - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that Bail-In Legislation.

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
 - (i) the “**Account Bank**”, the “**Arranger**”, the “**Facility Agent**”, any “**Finance Party**”, any “**Lender**”, any “**Obligor**”, any “**Party**”, any “**Creditor Party**”, the “**Security Agent**”, any “**Transaction Obligor**” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
 - (ii) “**assets**” includes present and future properties, revenues and rights of every description;
 - (iii) a liability which is “**contingent**” means a liability which is not certain to arise and/or the amount of which remains unascertained;
 - (iv) “**document**” includes a deed and also a letter, fax or telex;
 - (v) “**expense**” means any kind of cost, charge or expense (including all legal costs, charges and expenses) and any applicable Tax including VAT;
 - (vi) a “**Finance Document**”, a “**Security Document**” or “**Transaction Document**” or any other agreement or instrument is a reference to that Finance Document, Security Document or Transaction Document or other agreement or instrument as amended or novated;

- (vii) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (viii) “**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;
 - (ix) “**proceedings**” means, in relation to any enforcement provision of a Finance Document, proceedings of any kind, including an application for a provisional or protective measure;
 - (x) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
 - (xi) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (xii) “**close of business**” means 5:00 pm in the relevant location;
 - (xiii) a provision of law is a reference to that provision as amended or re-enacted;
 - (xiv) a time of day is a reference to Amsterdam time;
 - (xv) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of a jurisdiction other than England, be deemed to include that which most nearly approximates in that jurisdiction to the English legal term;
 - (xvi) words denoting the singular number shall include the plural and vice versa; and
 - (xvii) “**including**” and “**in particular**” (and other similar expressions) shall be construed as not limiting any general words or expressions in connection with which they are used.
- (b) The determination of the extent to which a rate is “**for a period equal in length**” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only and are not to be used for the purposes of construction or interpretation of the Finance Documents.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under, or in connection with, any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

- (e) A Potential Event of Default is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived.

1.3 Construction of insurance terms

In this Agreement:

“**approved**” means, for the purposes of Clause 23 (*Insurance Undertakings*), approved in writing by the Facility Agent;

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

“**obligatory insurances**” means all insurances effected, or which each Borrower is obliged to effect, under Clause 23 (*Insurance Undertakings*) or any other provision of this Agreement or of another Finance Document;

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

“**protection and indemnity (“P & I”) risks**” means the usual risks covered by any protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations (or, if the International Group ceases to exist, any other leading protection and indemnity association or other leading provider of protection and indemnity insurance) including, (without limitation) excess war risks P&I cover, 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.

“**war risks**” means all usual war, P&I and strike risks covered by a recognised mutual War Risks Club or Association extended to include (without limitation) (a) war protection and indemnity cover on insuring conditions as wide as that provided by the P&I clubs under their excess war P&I cover; (b) piracy, should piracy be excluded under the hull & machinery insurance; (c) the London Blocking and Trapping addendum or its equivalent; and (d) all risks excluded by clauses 29, 30 or 31 of the International Hull Clauses (1/11/02), clauses 29 or 30 of the International Hull Clauses (1/11/03), clauses 24, 25 or 26 of the Institute Time Clauses (Hulls) (1/11/95) or clauses 23, 24 or 25 of the Institute Time Clauses (Hulls)(1/10/83) or any equivalent provision.

1.4 Agreed forms of Finance Documents

References in Clause 1.1 (*Definitions*) to any Finance Document being in “agreed form” are to that Finance Document:

- (a) in a form attached to a certificate dated the same date as this Agreement (and signed by the Borrowers and the Facility Agent); or
- (b) in any other form agreed in writing between the Borrowers and the Facility Agent acting with the authorisation of the Majority Lenders or, where Clause 43.2 (*All Lender matters*) applies, all the Lenders.

1.5 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Subject to Clause 42.3 (*Other exceptions*) but otherwise notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver, Delegate, Affiliate or any other person described in paragraph (d) of Clause 14.2 (*Other indemnities*), paragraph (b) of Clause 30.11 (*Exclusion of liability*), Clause 30.21(a) (*Role of Reference Banks*), Clause 30.23 (*Third Party Reference Banks*) or paragraph (b) of Clause 31.11 (*Exclusion of liability*) may, subject to this Clause 1.5 (*Third party rights*) and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

SECTION 2

THE FACILITY

2 THE FACILITY

2.1 The Facility

Subject to the terms of this Agreement, the Lenders agree to make available to the Borrowers a dollar term loan facility in an aggregate amount not exceeding the Total Commitments.

2.2 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from a Transaction Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of the Loan or any other amount owed by a Transaction Obligor which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including any such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by that Transaction Obligor.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

3 PURPOSE

3.1 Purpose

The Borrowers shall apply all amounts borrowed by them under the Facility only for the purpose of the refinancing of the relevant Existing Indebtedness.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4 CONDITIONS OF DRAWDOWN

4.1 Conditions precedent to signing

This Agreement shall not be signed by the Parties until the Agent has received all KYC Documentation in respect of each Transaction Obligor as applicable, in form and substance satisfactory to the Agent.

4.2 Conditions precedent to delivery of a Drawdown Request

The Borrowers may not deliver a Drawdown Request unless the Facility Agent has received all of the documents and other evidence listed in Part A of Schedule 2 (*Conditions Precedent and Subsequent*) in form and substance satisfactory to the Facility Agent.

4.3 Further conditions precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if:

- (a) on the date of a Drawdown Request and on the proposed Drawdown Date and before an Advance is made available:
 - (i) no Default is continuing or would result from the proposed Advance;
 - (ii) the Repeating Representations to be made by each Transaction Obligor are true; and
- (b) on or before the relevant Drawdown Date, the Facility Agent has received, or is satisfied that it will receive when the relevant Advance is made available, all of the documents and other evidence listed in Part B of Schedule 2 (*Conditions Precedent and Subsequent*) in form and substance satisfactory to the Facility Agent (acting on the instructions of all the Lenders).

4.4 Conditions subsequent

Save in the case of documentary evidence which must be provided when the relevant Advance is made available (as a same day condition subsequent) that the relevant Mortgage has been duly registered on such date (as required under paragraph 2.1 of Part B of Schedule 2 (*Conditions Precedent and Subsequent*)), the Borrowers undertake to deliver or cause to be delivered to the Facility Agent within five Business Days after that Drawdown Date, the additional documents and other evidence listed in Part C of Schedule 2 (*Conditions Precedent and Subsequent*) in form and substance satisfactory to the Facility Agent.

4.5 Notification of satisfaction of conditions precedent

- (a) The Facility Agent shall notify the Borrowers and the Lenders promptly upon being satisfied as to the satisfaction of the conditions precedent and subsequent referred to in Clause 4.1 (*Conditions precedent to delivery of a Drawdown Request*), Clause 4.3 (*Further conditions precedent*) and Clause 4.4 (*Conditions subsequent*).
- (b) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Facility Agent to give that notification. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.6 Waiver of conditions precedent

If the Lenders, at their discretion, permit an Advance to be prepositioned or released before any of the conditions precedent referred to in Clause 4 (*Conditions of Drawdown*) or Clause 4.3 (*Further conditions precedent*) has been satisfied, the Borrowers shall ensure that that condition is satisfied within five Business Days after the relevant Drawdown Date or such later date as the Facility Agent, acting with the authorisation of the Lenders, may agree in writing with the Borrowers.

SECTION 3

DRAWDOWN

5 DRAWDOWN

5.1 Delivery of a Drawdown Request

- (a) The Borrowers may utilise the Facility by way of Advances by delivery to the Facility Agent of a duly completed Drawdown Request not later than the Specified Time.
- (b) The Borrowers may not deliver more than one Drawdown Request under each Tranche.

5.2 Completion of a Drawdown Request

- (a) Each Drawdown Request is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Tranche to be utilised;
 - (ii) the proposed Drawdown Date is a Business Day within the Availability Period;
 - (iii) the currency and amount of a Drawdown comply with Clause 5.3 (*Currency and amount*); and
 - (iv) the proposed Interest Period complies with Clause 9 (*Interest Periods*).
- (b) Only one Advance may be requested in each Drawdown Request and only up to four Drawdown Requests may be delivered.

5.3 Currency and amount

- (a) The currency specified in a Drawdown Request must be dollars.
- (b) The amount of the proposed Advance must be an amount which is not more than:
 - (i) in respect of the Advance under Tranche A, the Tranche A Commitment;
 - (ii) in respect of the Advance under Tranche B, the Tranche B Commitment;
 - (iii) in respect of the Advance under Tranche C, the Tranche C Commitment;
 - (iv) in respect of the Advance under Tranche D, the Tranche D Commitment; and
 - (v) in the event that all Tranches are drawn down simultaneously, the lesser of:
 - (A) \$66,000,000; and
 - (B) 57 per cent of the aggregate Initial Market Value of the Vessels.
- (c) The amount of the proposed Advance must be an amount which would not oblige the Borrowers to provide additional security or prepay part of any Advance if the ratio set out in Clause 25 (*Security Cover*) were applied and notice was given by the Facility Agent under Clause 25.1 (*Minimum required security cover*) immediately after that Advance was made.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Advance available by the relevant Drawdown Date through its Facility Office.
- (b) The amount of each Lender's participation in each Advance will be equal to the proportion borne by its Commitment to the Total Commitments immediately before making that Advance.
- (c) The Facility Agent shall notify each Lender of the amount of each Advance and the amount of its participation in that Advance by the Specified Time.

5.5 Cancellation of Commitments

The Commitments in respect of any Tranche which are unutilised at the end of the Availability Period for such Tranche shall then be cancelled.

REPAYMENT, PREPAYMENT AND CANCELLATION

6 REPAYMENT**6.1 Repayment of Loan**

The Borrowers shall repay each Tranche by 20 consecutive quarterly instalments, the first 8 such instalments each in an amount of \$585,000, the following 11 instalments each in an amount of \$485,000 and the twentieth and final such instalment in the sum of \$6,485,000 (comprising an instalment in the amount of \$485,000 and a balloon payment in the amount of \$6,000,000), the first of which shall be repaid on the date falling three Months after the relevant Drawdown Date in respect of that Tranche and the last, payable by no later than the relevant Maturity Date in respect of that Tranche and each such instalment shall be a "**Repayment Instalment**".

6.2 Effect of cancellation and prepayment on scheduled repayments

- (a) If the Available Commitment of any Lender is cancelled under Clause 7.1 (*Illegality*) then the Repayment Instalments falling after that cancellation will reduce pro rata by the amount of the Available Commitments so cancelled.
- (b) If the whole or any part of any Available Commitment is cancelled in accordance with Clause 7.2 (*Voluntary and automatic cancellation*) or if the whole or part of any Commitment is cancelled pursuant to Clause 5.5 (*Cancellation of Commitments*), the Repayment Instalments for each Repayment Date falling after that cancellation will reduce pro rata by the amount of the Commitments so cancelled.
- (c) Any partial prepayment under Clause 7.1 (*Illegality*) shall reduce in inverse chronological order the amount of each Repayment Instalment and relevant the balloon payment in respect of each Tranche falling after that prepayment by the amount prepaid.
- (d) If any part of the Loan is prepaid in accordance with Clause 7.3 (*Voluntary prepayment of Loan*) then such partial prepayment shall reduce in chronological order the amount of each Repayment Instalment of the Tranche selected by the Borrowers in their notice or, in the absence of such Tranche selection, the Repayment Instalments of all Tranches, falling after that prepayment.
- (e) If any part of the Loan is prepaid in accordance with Clause 7.4 (*Mandatory prepayment on sale, arrest or Total Loss*), the amount of the Loan prepaid shall be applied against the Tranche which has been used in respect of the relevant Vessel and thereafter any balance shall reduce pro rata the then outstanding Repayment Instalments of the other Tranches.

6.3 Maturity Date

On each Maturity Date the Borrowers shall additionally pay to the Facility Agent for the account of the Finance Parties all other sums then accrued and owing under the Finance Documents relevant to the Tranche in question.

6.4 Reborrowing

No Borrower may reborrow any part of the Facility which is repaid.

7 PREPAYMENT AND CANCELLATION

7.1 Illegality

If it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in an Advance or the Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) upon the Facility Agent notifying the Borrowers, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrowers shall prepay that Lender's participation in the Loan on the last day of the Interest Period for the Loan occurring after the Facility Agent has notified the Borrowers or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participation prepaid.

7.2 Voluntary and automatic cancellation

- (a) The Borrowers may, if they give the Facility Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of \$500,000 or a multiple of that amount) of the Available Facility. Any cancellation under this Clause 7.2 (*Voluntary and automatic cancellation*) shall reduce the Commitments of the Lenders rateably and the amount of the relevant Tranche(s).
- (b) The unutilised Commitment (if any) of each Lender in respect of a Tranche shall be automatically cancelled at close of business on the date on which that Tranche is made available.

7.3 Voluntary prepayment of Loan

- (a) Subject to paragraph (b) below, the Borrowers may, if they give the Facility Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of \$500,000 or a multiple of that amount).
- (b) A Tranche may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the Available Facility is zero).

7.4 Mandatory prepayment on sale, arrest or Total Loss

If a Vessel is sold, arrested or becomes a Total Loss, the Borrowers shall prepay the Relevant Amount. Such repayment shall be made:

- (a) in the case of a sale of that Vessel, on or before the date on which the sale is completed by delivery of that Vessel to the buyer; or

- (b) in the case of any arrest of that Vessel, where that Vessel is not within 30 days redelivered to the full control of the relevant Borrower, on or before the date falling 37 days after the date of the arrest of that Vessel, but this shall not extend to a hijacking of that Vessel for a period not exceeding twelve months **Provided that** the relevant underwriters confirm to the Facility Agent in writing (in customary terms) within 30 days of the piracy event that adequate war risks insurance cover has been effected and is in place in respect of that Vessel; or
- (c) in the case of a Total Loss, on the earlier of (i) the date falling 180 days after the Total Loss Date and (ii) the date of receipt by the Security Agent of the proceeds of insurance relating to such Total Loss.

In this Clause 7.4 “**Relevant Amount**” means an amount equal to the higher of:

- (A) the Tranche to which the Vessel being sold or which has become a Total Loss relates; and
- (B) an amount, which after giving credit to the prepayment required to be made pursuant to this Clause 7.4 (*Mandatory prepayment or sale, arrest or Total loss*), results in the Security Cover Ratio to be maintained pursuant to Clause 25.1 (*Minimum required security cover*) being no less than the Security Cover Ratio which applied immediately prior to the applicable event described in paragraphs (a) or (c) of this Clause 7.4 (*Mandatory prepayment or sale, arrest or Total loss*).

7.5 **Mandatory Prepayment**

- (a) If the Mortgages have not been registered on all Vessels by the last day of the Availability Period, the Borrowers shall prepay the Loan in full within 7 days from the last day of the Availability Period unless the Lenders agree otherwise in their sole discretion.
- (b) If Term B Loan has not been refinanced 3 months prior to its maturity (excluding the maturity date itself) (the “**Last Available Date**”), the Borrowers shall repay the Loan in full within 60 days from the Last Available Date.

7.6 **Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 (*Prepayment and Cancellation*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and all other amounts accrued under the Finance Documents and, subject to the fee provided for in Clause 11.3 (*Prepayment fee*) and any Break Costs, without premium or penalty.
- (c) No Borrower may reborrow any part of the Facility which is prepaid.
- (d) No Borrower shall repay or prepay all or any part of the Loan or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

- (f) If the Facility Agent receives a notice under this Clause 7 (*Prepayment and Cancellation*) it shall promptly forward a copy of that notice to either the Borrowers or the affected Lender, as appropriate.
- (g) If all or part of any Lender's participation in the Loan is repaid or prepaid, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

7.7 Application of prepayments

Any prepayment of any part of the Loan (other than a prepayment pursuant to Clause 7.1 (*Illegality*)) shall be applied pro rata to each Lender's participation in that part of the Loan.

SECTION 5

COSTS OF DRAWDOWN

8 INTEREST

8.1 Calculation of interest

The rate of interest on the Loan or any part of the Loan for each Interest Period is the percentage rate per annum which is the aggregate of:

- (a) the Margin; and
- (b) LIBOR.

8.2 Payment of interest

- (a) The Borrowers shall pay accrued interest on the Loan or any part of the Loan on the last day of each Interest Period (each an “**Interest Payment Date**”).
- (b) If an Interest Period is longer than three Months, the Borrowers shall also pay interest then accrued on the Loan or the relevant part of the Loan on the dates falling at three Monthly intervals after the first day of the Interest Period.

8.3 Default interest

- (a) If a Transaction Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2 per cent. per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted part of the Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Facility Agent. Any interest accruing under this Clause 8.3 (*Default interest*) shall be immediately payable by the Obligors on demand by the Facility Agent.
- (b) If an Unpaid Sum consists of all or part of the Loan which became due on a day which was not the last day of an Interest Period relating to the Loan or that part of the Loan:
 - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to the Loan or that part of the Loan; and
 - (ii) the rate of interest applying to that Unpaid Sum during that first Interest Period shall be 2 per cent. per annum higher than the rate which would have applied if that Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

8.4 Notification of rates of interest

- (a) The Facility Agent shall promptly notify the Lenders and the Borrowers of the determination of a rate of interest under this Agreement.
- (b) The Facility Agent shall promptly notify the Borrowers of each Funding Rate relating to the Loan, any part of the Loan or any Unpaid Sum.

9 INTEREST PERIODS

9.1 Selection of Interest Periods

- (a) The first Interest Period for the Loan or a Tranche as specified in the Drawdown Request for the Loan or that Tranche shall be three Months from that Drawdown Date.
- (b) Subject to this Clause 9 (*Interest Periods*), each subsequent Interest Period in respect of the Loan or a Tranche shall be three Months, unless otherwise agreed by the Facility Agent (acting on the instructions of all the Lenders) in writing.
- (c) Each Selection Notice is irrevocable and must be delivered to the Facility Agent by the Borrowers not later than the Specified Time.
- (d) If the Borrowers fail to deliver a Selection Notice to the Facility Agent in accordance with paragraphs (b) and (c) above, the relevant Interest Period will, subject to Clause 9.2 (*Changes to Interest Periods*) and paragraph (f) below, be three Months.
- (e) An Interest Period in respect of a Tranche shall not extend beyond the Maturity Date of that Tranche.
- (f) In respect of a Repayment Instalment, an Interest Period for a part of the Loan equal to such Repayment Instalment shall end on the Repayment Date relating to it if such date is before the end of the Interest Period then current.
- (g) The first Interest Period for the first Tranche to be advanced or the Loan shall start on the relevant Drawdown Date and each subsequent Interest Period shall start on the last day of the preceding Interest Period.
- (h) The first Interest Period for the second Advance shall start on the Drawdown Date of such Tranche to which that Advance relates and end on the last day of the Interest Period applicable to the balance of the Loan following the date on which such Tranche is made.
- (i) Except for the purposes of paragraphs (f) and (h) above and Clause 9.2 (*Changes to Interest Periods*) below, the Loan shall have one Interest Period only at any time.

9.2 Changes to Interest Periods

- (a) In respect of a Repayment Instalment, prior to determining the interest rate for the Loan, the Facility Agent may establish an Interest Period for a part of the Loan equal to such Repayment Instalment to end on the Repayment Date relating to it and the remaining part of the Loan shall have the Interest Period selected in the relevant Selection Notice, subject to paragraph (b) of 9.1 (*Selection of Interest Periods*).

- (b) If after the Borrowers have selected and the Lenders have agreed an Interest Period longer than three Months, any Lender notifies the Facility Agent within two Business Days after the Specified Time relating to the relevant Drawdown Request or Selection Notice 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 Facility Agent shall shorten the Interest Period to three Months.
- (c) If the Facility Agent makes any change to an Interest Period referred to in this Clause 9.2 (*Changes to Interest Periods*), it shall promptly notify the Borrowers and the Lenders.

9.3 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10 CHANGES TO THE CALCULATION OF INTEREST

10.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for LIBOR for the Interest Period of the Loan or any part of the Loan, the applicable LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of the Loan or that part of the Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for LIBOR for:
 - (i) dollars; or
 - (ii) the Interest Period of the Loan or any part of the Loan and it is not possible to calculate the Interpolated Screen Rate,the applicable LIBOR shall be the Reference Bank Rate as of the Specified Time and for a period equal in length to the Interest Period of the Loan or that part of the Loan.
- (c) *Cost of funds*: If paragraph (b) above applies but no Reference Bank Rate is available for dollars or the relevant Interest Period there shall be no LIBOR for the Loan or that part of the Loan (as applicable) and Clause 10.4 (*Cost of funds*) shall apply to the Loan or that part of the Loan for that Interest Period.

10.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

10.3 Market disruption

If before close of business in London on the Quotation Day for the relevant Interest Period the Facility Agent receives notification from a Lender or Lenders (whose participations in the Loan or the relevant part of the Loan exceed 10 per cent. of the Loan or the relevant part of the Loan as appropriate) (the “**Relevant Lender**”) that the cost to it of funding its participation in the Loan or that part of the Loan from whatever source it may reasonably select would be in excess of LIBOR then Clause 10.4 (*Cost of funds*) shall apply to the Loan or that part of the Loan (as applicable) for the relevant Interest Period.

10.4 Cost of funds

- (a) If this Clause 10.4 (*Cost of funds*) applies, the rate of interest on each Lender’s share of the Loan or the relevant part of the Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
- (i) the Margin; and
 - (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in the Loan or that part of the Loan from whatever source it may reasonably select.
- (b) If this Clause 10.4 (*Cost of funds*) applies and the Facility Agent or the Borrowers so require, the Facility Agent and the Borrowers shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest or (as the case may be) an alternative basis for funding.
- (c) Subject to Clause 43.4 (*Replacement of Screen Rate*), any substitute or alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
- (d) If paragraph (e) below does not apply and any rate notified to the Facility Agent under sub-paragraph (ii) of paragraph (a) above is less than zero, the relevant rate shall be deemed to be zero.
- (e) If this Clause 10.4 (*Cost of funds*) applies pursuant to Clause 10.3 (*Market disruption*) and a Lender’s Funding Rate is less than LIBOR the cost to that Lender of funding its participation in the Loan or the relevant part of the Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.
- (f) Any distributions to the Lenders pursuant to this Clause 10.4 (*Cost of funds*) shall be made on the basis of that Lender’s Funding Rate.

10.5 Notification to Borrower

If Clause 10.4 (*Cost of funds*) applies the Facility Agent shall, as soon as is practicable, notify the Borrowers.

10.6 Break Costs

- (a) The Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of the Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for the Loan, the relevant part of the Loan or that Unpaid Sum.

- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

11 FEES

11.1 Commitment fee

- (a) The Borrowers shall pay to the Facility Agent (for the account of each Lender) a fee computed at the rate of 1 per cent. per annum on that Lender's Available Commitment from time to time for the Availability Period.
- (b) The accrued commitment fee is payable on the last day of each successive period of three Months which ends during the Availability Period, on the last day of the Availability Period and, if cancelled, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

11.2 Arrangement fee

The Borrowers shall pay to the Arranger an arrangement fee in the amount and at the times agreed in a Fee Letter.

11.3 Prepayment fee

- (a) If the Borrowers proceed in refinancing the Facility or a Tranche after the relevant Drawdown Date with an entity which is not affiliated to any of the Lenders, the Borrowers shall pay to the Facility Agent for each Lender a prepayment fee on the date of prepayment of all or any part of the Loan.
- (b) The amount of the prepayment fee is:
 - (i) if the prepayment occurs on or before the first anniversary of the relevant Drawdown Date, two per cent. of the amount prepaid; and
 - (ii) if the prepayment occurs after the first but on or before the second anniversary of the relevant Drawdown Date, one per cent. of the amount prepaid.
- (c) No prepayment fee shall be payable under this Clause if the prepayment is made under Clause 7.1 (*Illegality*), Clause 7.4 (*Mandatory prepayment on sale or Total Loss*), or if such prepayment is made in order to release a Vessel so that Security may be taken over that Vessel under or in connection with Term Loan B, or after the second anniversary of the relevant Drawdown Date.

SECTION 6

ADDITIONAL PAYMENT OBLIGATIONS

12 TAX GROSS UP AND INDEMNITIES

12.1 Definitions

(a) In this Agreement:

“**Protected Party**” means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

“**Tax Credit**” means a credit against, relief or remission for, or repayment of any Tax.

“**Tax Deduction**” means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

“**Tax Payment**” means either the increase in a payment made by an Obligor to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 (*Tax Gross Up and Indemnities*) reference to “**determines**” or “**determined**” means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross-up

(a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrowers shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrowers and that Obligor.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

12.3 Tax indemnity

- (a) The Obligors shall (within three Business Days of demand by the Facility Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
 - (ii) to the extent a loss, liability or cost:
 - (A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
 - (B) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Facility Agent of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Obligors.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 12.3 (*Tax indemnity*), notify the Facility Agent.

12.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was received; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

12.5 Stamp taxes

The Obligors shall pay and, within three Business Days of demand, indemnify each Creditor Party against any cost, loss or liability which that Creditor Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

12.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the “**Supplier**”) to any other Finance Party (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this sub-paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part of it as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 12.6 (VAT) to any Party shall, at any time when that Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union)) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or representative or head) of that group or unity at the relevant time (as the case may be).

- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

12.7 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within 10 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 Finance 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 Borrower is a US Tax Obligor, or the Facility Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within 10 Business Days of:

- (i) where that Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
- (ii) where that Borrower is a US Tax Obligor on a Transfer Date and the relevant Lender is a New Lender, the relevant Transfer Date; or
- (iii) where that Borrower is not a US Tax Obligor, the date of a request from the Facility Agent, supply to the Facility Agent:
 - (iv) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (v) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrowers.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrowers.
- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraphs (e), (f) or (g) above.

12.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify each Obligor and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

13 INCREASED COSTS

13.1 Increased costs

- (a) Subject to Clause 13.3 (*Exceptions*), the Borrowers shall, within three Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
 - (ii) compliance with any law or regulation made,
- in each case after the date of this Agreement; or
- (iii) the implementation, application of or compliance with Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV.
- (b) In this Agreement:
- (i) **“Basel III”** means:
 - (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”.
 - (ii) **“CRD IV”** means:
 - (A) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012;
 - (B) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; and
 - (C) any other law or regulation which implements Basel III.
 - (iii) **“Increased Costs”** means:

- (A) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (B) an additional or increased cost; or
- (C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

13.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall promptly notify the Borrowers.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by an Obligor;
- (b) attributable to a FATCA Deduction required to be made by a Party;
- (c) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied);
- (d) compensated for by any payment made pursuant to Clause 14.3 (*Mandatory Cost*); or
- (e) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

14 OTHER INDEMNITIES

14.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against that Obligor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall, as an independent obligation, on demand, indemnify each Creditor Party to which that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
- 14.2 Other indemnities**
- (a) Each Obligor shall, on demand, indemnify each Creditor Party against any cost, loss or liability incurred by it as a result of:
- (i) the occurrence of any Event of Default;
 - (ii) a failure by a Transaction Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 33 (*Sharing among the Finance Parties*);
 - (iii) funding, or making arrangements to fund, its participation in an Advance or the Loan requested by the Borrowers in a Drawdown Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Creditor Party alone); or
 - (iv) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrowers.
- (b) Each Obligor shall, on demand, indemnify each Finance Party, each Affiliate of a Finance Party and each officer or employee of a Finance Party or its Affiliate (each such person for the purposes of this Clause 14.2 (*Other indemnities*) an “**Indemnified Person**”), against any cost, loss or liability incurred by that Indemnified Person pursuant to or in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry, in connection with or arising out of the entry into and the transactions contemplated by the Finance Documents, having the benefit of any Security constituted by the Finance Documents or which relates to the condition or operation of, or any incident occurring in relation to, any Vessel unless such cost, loss or liability is caused by the gross negligence or wilful misconduct of that Indemnified Person.
- (c) Without limiting, but subject to any limitations set out in paragraph (b) above, the indemnity in paragraph (b) above shall cover any cost, loss or liability incurred by each Indemnified Person in any jurisdiction:
- (i) arising or asserted under or in connection with any law relating to safety at sea, the ISM Code, any Environmental Law or any Sanctions; or
 - (ii) arising as a result of any breach of Clause 19.35 (*Sanctions, Anti-Corruption Laws, Anti-Money Laundering Laws*) or Clause 24.12 (*Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws*);
 - (iii) in connection with any Environmental Claim.
- (d) Any Affiliate or any officer or employee of a Finance Party or of any of its Affiliates may rely on this Clause 14.2 (*Other indemnities*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

14.3 Mandatory Cost

Each Borrower shall, on demand by the Facility Agent, pay to the Facility Agent for the account of the relevant Lender, such amount which any Lender certifies in a notice to the Facility Agent to be its good faith determination of the amount necessary to compensate it for complying with:

- (a) in the case of a Lender lending from a Facility Office in a Participating Member State, the minimum reserve requirements (or other requirements having the same or similar purpose) of the European Central Bank or any other authority or agency which replaces all or any of its functions in respect of loans made from that Facility Office; and
- (b) in the case of any Lender lending from a Facility Office in the United Kingdom, any reserve asset, special deposit or liquidity requirements (or other requirements having the same or similar purpose) of the Bank of England (or any other governmental authority or agency) and/or paying any fees to the Financial Conduct Authority and/or the Prudential Regulation Authority (or any other governmental authority or agency which replaces all or any of their functions),

which, in each case, is referable to that Lender's participation in the Loan.

14.4 Indemnity to the Facility Agent

Each Obligor shall, on demand, indemnify the Facility Agent against:

- (a) any cost, loss or liability incurred by the Facility Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default; or
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents; and
- (b) any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) or, in the case of any cost, loss or liability pursuant to Clause 34.11 (*Disruption to Payment Systems etc.*) notwithstanding the Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent in acting as Facility Agent under the Finance Documents.

14.5 Indemnity to the Security Agent

- (a) Each Obligor shall, on demand, indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them:
 - (i) in relation to or as a result of:
 - (A) any failure by a Borrower to comply with its obligations under Clause 16 (*Costs and expenses*);

- (B) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (C) the taking, holding, protection or enforcement of the Finance Documents and the Transaction Security;
 - (D) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
 - (E) any default by any Transaction Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
 - (F) any action by any Transaction Obligor which vitiates, reduces the value of, or is otherwise prejudicial to, the Transaction Security; and
 - (G) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents.
- (ii) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Property or the performance of the terms of this Agreement or the other Finance Documents (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Creditor Parties, indemnify itself out of the Security Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 14.5 (*Indemnity to the Security Agent*) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all monies payable to it.

15 MITIGATION BY THE FINANCE PARTIES

15.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Borrowers, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax Gross Up and Indemnities*), Clause 13 (*Increased Costs*) or paragraph (a) of Clause 14.3 (*Mandatory Cost*).
- (b) Paragraph (a) above does not in any way limit the obligations of any Transaction Obligor under the Finance Documents.

15.2 Limitation of liability

- (a) Each Obligor shall, on demand, indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if either:
 - (i) a Default has occurred and is continuing; or
 - (ii) in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

16 COSTS AND EXPENSES

16.1 Transaction expenses

The Obligors shall, on demand, pay the Facility Agent, the Security Agent and the Arranger the amount of all costs and expenses (including legal fees) reasonably incurred by any Creditor Party in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Security Document; and
- (b) any other Finance Documents executed after the date of this Agreement.

16.2 Amendment costs

If:

- (a) a Transaction Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to Clause 34.9 (*Change of currency*); or
- (c) a Transaction Obligor requests, and the Security Agent agrees to, the release of all or any part of the Security Assets from the Transaction Security,

the Obligors shall, on demand, reimburse each of the Facility Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by each Creditor Party in responding to, evaluating, negotiating or complying with that request or requirement.

16.3 Enforcement and preservation costs

The Obligors shall, on demand, pay to each Creditor Party the amount of all costs and expenses (including legal fees) incurred by that Creditor Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document or the Transaction Security and with any proceedings instituted by or against that Creditor Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

GUARANTEE AND JOINT AND SEVERAL LIABILITY OF BORROWERS

17 GUARANTEE AND INDEMNITY**17.1 Guarantee and indemnity**

The Guarantor irrevocably and unconditionally:

- (a) guarantees to each Finance Party punctual performance by each Borrower of all that Borrower's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, the Guarantor shall immediately on demand pay that amount as if it were the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of a Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 17 (*Guarantee and Indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

17.2 Continuing guarantee

This Guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Transaction Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

17.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Transaction Obligor or any security for those obligations or otherwise) is made by a Creditor Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Clause 17 (*Guarantee and Indemnity*) will continue or be reinstated as if the discharge, release or arrangement had not occurred.

17.4 Waiver of defences

The obligations of the Guarantor under this Clause 17 (*Guarantee and Indemnity*) and in respect of any Transaction Security will not be affected or discharged by an act, omission, matter or thing which, but for this Clause 17.4 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Clause 17 (*Guarantee and Indemnity*) or in respect of any Transaction Security (without limitation and whether or not known to it or any Creditor Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person;

- (b) the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or delay in perfecting, or refusal or neglect to take up or enforce, or delay in taking or enforcing any rights against, or security over assets of, any Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Transaction Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

17.5 Immediate recourse

The Guarantor waives any right it may have of first requiring any Creditor Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person (including without limitation to commence any proceedings under any Finance Document or to enforce any Transaction Security) before claiming or commencing proceedings under this Clause 17 (*Guarantee and Indemnity*). This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.6 Appropriations

Until all amounts which may be or become payable by the Transaction Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Creditor Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Creditor Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Clause 17 (*Guarantee and Indemnity*).

17.7 Deferral of Guarantor's rights

All rights which the Guarantor at any time has (whether in respect of this Guarantee, a mortgage or any other transaction) against any Borrower, any other Transaction Obligor or their respective assets shall be fully subordinated to the rights of the Creditor Parties under the Finance Documents and until the end of the Security Period and unless the Facility Agent

otherwise directs, the Guarantor will not exercise any rights which it may have (whether in respect of any Finance Document to which it is a Party or any other transaction) by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 17 (*Guarantee and Indemnity*):

- (a) to be indemnified by a Transaction Obligor;
- (b) to claim any contribution from any third party providing security for, or any other guarantor of, any Transaction Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Creditor Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Creditor Party;
- (d) to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under Clause 17.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Transaction Obligor; and/or
- (f) to claim or prove as a creditor of any Transaction Obligor in competition with any Creditor Party.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Creditor Parties by the Transaction Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Creditor Parties and shall promptly pay or transfer the same to the Facility Agent or as the Facility Agent may direct for application in accordance with Clause 34 (*Payment Mechanics*).

17.8 Additional security

This Guarantee and any other Security given by the Guarantor is in addition to and is not in any way prejudiced by, and shall not prejudice, any other guarantee or Security or any other right of recourse now or subsequently held by any Creditor Party or any right of set-off or netting or right to combine accounts in connection with the Finance Documents.

17.9 Applicability of provisions of Guarantee to other Security

Clauses 17.2 (*Continuing guarantee*), 17.3 (*Reinstatement*), 17.4 (*Waiver of defences*), 17.5 (*Immediate recourse*), 17.6 (*Appropriations*), 17.7 (*Deferral of Guarantor's rights*) and 17.8 (*Additional security*) shall apply, with any necessary modifications, to any Security which the Guarantor creates (whether at the time at which it signs this Agreement or at any later time) to secure the Secured Liabilities or any part of them.

18 JOINT AND SEVERAL LIABILITY OF THE BORROWERS

18.1 Joint and several liability

All liabilities and obligations of the Borrowers under this Agreement shall, whether expressed to be so or not, be joint and several.

18.2 Waiver of defences

The liabilities and obligations of a Borrower shall not be impaired by:

- (a) this Agreement being or later becoming void, unenforceable or illegal as regards any other Borrower;
- (b) any Lender or the Security Agent entering into any rescheduling, refinancing or other arrangement of any kind with any other Borrower;
- (c) any Lender or the Security Agent releasing any other Borrower or any Security created by a Finance Document; or
- (d) any time, waiver or consent granted to, or composition with any other Borrower or other person;
- (e) the release of any other Borrower or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (f) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any other Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (g) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Borrower or any other person;
- (h) any amendment, novation, supplement, extension, restatement (however fundamental, and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (i) any unenforceability, illegality or invalidity of any obligation or any person under any Finance Document or any other document or security; or
- (j) any insolvency or similar proceedings.

18.3 Principal Debtor

Each Borrower declares that it is and will, throughout the Security Period, remain a principal debtor for all amounts owing under this Agreement and the Finance Documents and no Borrower shall, in any circumstances, be construed to be a surety for the obligations of any other Borrower under this Agreement.

18.4 Borrower restrictions

- (a) Subject to paragraph (b) below, during the Security Period no Borrower shall:
 - (i) claim any amount which may be due to it from any other Borrower whether in respect of a payment made under, or matter arising out of, this Agreement or any Finance Document, or any matter unconnected with this Agreement or any Finance Document; or

- (ii) take or enforce any form of security from any other Borrower for such an amount, or in any way seek to have recourse in respect of such an amount against any asset of any other Borrower; or
 - (iii) set off such an amount against any sum due from it to any other Borrower; or
 - (iv) prove or claim for such an amount in any liquidation, administration, arrangement or similar procedure involving any other Borrower; or
 - (v) exercise or assert any combination of the foregoing.
- (b) If during the Security Period, the Facility Agent, by notice to a Borrower, requires it to take any action referred to in paragraph (a) above in relation to any other Borrower, that Borrower shall take that action as soon as practicable after receiving the Facility Agent's notice.

18.5 Deferral of Borrowers' rights

Until all amounts which may be or become payable by the Borrowers under or in connection with the Finance Documents have been irrevocably paid in full and unless the Facility Agent otherwise directs, no Borrower will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

- (a) to be indemnified by any other Borrower; or
- (b) to claim any contribution from any other Borrower in relation to any payment made by it under the Finance Documents.

SECTION 8

REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

19 REPRESENTATIONS

19.1 General

Each Obligor makes and procures that each other Transaction Obligor makes the representations and warranties set out in this Clause 19 (*Representations*) to each Finance Party on the date of this Agreement.

19.2 Status

- (a) It is a corporation or limited partnership, duly incorporated or formed and validly existing in good standing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

19.3 Share capital and ownership

- (a) Borrower A has an authorised share capital of 500 registered shares with a par value of \$1 per share, all of which shares have been issued in registered form fully paid.
- (b) Borrower B has an authorised share capital of 500 registered shares with a par value of \$1 per share, all of which shares have been issued in registered form fully paid.
- (c) The legal title to the shares in each Borrower will be held from the first Drawdown Date free of any Security or any other claim by the Shareholder and each Borrower is 100 per cent. owned, directly or indirectly (but if indirectly only through the Shareholder) by the Guarantor.
- (d) None of the shares in a Borrower is subject to any option to purchase, pre-emption rights or similar rights.

19.4 Binding obligations

The obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.

19.5 Validity, effectiveness and ranking of Security

- (a) Each Finance Document to which it is a party does now or, as the case may be, will upon execution and delivery and, where applicable, registration as provided for in that Finance Document create, the Security it purports to create over any assets to which such Security, by its terms, relates, and such Security will, when created or intended to be created, be valid and effective.
- (b) No third party has or will have any Security (except for Permitted Security) over any assets that are the subject of any Transaction Security granted by it.
- (c) The Transaction Security granted by it to the Security Agent or any other Creditor Party has or will when created or intended to be created have first ranking priority or such other priority it is expressed to have in the Finance Documents and is not subject to any prior ranking or *pari passu* ranking security.

- (d) No concurrence, consent or authorisation of any person is required for the creation of or otherwise in connection with any Transaction Security.

19.6 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, each Transaction Document to which it is a party do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) the constitutional documents of any member of the Group; or
- (c) any agreement or instrument binding upon it or any member of the Group or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument.

19.7 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise:
 - (i) its entry into, performance and delivery of, each Transaction Document to which it is or will be a party and the transactions contemplated by those Transaction Documents; and
 - (ii) in the case of a Borrower, its registration of the relevant Vessel under its Approved Flag.
- (b) No limit on its powers will be exceeded as a result of the borrowing, granting of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

19.8 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- (b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions, have been obtained or effected and are in full force and effect.

19.9 Governing law and enforcement

- (a) The choice of governing law of each Transaction Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions.

- (b) Any judgment obtained in relation to a Transaction Document to which it is a party in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions.

19.10 Insolvency

No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of Clause 27.8 (*Insolvency proceedings*); or
- (b) creditors' process described in Clause 27.9 (*Creditors' process*),

has been taken or, to its knowledge, threatened in relation to a member of the Group; and none of the circumstances described in Clause 27.7 (*Insolvency*) applies to a member of the Group.

19.11 No filing or stamp taxes

Under the laws of its Relevant Jurisdictions it is not necessary that the Finance Documents to which it is a party be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by those Finance Documents, except registration of each Mortgage at the Ships Registry where title to each Vessel is registered in the ownership of the relevant Borrower and payment of associated fees, which registration and fees will be made and paid promptly after the date of the relevant Finance Document.

19.12 Deduction of Tax

It is not required to make any Tax Deduction from any payment it may make under any Finance Document to which it is a party.

19.13 No default

- (a) No Event of Default and, on the date of this Agreement and on each Drawdown Date, no Default is continuing or might reasonably be expected to result from the making of any Drawdown or the release of any Advance or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
- (b) No other event or circumstance is outstanding which constitutes a default or a termination event (however described) under any other agreement or instrument which is binding on a Borrower or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject.

19.14 No misleading information

- (a) Any factual information provided by any member of the Group for the purposes of this Agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) The financial projections contained in any such information have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.

- (c) Nothing has occurred or been omitted from any such information and no information has been given or withheld that results in any such information being untrue or misleading in any material respect.

19.15 Financial Statements

- (a) The Original Financial Statements were prepared in accordance with GAAP consistently applied.
- (b) The Original Financial Statements give a true and fair view of the Group's financial condition as at 31 December 2017 and results of operations during that financial year.
- (c) There has been no material adverse change in the assets, business or consolidated financial condition of the Group since 30 June 2018.
- (d) The Guarantor's most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*):
 - (i) have been prepared in accordance with Clause 20.3 (*Requirements as to financial statements*); and
 - (ii) give a true and fair view of (if audited) or fairly represent (if unaudited) the Group's financial condition as at the end of the relevant financial year and operations during the relevant financial year (consolidated in the case of the Guarantor).
- (e) Since the date of the most recent financial statements delivered pursuant to Clause 20.2 (*Financial statements*) there has been no material adverse change in the business or consolidated financial condition of the Group.

19.16 *Pari passu* ranking

Its payment obligations under the Finance Documents to which it is a party 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.

19.17 No proceedings pending or threatened

- (a) No litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any member of the Group.
- (b) No judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it or any member of the Group.

19.18 Validity and completeness of the Transaction Documents

- (a) Each of the Transaction Documents, to which any Charterer and each Transaction Obligor is a party constitutes legal, valid, binding and enforceable obligations of that Charterer and that Transaction Obligor respectively.
- (b) The copies of the Transaction Documents delivered to the Facility Agent before the date of this Agreement are true and complete copies.
- (c) No amendments or additions to the Transaction Documents have been agreed nor has any Charterer or any Transaction Obligor waived any of its respective rights under the Transaction Documents.

19.19 Valuations

- (a) All information supplied by it or on its behalf to an Approved Valuer for the purposes of a valuation delivered to the Facility Agent in accordance with this Agreement was true and accurate as at the date it was supplied or (if appropriate) as at the date (if any) at which it is stated to be given.
- (b) It has not omitted to supply any information to an Approved Valuer which, if disclosed, would adversely affect any valuation prepared by such Approved Valuer.
- (c) There has been no change to the factual information provided pursuant to paragraph (a) above in relation to any valuation between the date such information was provided and the date of that valuation which, in either case, renders that information untrue or misleading in any material respect.

19.20 No breach of laws

It has not (and no other member of the Group has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

19.21 No Charter

No Vessel is subject to any Charter other than a Permitted Charter.

19.22 Compliance with Environmental Laws

All Environmental Laws relating to the ownership, operation and management of each Vessel and the business of each member of the Group (as now conducted and as reasonably anticipated to be conducted in the future) and the terms of all Environmental Approvals have been complied with.

19.23 No Environmental Claim

No Environmental Claim has been made or threatened against any member of the Group or any Vessel.

19.24 No Environmental Incident

No Environmental Incident has occurred and no person has claimed that an Environmental Incident has occurred.

19.25 ISM and ISPS Code compliance

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

19.26 Taxes paid

- (a) It is not and no other member of the Group is materially overdue in the filing of any Tax returns and it is not (and no other member of the Group is) overdue in the payment of any amount in respect of Tax.
- (b) No claims or investigations are being, or to the best of its knowledge, are reasonably likely to be, made or conducted against it (or any other member of the Group) with respect to Taxes.

19.27 Financial Indebtedness

No Transaction Obligor has any Financial Indebtedness outstanding other than as permitted by this Agreement or as disclosed in the Group's filings with the US Securities and Exchange Commission.

19.28 Overseas companies

No Transaction Obligor has delivered particulars, whether in its name stated in the Finance Documents or any other name, of any UK Establishment to the Registrar of Companies as required under the Overseas Regulations or, if it has so registered, it has provided to the Facility Agent sufficient details to enable an accurate search against it to be undertaken by the Lenders at the Companies Registry.

19.29 Good title to assets

It and each other member of the Group has good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

19.30 Ownership

- (a) Each Borrower is the sole legal and beneficial owner of all rights and interests which any Charter creates in favour of that Borrower.
- (b) Each Borrower is the sole legal and beneficial owner of the Vessel owned by it, its Earnings and its Insurances.
- (c) With effect on and from the date of its creation or intended creation, each Transaction Obligor will be the sole legal and beneficial owner of any asset that is the subject of any Transaction Security created or intended to be created by such Transaction Obligor.
- (d) The constitutional documents of each Obligor do not and could not restrict or inhibit any transfer of the shares of a Borrower on creation or enforcement of the security conferred by the Security Documents.

19.31 Centre of main interests and establishments

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the “**Regulation**”), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is not situated in the US (save for the Guarantor) or the United Kingdom.

19.32 Place of business

No Transaction Obligor has a place of business in the US (save for the Guarantor) or the United Kingdom and its head office functions are carried out at the address stated in Schedule 1 Part A.

19.33 No employee or pension arrangements

No Obligor has any employees or any liabilities under any pension scheme.

19.34 Sanctions

(a) No Transaction Obligor:

- (i) and no director or officer, or to the best of its knowledge employee, of a Transaction Obligor, is a Prohibited Person;
- (ii) is owned or controlled by or acting directly or indirectly on behalf of or for the benefit of, a Prohibited Person; or
- (iii) owns or controls a Prohibited Person.

(b) No proceeds of the Loan shall be made available, directly or indirectly, to or for the benefit of a Prohibited Person nor shall they be otherwise directly or indirectly, applied in a manner or for a purpose prohibited by Sanctions.

19.35 Sanctions, Anti-Corruption Laws, Anti-Money Laundering Laws

(a) Neither it nor any member of its Group, any Approved Manager or any Charterer, any director, officer, nor, to its knowledge, any agent, employee or Affiliate of such Obligor or any member of the Group is a Sanctions Target.

(b) Neither it, nor any member of its Group, derives any of its revenues and profits from business involving Sanctions Targets.

(c) Neither it, nor any member of its Group, any director, officer, nor, to the Borrowers’ knowledge, any agent, employee or Affiliate of such Obligor or any member of the Group, has knowingly violated or is violating any Sanctions, or is or has engaged in any conduct that would provide a basis for it to be designated as a Sanctions Target, and no action, suit or proceedings by or before any court, governmental or regulatory agency, authority or body or any arbitrator involving any Obligor or any member of its Group with respect to an alleged or actual breach of Sanctions is pending or, to its knowledge, threatened.

(d) Each Vessel (including, without limitation, its engines, machinery, boats, tackle, outfit, spare gear, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether owned as at the date of this Agreement or later acquired) is not

currently subject to any Sanctions nor will the ownership, operation, possession, use, leasing or any other dealing in respect of a Vessel (including, without limitation, its engines, machinery, boats, tackle, outfit, spare gear, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether owned as at the date of this Agreement or later acquired) by any Transaction Obligor or Charterer contravene any Sanctions or provide a basis for any Transaction Obligor or Charterer, or any other member of the Group to be designated as a Sanctions Target.

- (e) The making or receipt of any payments pursuant to the Transaction Documents does not contravene any Sanctions.
- (f) Neither it, nor any member of its Group, nor, to its knowledge, any director, officer, agent, employee or Affiliate of an Obligor or of the Group has acted in breach of any applicable Anti-Corruption Laws and no action, suit or proceedings by or before any court, governmental or regulatory agency, authority or body or any arbitrator involving any Obligor or any member of its Group with respect to an alleged or actual breach of Anti-Corruption Laws is pending or, to its knowledge, threatened.
- (g) It has instituted and maintains policies and procedures designed to prevent bribery and corruption by the Group and by persons associated with the Group.
- (h) It and all members of its Group are and have conducted their operations at all times in material compliance with applicable Anti-Money Laundering Laws and no action, suit or proceedings by or before any court, governmental or regulatory agency, authority or body or any arbitrator involving such Obligor or any member of its Group with respect to the Anti-Money Laundering Laws are pending or, to its knowledge, threatened.

19.36 US Tax Obligor

No Transaction Obligor is a US Tax Obligor.

19.37 Repetition

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of each Drawdown Request and the first day of each Interest Period.

20 INFORMATION UNDERTAKINGS

20.1 General

The undertakings in this Clause 20 (*Information Undertakings*) remain in force throughout the Security Period unless the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders), may otherwise permit.

20.2 Financial statements

The Guarantor shall supply to the Facility Agent in sufficient copies for all the Lenders as the Facility Agent may request:

- (a) as soon as the same become available, but in any event within 180 days after the end of its financial years, commencing with the financial year ending on 31 December 2018, the annual audited consolidated financial statement of the Group for that financial year,

- (b) as soon as the same become available, but in any event within 60 days after the end of each quarter of each of its financial years (ending 31 March, 30 June and 30 September), the unaudited consolidated quarterly financial statements of the Group for that financial quarter; and
- (c) upon request by the Facility Agent, any supplemental information related to any vessels owned by any member of the Group and such other information in respect of such vessels' type, age, employment, debt and the operating expenses.

including (without limitation) or supplemented by updated details of all off-balance sheet and time charter hire commitments **provided that** in the case of the unaudited financial statements to be provided under paragraph (c), such unaudited financial statements shall not be required in relation to a quarter ending at the financial year end in addition to the audited financial statements to be provided under paragraph (a) above.

20.3 Compliance Certificate

- (a) The Guarantor shall supply to the Facility Agent, with each set of financial statements delivered pursuant to Clause 20.2 (*Financial statements*) (in the case of paragraphs (a) and (b) above in respect of each year and each quarter respectively), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 21 (*Financial Covenants*) as at the date as at which those financial statements were drawn up.
- (b) Each Compliance Certificate shall be signed by one officer of the Guarantor and, if required to be delivered with the financial statements delivered pursuant to Clause 20.2 (*Financial statements*), shall be reported on by the Guarantor's auditors in the form agreed by the Guarantor and all the Lenders before the date of this Agreement.

20.4 Requirements as to financial statements

- (a) Each set of financial statements delivered by the Guarantor pursuant to Clause 20.2 (*Financial statements*) shall be certified by an officer of the company as giving a true and fair view (if audited) or fairly representing (if unaudited) its financial condition and operations as at the date as at which those financial statements were drawn up if it has not been filed with the US Securities and Exchange Commission.
- (b) The Guarantor shall procure that each set of financial statements of the Group delivered pursuant to Clause 20.2 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for the Group unless, in relation to any set of financial statements, it notifies the Facility Agent that there has been a change in GAAP, the accounting practices or reference periods, unless such change is described in the filings made with the US Securities and Exchange Commission, and its auditors (or, if appropriate, the auditors of the Guarantor) deliver to the Facility Agent:
 - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which the Original Financial Statements were prepared; and
 - (ii) sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether Clause 21 (*Financial Covenants*) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

20.5 Information: miscellaneous

Each Obligor shall and shall procure that each other Transaction Obligor shall supply to the Facility Agent (in sufficient copies for all the Lenders, if the Facility Agent so requests):

- (a) all documents dispatched by it to any class of its shareholders generally at the same time as they are dispatched unless the contents of such communication have already been disclosed in the filings made with the US Securities and Exchange Commission;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or investigations (including proceedings or investigations relating to any alleged or actual breach of the ISM Code or of the ISPS Code) which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body which is made against any member of the Group and which might have a Material Adverse Effect;
- (d) promptly, its constitutional documents where these have been amended or varied unless, in respect of the Guarantor, these changes have been disclosed in the filings with the US Securities and Exchange Commission;
- (e) promptly, such further information and/or documents regarding:
 - (i) each Vessel, goods transported on each Vessel, its Earnings or its Insurances;
 - (ii) the Security Assets;
 - (iii) compliance of the Transaction Obligors with the terms of the Finance Documents;
 - (iv) the financial condition, business and operations of any member of the Group,as any Finance Party (through the Facility Agent) may reasonably request;
- (f) annually on the anniversary of the date of this Agreement and promptly following a request for such information as may be requested at any other time by the Facility Agent (acting on the instruction of any Lender):
up-to-date KYC Documentation for:
 - (i) each Transaction Obligor;
 - (ii) each shareholder in each Borrower as far as the ultimate beneficial owner of that Borrower; and

- (iii) any other person from whom the Facility Agent shall receive any payments under the Finance Documents;
- (g) where the shares in a Transaction Obligor are bearer shares, annually on the anniversary of the date of this Agreement and promptly following any change of ownership an up-to-date “Declaration of Ownership”; and
- (h) promptly, such further information and/or documents as any Finance Party (through the Facility Agent) may reasonably request so as to enable such Finance Party to comply with any laws applicable to it or as may be required by any regulatory authority.

20.6 Notification of Event of Default

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor shall, notify the Facility Agent (i) of any Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor); and (ii) promptly upon becoming aware of the same, of any breach of any Sanctions applicable to any Vessel, any Transaction Obligor or any party to any agreement relating to any Vessel.
- (b) Promptly upon a request by the Facility Agent, each Borrower shall supply to the Facility Agent a certificate signed by one officer on its behalf certifying that no Event of Default is continuing (or if an Event of Default is continuing, specifying the Event of Default and the steps, if any, being taken to remedy it).

20.7 Use of websites

- (a) Each Obligor may satisfy its obligation under the Finance Documents to which it is a party to deliver any information in relation to those Lenders (the “**Website Lenders**”) which accept this method of communication by posting this information onto an electronic website designated by the Borrowers and the Facility Agent (the “**Designated Website**”) if:
 - (i) the Facility Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
 - (ii) both the relevant Obligor and the Facility Agent are aware of the address of and any relevant password specifications for the Designated Website; and
 - (iii) the information is in a format previously agreed between the relevant Obligor and the Facility Agent.

If any Lender (a “**Paper Form Lender**”) does not agree to the delivery of information electronically then the Facility Agent shall notify the Obligors accordingly and each Obligor shall supply the information to the Facility Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event each Obligor shall supply the Facility Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Facility Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Obligors or any of them and the Facility Agent.
- (c) An Obligor shall promptly upon becoming aware of its occurrence notify the Facility Agent if:

- (i) the Designated Website cannot be accessed due to technical failure;
- (ii) the password specifications for the Designated Website change;
- (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
- (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
- (v) if that Obligor becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If an Obligor notifies the Facility Agent under sub-paragraph (i) or (v) of paragraph (c) above, all information to be provided by the Obligors under this Agreement after the date of that notice shall be supplied in paper form unless and until the Facility Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Obligors shall comply with any such request within 10 Business Days.

20.8 “Know your customer” checks

- (a) If:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of a Transaction Obligor (including, without limitation, a change of ownership of a Transaction Obligor (save for the Guarantor)) after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges a Finance Party (or, in the case of sub-paragraph (iii) above, any prospective new Lender) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of any Finance Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by a Servicing Party (for itself or on behalf of any other Finance Party) or any Lender (for itself or, in the case of the event described in sub-paragraph (iii) above, on behalf of any prospective new Lender) in order for such Finance Party or, in the case of the event described in sub-paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of a Servicing Party supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Servicing Party (for itself) in order for that Servicing Party to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

21 FINANCIAL COVENANTS

21.1 Minimum liquidity

Each Borrower will ensure that at all times commencing on the Drawdown Date of the Tranche relating to the Vessel owned by it and for the remainder of the Security Period an amount of not less than \$650,000 (“**Minimum Liquidity Amount**”) shall:

- (a) unless paragraph (b) below applies, be credited in its entirety to the Earnings Account;
- (b) where any Borrower has elected to place funds on the relevant Time Deposit Account, be credited in its entirety to the relevant Time Deposit Account.

21.2 Guarantor’s financial covenants

The Guarantor shall ensure that:

- (a) the members of the Group will maintain Liquid Funds in an amount equal to at least the product of \$650,000 and the total number of Fleet Vessels at that time;
- (b) the Market Value Adjusted Leverage shall be no greater than 75 per cent.;
- (c) the Interest Cover Ratio shall be at least 2:1; and
- (d) the Net Worth shall be at least \$135,000,000.

21.3 Test Dates

The financial covenants under paragraphs (a) to (d) above shall be tested quarterly on each relevant Test Date.

22 GENERAL UNDERTAKINGS

22.1 General

The undertakings in this Clause 22 (*General Undertakings*) remain in force throughout the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit.

22.2 Authorisations

Each Obligor shall, and shall procure that each other Transaction Obligor will, promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction or the state of the Approved Flag at any time of each Vessel to enable it to:

- (i) perform its obligations under the Transaction Documents to which it is a party;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence in any Relevant Jurisdiction and in the state of the Approved Flag at any time of each Vessel or any Transaction Document to which it is a party; and
- (iii) own and operate each Vessel (in the case of the Borrowers).

22.3 Compliance with laws

Each Obligor shall, and shall procure that each other Transaction Obligor will, comply in all respects with all laws and regulations to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

22.4 Environmental compliance

Each Obligor shall, and shall procure that each other Transaction Obligor will, and the Guarantor shall ensure that each other member of the Group will:

- (a) comply with all Environmental Laws;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Approvals;
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law, where failure to do so has or is reasonably likely to have a Material Adverse Effect.

22.5 Environmental claims

Each Obligor shall, and shall procure that each other Transaction Obligor will, (through the Guarantor), promptly upon becoming aware of the same, inform the Facility Agent in writing of:

- (a) any Environmental Claim against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect.

22.6 Taxation

- (a) Each Obligor shall, and shall procure that each other Transaction Obligor will, pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

- (i) such payment is being contested in good faith;

- (ii) adequate reserves are maintained for those Taxes and the costs required to contest them and both have been disclosed in its latest financial statements delivered to the Facility Agent under Clause 20.2 (*Financial statements*); and
 - (iii) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.
- (b) No Obligor shall and the Obligors shall procure that no other Transaction Obligor will, change its residence for Tax purposes.

22.7 Overseas companies

Each Obligor shall, and shall procure that each other Transaction Obligor will, promptly inform the Facility Agent if it delivers to the Registrar particulars required under the Overseas Regulations of any UK Establishment and it shall comply with any directions given to it by the Facility Agent regarding the recording of any Transaction Security on the register which it is required to maintain under The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009.

22.8 *Pari passu* ranking

Each Obligor shall, and shall procure that each other Transaction Obligor will, ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

22.9 Title

- (a) Each Borrower shall hold the legal title to, and own the entire beneficial interest in:
- (i) the Vessel owned by it, its Earnings and its Insurances; and
 - (ii) with effect on and from its creation or intended creation, any other assets the subject of any Transaction Security created or intended to be created by that Borrower.
- (b) The Guarantor shall hold the legal title to, and own the entire beneficial interest in with effect on and from its creation or intended creation, any assets the subject of any Transaction Security created or intended to be created by the Guarantor.

22.10 Negative pledge

- (a) No Borrower shall create or permit to subsist any Security over any of its assets.
- (b) No Borrower shall:
- (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Transaction Obligor or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

(c) Paragraphs (a) and (b) above do not apply to any Permitted Security.

22.11 Disposals

Subject to Clause 24.16 (*Restrictions on chartering, appointment of managers etc.*), no Borrower shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset (including without limitation any Vessel, its Earnings or its Insurances and the shares in any Borrower).

22.12 Merger

No Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction except in circumstances where the Guarantor is the surviving entity of any such event.

22.13 Change of business

(a) The Guarantor shall procure that no substantial change is made to the general nature of the business of the Guarantor or the Group from that carried on at the date of this Agreement.

(b) No Borrower shall engage in any business other than the ownership and operation of its Vessel.

22.14 Financial Indebtedness

No Borrower shall incur or permit to be outstanding any Financial Indebtedness except Permitted Financial Indebtedness.

22.15 Expenditure

No Borrower shall incur any expenditure, except for expenditure reasonably incurred in the ordinary course of owning, operating, maintaining and repairing its Vessel.

22.16 Share capital

No Borrower shall:

(a) purchase, cancel or redeem any of its share capital;

(b) increase or reduce its authorised share capital;

(c) issue any further shares except to the Shareholder and provided such new shares are made subject to the terms of the Shares Security applicable to that Borrower immediately upon the issue of such new shares in a manner satisfactory to the Facility Agent and the terms of that Shares Security are complied with;

- (d) appoint any further director or officer of that Borrower (unless the provisions of the Shares Security applicable to that Borrower are complied with).

22.17 Dividends

The Guarantor may only make or pay any dividend or other distribution (in cash or in kind) in respect of its share capital **Provided that** no Event of Default has occurred or will result from the making or payment of such dividend or distribution.

22.18 Accounts

No Borrower shall open or maintain any account with any bank or financial institution except any accounts with the Account Bank, the Facility Agent or the Security Agent for the purposes of the Finance Documents.

22.19 Other transactions

No Borrower shall:

- (a) be the creditor in respect of any loan or any form of credit to any person other than another Obligor and where such loan or form of credit is Permitted Financial Indebtedness;
- (b) save for under the unsecured guarantee issued by that Borrower in respect of obligations of the Guarantor under the Term B Loan, give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person or enter into any document under which that Obligor assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents;
- (c) enter into any material agreement other than:
 - (i) the Transaction Documents;
 - (ii) any other agreement expressly allowed under any other term of this Agreement; and
- (d) enter into any transaction on terms which are, in any respect, less favourable to that Borrower than those which it could obtain in a bargain made at arms' length; or
- (e) acquire any shares or other securities other than US or UK Treasury bills and certificates of deposit issued by major North American or European banks.

22.20 Unlawfulness, invalidity and ranking; Security imperilled

No Obligor shall, and the Obligors shall procure that no other Transaction Obligor will, do (or fail to do) or cause or permit another person to do (or omit to do) anything which is likely to:

- (a) make it unlawful for a Transaction Obligor to perform any of its obligations under the Transaction Documents;
- (b) cause any obligation of a Transaction Obligor under the Transaction Documents to cease to be legal, valid, binding or enforceable;
- (c) cause any Transaction Document to cease to be in full force and effect;
- (d) cause any Transaction Security to rank after, or lose its priority to, any other Security; and
- (e) imperil or jeopardise the Transaction Security.

22.21 Separate corporate existence

Each Borrower shall maintain separate corporate existence and identity, shall keep records and books on a consolidated basis with the Guarantor and shall not co-mingle its assets nor become a member of a VAT Group.

22.22 Accounting reference date

No Obligor shall change its year end accounting reference date.

22.23 Securitisation

Each Obligor shall, and the Obligors shall procure that each other Transaction Obligor will, assist the Facility Agent and/or any Lender in achieving a successful securitisation (or similar transaction) in respect of the Facility and the Finance Documents and such Transaction Obligor's reasonable costs for providing such assistance shall be met by the relevant Lender. Each Borrower, if requested by the Facility Agent, shall provide documentation evidencing the purchase price of the Vessel owned by it when acquired by that Borrower.

22.24 Constitutional documents

Without prejudice to Clause 22.16 (*Share capital*) and the terms of any Shares Security, no Obligor other than the Guarantor shall allow any amendment or variation to its constitutional documents unless such amendment or variation would clearly be immaterial to this Agreement and the other Finance Documents.

22.25 Further assurance

- (a) Each Obligor shall (and the Guarantor shall procure that each member of the Group will) promptly, and in any event within the time period specified by the Security 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, acknowledgments, proxies and powers of attorney), as the Security Agent may specify (and in such form as the Security Agent may require in favour of the Security Agent or its nominee(s)):
- (i) to create, perfect, vest in favour of the Security Agent or protect the priority of the Security or any right of any kind created or intended to be created under or evidenced by the Finance Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of any of the Creditor Parties provided by or pursuant to the Finance Documents or by law;
 - (ii) to confer on the Security Agent or confer on the Creditor Parties Security over any property and assets of that Transaction Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Finance Documents;
 - (iii) 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 Transaction Security or to exercise any power specified in any Finance Document in respect of which the Security has become enforceable; and/or

- (iv) to enable or assist the Security Agent to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any item of the Security Property.
- (b) Each Obligor shall, and shall procure that each other Transaction Obligor will, take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Creditor Parties by or pursuant to the Finance Documents.
- (c) At the same time as an Obligor delivers to the Security Agent any document executed by itself or another Transaction Obligor pursuant to this Clause 22.25 (*Further assurance*), that Obligor shall deliver, or shall procure that such other Transaction Obligor will deliver, to the Security Agent a certificate signed by one of that Obligor's or Transaction Obligor's officers which shall:
 - (i) set out the text of a resolution of that Obligor's or Transaction Obligor's directors specifically authorising the execution of the document specified by the Security Agent; and
 - (ii) 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 of the directors and is valid under that Obligor's or Transaction Obligor's articles of association, articles of incorporation or other constitutional documents.

23 INSURANCE UNDERTAKINGS

23.1 General

The undertakings in this Clause 23 (*Insurance Undertakings*) remain in force on and from the relevant Drawdown Date and throughout the rest of the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit.

23.2 Maintenance of obligatory insurances

Each Borrower shall keep the Vessel owned by it insured at its expense against:

- (a) hull and machinery plus freight interest and hull interest and/or increased value and any other usual marine risks (including excess risks);
- (b) war risks (including the London Blocking and Trapping addendum or its equivalent);
- (c) protection and indemnity risks (including liability for oil pollution for an amount of no less than \$1,000,000,000 and excess war risk P&I cover) on standard Club Rules, covered by a Protection and Indemnity association which is a member of the International Group of Protection and Indemnity Associations (or, if the International Group ceases to exist, any other leading protection and indemnity association or other leading provider of protection and indemnity insurance) (including, without limitation, the proportion (if any) of any collision liability not covered under the terms of the hull cover);

- (d) freight, demurrage and defence;
- (e) any other risks against which the Facility Agent acting on the instructions of the Majority Lenders considers, having regard to practices and other circumstances prevailing at the relevant time, it would be reasonable for the Borrowers to insure and which are specified by the Facility Agent by notice to the Borrowers.

23.3 Terms of obligatory insurances

Each Borrower shall effect such insurances in respect of the Vessel owned by it:

- (a) in dollars;
- (b) in the case of hull and machinery and usual marine risks and war risks, in an amount on an agreed value basis at least the greater of:
 - (i) an amount which (when aggregated with the amounts for which any other Vessels providing first priority security for the Secured Liabilities are insured for such risks) equals 120 per cent. of the Loan; and
 - (ii) the Market Value of that Vessel;
- (c) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry and in the international marine insurance market but such amount shall not be less than \$1,000,000,000;
- (d) in the case of protection and indemnity risks, in respect of the full tonnage of its Vessel;
- (e) in the case of the hull and machinery insurance, on the basis that the deductible is not higher than the Major Casualty figure;
- (f) in the case where a Vessel is insured on a fleet policy, on the basis that each vessel insured on that fleet policy is deemed to be insured on an individual basis;
- (g) on approved terms; and
- (h) through Approved Brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations.

23.4 Further protections for the Finance Parties

In addition to the terms set out in Clause 23.3 (*Terms of obligatory insurances*), each Borrower shall procure that the obligatory insurances effected by it shall:

- (a) subject always to paragraph (b), name that Borrower as the sole named insured unless the interest of every other named insured is limited:
 - (i) in respect of any obligatory insurances for hull and machinery and war risks;

- (A) to any provable out-of-pocket expenses that it has incurred and which form part of any recoverable claim on underwriters; and
 - (B) to any third party liability claims where cover for such claims is provided by the policy (and then only in respect of discharge of any claims made against it); and
- (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries it is entitled to make by way of reimbursement following discharge of any third party liability claims made specifically against it;
- and that it shall do all things necessary and provide all documents, evidence and information to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances;
- (b) whenever the Facility Agent requires, name (or be amended to name) the Security Agent as additional named insured for its rights and interests, warranted no operational interest and with full waiver of rights of subrogation against the Security Agent, but without the Security Agent being liable to pay (but having the right to pay) premiums, calls or other assessments in respect of such insurance;
 - (c) name the Security Agent as loss payee with such directions for payment as the Facility Agent may specify;
 - (d) provide that all payments by or on behalf of the insurers under the obligatory insurances to the Security Agent shall be made without set off, counterclaim or deductions or condition whatsoever;
 - (e) provide that the obligatory insurances shall be primary without right of contribution from other insurances which may be carried by the Security Agent or any other Finance Party; and
 - (f) provide that the Security Agent may make proof of loss if that Borrower fails to do so.

23.5 Renewal of obligatory insurances

Each Borrower shall:

- (a) at least 10 days before the expiry of any obligatory insurance effected by it:
 - (i) notify the Facility Agent of the Approved Brokers (or other insurers) and any protection and indemnity or war risks association through or with which that Borrower proposes to renew that obligatory insurance and of the proposed terms of renewal; and
 - (ii) obtain the Facility Agents' approval to the matters referred to in sub-paragraph (i) of paragraph (a) above;
- (b) at least 14 days before the expiry of any obligatory insurance, renew that obligatory insurance in accordance with the Facility Agent's approval pursuant to paragraph (a) above; and
- (c) procure that the Approved Brokers and/or the approved war risks and protection and indemnity associations with which such a renewal is effected shall promptly after the renewal notify the Facility Agent in writing of the terms and conditions of the renewal.

23.6 Copies of policies; letters of undertaking

Each Borrower shall ensure that the Approved Brokers provide the Security Agent with:

- (a) *pro forma* copies of all policies relating to the obligatory insurances which they are to effect or renew; and
- (b) a letter or letters or undertaking in a form required by the Facility Agent and including undertakings by the Approved Brokers that:
 - (i) 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 23.4 (*Further protections for the Finance Parties*);
 - (ii) they will hold such policies, and the benefit of such insurances, to the order of the Security Agent in accordance with such loss payable clause;
 - (iii) they will advise the Security Agent immediately of any material change to the terms of the obligatory insurances;
 - (iv) they will, if they have not received notice of renewal instructions from the relevant Borrower or its agents, notify the Security Agent not less than 14 days before the expiry of the obligatory insurances;
 - (v) if they receive instructions to renew the obligatory insurances, they will promptly notify the Facility Agent of the terms of the instructions;
 - (vi) they will not set off against any sum recoverable in respect of a claim relating to the Vessel owned by that Borrower under such obligatory insurances any premiums or other amounts due to them or any other person whether in respect of that Vessel 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
 - (vii) they will arrange for a separate policy to be issued in respect of the Vessel owned by that Borrower forthwith upon being so requested by the Facility Agent.

23.7 Copies of certificates of entry

Each Borrower shall ensure that any protection and indemnity and/or war risks associations in which the Vessel owned by it is entered provide the Security Agent with:

- (a) a certified copy of the certificate of entry for that Vessel;
- (b) a letter or letters of undertaking in such form as may be required by the Facility Agent acting on the instructions of Majority Lenders; and
- (c) a certified copy of each certificate of financial responsibility for pollution by oil or other Environmentally Sensitive Material issued by the relevant certifying authority in relation to that Vessel.

23.8 Deposit of original policies

Each 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.

23.9 Payment of premiums

Each 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 Facility Agent or the Security Agent.

23.10 Guarantees

Each 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.

23.11 Compliance with terms of insurances

- (a) No Borrower shall do or omit to do (or 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.
- (b) Without limiting paragraph (a) above, each Borrower shall:
 - (i) 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 sub-paragraph (iii) of paragraph (b) of Clause 23.6 (*Copies of policies; letters of undertaking*)) ensure that the obligatory insurances are not made subject to any exclusions or qualifications to which the Facility Agent has not given its prior approval;
 - (ii) not make any changes relating to the classification or classification society or manager or operator of the Vessel owned by it unless approved by the underwriters of the obligatory insurances;
 - (iii) make (and promptly supply copies to the Facility Agent of) all quarterly or other voyage declarations which may be required by the protection and indemnity risks association in which the Vessel owned by it 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
 - (iv) not employ the Vessel owned by it, nor allow it to be employed, otherwise than in conformity with the terms and conditions of the obligatory insurances, without first obtaining the consent of the insurers and complying with any requirements (as to extra premium or otherwise) which the insurers specify.

23.12 Alteration to terms of insurances

No Borrower shall make or agree to any alteration to the terms of any obligatory insurance or waive any right relating to any obligatory insurance.

23.13 Settlement of claims

Each Borrower shall:

- (a) not settle, compromise or abandon any claim under any obligatory insurance for Total Loss or for a Major Casualty; and
- (b) do all things necessary and provide all documents, evidence and information to enable the Security Agent to collect or recover any moneys which at any time become payable in respect of the obligatory insurances.

23.14 Provision of copies of communications

Each Borrower shall provide the Security Agent, at the time of each such communication, with copies of all written communications between that 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) that 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 that Borrower and any of the persons referred to in paragraphs (a) or (b) above relating wholly or partly to the effecting or maintenance of the obligatory insurances.

23.15 Provision of information

Each Borrower shall promptly provide the Facility Agent (or any persons which it may designate) with any information which the Facility Agent (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 23.16 (*Mortgagee's interest, additional perils and mortgagee's rights insurances*) or dealing with or considering any matters relating to any such insurances, and the Borrowers shall, forthwith upon demand, indemnify the Facility Agent in respect of all fees and other expenses incurred by or for the account of the Facility Agent in connection with any such report as is referred to in paragraph (a) above.

23.16 Mortgagee's interest, additional perils and mortgagee's rights insurances

The Security Agent shall be entitled from time to time to effect, maintain and renew:

- (a) a mortgagee's interest insurance in an amount equal to 120 per cent. of the Loan;
- (b) a mortgagee's interest additional perils insurance in an amount equal to 120 per cent. of the Loan;
- (c) a mortgagee's rights insurance in an amount equal to 110 per cent. of the Loan,

and the Borrowers shall upon demand fully indemnify the Finance Parties 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.

24 VESSEL UNDERTAKINGS

24.1 General

The undertakings in this Clause 24 (*Vessel Undertakings*) remain in force on and from the relevant Drawdown Date and throughout the rest of the Security Period except as the Facility Agent, acting with the authorisation of the Majority Lenders (or, where specified, all the Lenders) may otherwise permit in writing.

24.2 Vessel's names and registration

Each Borrower shall, in respect of the Vessel owned by it:

- (a) keep that Vessel registered in its name under the Approved Flag from time to time at its port of registration;
- (b) not do or allow to be done anything as a result of which such registration might be suspended, cancelled or imperilled;
- (c) not enter into any dual flagging arrangement in respect of that Vessel;
- (d) not change the name of that Vessel without prior notification to, and consent of, the Facility Agent.

24.3 Repair and classification

Each Borrower shall keep the Vessel owned by it in a good and safe condition and state of repair:

- (a) consistent with first class ship ownership and management practice; and
- (b) so as to maintain the Approved Classification free of overdue recommendations and conditions affecting that Vessel's class.

24.4 Modifications

No Borrower shall make any modification or repairs to, or replacement of, the Vessel owned by it or equipment installed on it which would or might materially alter the structure, type or performance characteristics of that Vessel or materially reduce its value.

24.5 Removal and installation of parts

- (a) Subject to paragraph (b) below, no Borrower shall remove any material part of the Vessel owned by it, or any item of equipment installed on that Vessel unless:
- (i) 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;
 - (ii) the replacement part or item is free from any Security in favour of any person other than the Security Agent; and
 - (iii) the replacement part or item becomes, on installation on that Vessel, the property of that Borrower and subject to the security constituted by the Mortgage on that Vessel.
- (b) A Borrower may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Vessel owned by that Borrower.

24.6 Surveys

Each Borrower shall submit the Vessel owned by it regularly to all periodic or other surveys which may be required for classification purposes and, if so required by the Facility Agent acting on the instructions of the Majority Lenders, provide the Facility Agent, with copies of all survey reports.

24.7 Inspection

Each Borrower shall permit the Security Agent (acting through surveyors or other persons appointed by it for that purpose) to board the Vessel owned by it at all reasonable times at the Facility Agent's discretion to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections **provided that** such technical survey shall not interfere with the ordinary trading of the Vessel owned by it (unless an Event of Default is in existence at the relevant time). So long as no Event of Default has occurred and is continuing at the relevant time, the cost of one inspection in respect of each Vessel per annum under this Clause 24.7 (*Inspection*) shall be for the account of the Borrowers.

24.8 Prevention of and release from arrest

- (a) Each Borrower shall, in respect of the Vessel owned by it, promptly discharge:
- (i) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against that Vessel, its Earnings or its Insurances;
 - (ii) all Taxes, dues and other amounts charged in respect of that Vessel, its Earnings or its Insurances; and
 - (iii) all other outgoings whatsoever in respect of that Vessel, its Earnings or its Insurances.

- (b) Each Borrower shall immediately upon receiving notice of the arrest of the Vessel owned by it or of its detention in exercise or purported exercise of any lien or claim, take all steps necessary to procure its release by providing bail or otherwise as the circumstances may require.

24.9 Compliance with laws etc.

Without prejudice to Clause 24.12 (*Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws*), each Borrower shall (and shall procure that the Approved Manager and the Guarantor, as applicable, shall):

- (a) comply, or procure compliance with all laws or regulations:
 - (i) relating to its business generally; and
 - (ii) relating to the Vessel owned by it, its ownership, employment, operation, management and registration, including, but not limited to, the ISM Code, the ISPS Code, all Environmental Laws, all Sanctions and the laws of the Approved Flag;
- (b) obtain, comply with and do all that is necessary to maintain in full force and effect any Environmental Approvals;
- (c) without limiting paragraph (a) above, not employ the Vessel owned by it nor allow its employment, operation or management in any manner contrary to any law or regulation including but not limited to the ISM Code, the ISPS Code, all Environmental Laws and all Sanctions; and
- (d) not appoint any manager or agent to manage the Vessel owned by it unless such party undertakes to procure that any agreement entered into relating to the management, employment or operation of that Vessel contains a clause in which the counterparty undertakes to comply with all Sanctions.

24.10 ISPS Code

Without limiting paragraph (a) of Clause 24.9 (*Compliance with laws etc.*), each Borrower shall:

- (a) procure that the Vessel owned by it and the company responsible for that Vessel's compliance with the ISPS Code comply with the ISPS Code; and
- (b) maintain an ISSC and an IAPPC for that Vessel; and
- (c) notify the Facility Agent immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

24.11 Sanctions and Vessel trading

Without limiting Clause 24.9 (*Compliance with laws etc.*), each Borrower shall procure:

- (a) that the Vessel owned by it shall not be used by or for the benefit of a Prohibited Person;
- (b) that the Vessel owned by it shall not be used in trading in any manner contrary to Sanctions (or which could be contrary to Sanctions if Sanctions were binding on each Transaction Obligor); and
- (c) that the Vessel owned by it shall not be traded in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Insurances.

24.12 Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws

Without limiting Clause 24.9 (*Compliance with laws etc.*),

- (a) each Obligor, and each member of its Group, shall comply with all applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws and shall not engage in any activity that could result in an Obligor becoming a Sanctions Target.
- (b) each Obligor shall take all actions necessary, or which may be reasonably required by the Agent (or shall refrain from taking any action as may be reasonably required by the Agent), so as not to cause any Creditor Party to violate any applicable Sanctions, Anti-Corruption Laws and/or any Anti-Money Laundering Laws in connection with the Transaction Documents or the operation or use of a Vessel.
- (c) each Obligor shall not, and shall procure that no member of its Group nor the Approved Manager shall:
 - (i) directly or indirectly use, make available, apply or allow to be used, made available or applied, the proceeds of any Loans, any leasing or any sale or other disposal of a Vessel (or any part of it) or the Earnings for any purpose which would violate or cause any Secured Party or any Transaction Obligor or Charterer to violate, when and as applicable, any Sanctions, any Anti-Corruption Laws or any Anti-Money Laundering Laws;
 - (ii) directly or indirectly lend, invest, contribute or otherwise make available such proceeds to, or for the benefit of, any current Sanctions Target; or
 - (iii) own, operate, possess, use, lease, dispose of or otherwise deal with, or procure or allow the ownership, operation, possession, use, leasing, disposal of or any other dealing with, a Vessel, or part of it, for any purpose which would violate or cause any Secured Party or any Transaction Obligor or Charterer to violate, when and as applicable, any Sanctions, any Anti-Corruption Laws or any Anti-Money Laundering Laws;
- (d) each Obligor shall procure that the Charterer and each Approved Manager shall make equivalent representations and give equivalent undertakings regarding compliance with all applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws in respect of a Vessel and the leasing of it, including any sub-leasing and managing of a Vessel.

24.13 Trading in war zones

In the event of hostilities in any part of the world (whether war is declared or not), no Borrower shall cause or permit any Vessel to enter or trade to any zone which is declared a war zone by any government or by that Vessel's war risks insurers unless:

- (a) the prior written consent of the Security Agent (acting on the instructions of the Majority Lenders) has been given; and
- (b) that Borrower has (at its expense) effected any special, additional or modified insurance cover which the Security Agent (acting on the instructions of the Majority Lenders) may require.

24.14 Monitoring

- (a) Each Borrower shall (or shall procure that any Charterer and the Approved Manager shall) allow the Security Agent (or its agents), at any time and from time to time, to access all information pertaining to the Vessel owned by it and to monitor and/or track her position (including the movement of that Vessel) using any and all available means.
- (b) All costs incurred by the Security Agent (and any of its agents) under paragraph (a) of Clause 24.14 (*Monitoring*) above shall, prior to an Event of Default, be for the account of the Lenders and, following an Event of Default, be for the sole account of the Borrowers.

24.15 Provision of information

Without prejudice to Clause 20.5 (*Information: miscellaneous*) each Borrower shall, in respect of the Vessel owned by it, promptly provide the Facility Agent with any information which it requests regarding:

- (a) that Vessel, its employment, position and engagements;
- (b) the Earnings and payments and amounts due to its master and crew;
- (c) any expenditure incurred, or likely to be incurred, in connection with the operation, maintenance or repair of that Vessel and any payments made by it in respect of that Vessel;
- (d) any towages and salvages; and
- (e) its compliance, the Approved Manager's compliance and the compliance of that Vessel with the ISM Code and the ISPS Code, and, upon the Facility Agent's request, each Borrower shall promptly provide copies of class records, any inspection reports obtained for the Vessel owned by it, any current Charter relating to that Vessel, any current guarantee of any such Charter, that Vessel's Safety Management Certificate and any relevant Document of Compliance.

24.16 Notification of certain events

Each Borrower shall, in respect of the Vessel owned by it, immediately notify the Facility Agent by fax, confirmed forthwith by letter, of:

- (a) any casualty to that Vessel which is or is likely to be or to become a Major Casualty;
- (b) any occurrence as a result of which that Vessel has become or is, by the passing of time or otherwise, likely to become a Total Loss;
- (c) any requisition of that Vessel for hire;

- (d) any requirement or recommendation made in relation to that Vessel by any insurer or classification society or by any competent authority which is not immediately complied with;
- (e) any arrest or detention of that Vessel, any exercise or purported exercise of any lien on that Vessel or the Earnings or any requisition of that Vessel for hire;
- (f) any unscheduled dry docking of that Vessel;
- (g) any Environmental Claim made against that Borrower or in connection with that Vessel, or any Environmental Incident;
- (h) any claim for breach of the ISM Code or the ISPS Code being made against that Borrower, the Approved Manager or otherwise in connection with that Vessel; or
- (i) any other matter, event or incident, actual or threatened, the effect of which will or could lead to the ISM Code or the ISPS Code not being complied with,

and that Borrower shall keep the Facility Agent advised in writing on a regular basis and in such detail as the Facility Agent shall require as to that Borrower's, the Approved Manager's or any other person's response to any of those events or matters.

24.17 Restrictions on chartering, appointment of managers etc.

No Borrower shall, in relation to the Vessel owned by it:

- (a) let that Vessel on demise charter for any period;
- (b) enter into any time, voyage or consecutive voyage charter in respect of that Vessel other than a Permitted Charter and any Assignable Charter, subject to the relevant Owner's compliance with Clause 24.22 (*Charterparty assignment*);
- (c) change in a material respect, cancel or terminate (or purport to so change, cancel or terminate), any Assignable Charter and any Charter Guarantee relating to an Assignable Charter;
- (d) change, cancel or terminate a Management Agreement;
- (e) appoint a manager of that Vessel other than an Approved Manager;
- (f) de activate or lay up that Vessel; or
- (g) put that Vessel into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed US\$500,000 (or the equivalent in any other currency) unless the relevant Borrower has exercised reasonable endeavours to ensure that that person has first given to the Security Agent and in terms satisfactory to it a written undertaking not to exercise any lien on that Vessel or its Earnings for the cost of such work or for any other reason.

24.18 Notice of Mortgage

Each Borrower shall keep the relevant Mortgage registered against the Vessel owned by it as a valid first priority or preferred (as the case may be) mortgage, carry on board that Vessel a certified copy of the relevant Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of that Vessel a framed printed notice stating that that Vessel is mortgaged by that Borrower to the Security Agent.

24.19 Sharing of Earnings

No Borrower shall enter into any agreement or arrangement for the sharing of any Earnings other than any profit sharing arrangements on arm's length terms.

24.20 Nuclear materials

No Borrower shall permit the Vessel owned by it to carry any nuclear material or any nuclear waste.

24.21 Notification of compliance

Each Borrower shall promptly provide the Facility Agent from time to time with evidence (in such form as the Facility Agent requires) that it is complying with this Clause 24 (*Vessel Undertakings*).

24.22 Charterparty Assignment

Each Borrower shall, in respect of the Vessel owned by it, promptly after its entry into any Assignable Charter enter into a Charterparty Assignment and the assignment contemplated thereunder shall be notified to the relevant Charterer and any charter guarantor in accordance with the terms of such Charterparty Assignment and each Borrower shall use its commercially reasonable endeavours to obtain an acknowledgment of that Charterparty Assignment from the relevant Charterer and/or charter guarantor, and shall additionally deliver to the Facility Agent such other documents equivalent to those referred to at paragraphs 1.2, 1.3, 1.5 and 1.8 of Schedule 2, Part A as the Facility Agent may require.

25 SECURITY COVER

25.1 Minimum required security cover

Clause 25.2 (*Provision of additional security; prepayment*) applies if the Facility Agent notifies the Borrowers that:

- (a) the aggregate Market Value of the Vessels then subject to a Mortgage; plus
- (b) the net realisable value of additional Security previously provided under this Clause 25.1 (*Minimum required security cover*), is below 130 per cent. of the Loan.

25.2 Provision of additional security; prepayment

- (a) If the Facility Agent serves a notice on the Borrowers under Clause 25.1 (*Minimum required security cover*), an Obligor shall, on or before the date falling one Month after the date on which the Facility Agent's notice is served (the "**Prepayment Date**"), prepay such part of the Loan as shall eliminate the shortfall.
- (b) An Obligor may, instead of making a prepayment as described in paragraph (a) above, provide, or ensure that a third party has provided, additional security which, in the opinion of the Facility Agent acting on the instructions of the Majority Lenders:

- (i) has a net realisable value at least equal to the shortfall; and
 - (ii) is documented in such terms as the Facility Agent may approve or require,
- before the Prepayment Date; and conditional upon such security being provided in such manner, it shall satisfy such prepayment obligation.

25.3 Value of additional vessel security

The net realisable value of any additional security which is provided under Clause 25.2 (*Provision of additional security; prepayment*) and which consists of Security over a vessel shall be the Market Value of the vessel concerned after deducting the amount of any indebtedness (other than Secured Liabilities) which is secured by Security over that vessel. Valuations binding.

Any valuation under this Clause 25 (*Security Cover*) shall be binding and conclusive as regards each Borrower.

25.4 Valuations binding

Any valuation under this Clause 25 (*Security Cover*) shall be binding and conclusive as regards each Borrower.

25.5 Provision of information

- (a) Each Borrower shall promptly provide the Facility Agent and any shipbroker acting under this Clause 25 (*Security Cover*) with any information which the Facility Agent or the shipbroker may request for the purposes of the valuation.
- (b) If a Borrower fails to provide the information referred to in paragraph (a) above by the date specified in the request, the valuation may be made on any basis and assumptions which the shipbroker or the Facility Agent considers prudent.

25.6 Prepayment mechanism

Any prepayment pursuant to Clause 25.2 (*Provision of additional security; prepayment*) shall be made in accordance with the relevant provisions of Clause 7 (*Prepayment and Cancellation*) and shall be treated as a voluntary prepayment pursuant to Clause 7.3 (*Voluntary prepayment of Loan*).

25.7 Provision of valuations

- (a) For the purpose of a Drawdown and subject to paragraph (b) below, the Market Value of any Vessel shall be determined by reference to one valuation of that Vessel as given by an Approved Valuer selected and appointed by the Borrowers and addressed to the Facility Agent.
- (b) If requested by the Facility Agent in relation to paragraph (a) above, a second Approved Valuer shall be selected by the Facility Agent, appointed by the Borrowers and its valuation shall be addressed to the Facility Agent, and the Market Value of that Vessel shall be the arithmetic average of the two valuations.

- (c) If one such valuation in respect of a Vessel obtained pursuant to paragraphs (a) and (b) above differs by at least 10 per cent. from the lower valuation, then a third valuation for that Vessel shall be obtained from a third Approved Valuer selected and appointed by the Facility Agent and such valuation shall be addressed to the Facility Agent and the Market Value of that Vessel shall be the arithmetic average of all three such valuations.
- (d) The Facility Agent shall be entitled, after the first Drawdown Date, to test the security cover requirement under Clause 25.1 (*Minimum required security cover*) by reference to the Market Value of any Vessel as determined in accordance with paragraphs (a) to (c) above, quarterly during the Security Period.
- (e) The Facility Agent shall ascertain compliance with Clause 21 (*Financial Covenants*) by reference to the market value of the Fleet Vessels as provided in the Latest Accounts.
- (f) Each of the valuations referred to at paragraphs (a), (b) and (c) above shall be obtained not more than 30 days before the relevant Drawdown Date, while each of the valuations referred to in paragraph (d) above shall be obtained not more than 30 days before the Test Date of the relevant quarter.
- (g) The Facility Agent may at any time after an Event of Default has occurred and is continuing obtain valuations of any Vessel and any other vessel over which additional security has been created in accordance with Clause 25.2 (*Provision of additional security; prepayment*) from Approved Valuers to enable the Facility Agent to determine the Market Value of that Vessel and any other vessel and also for the purpose of testing the security cover requirement under Clause 25.1 (*Minimum required security cover*). The Facility Agent shall be entitled to determine the Market Value of any Vessel at any other time.
- (h) The valuations referred to in paragraph (a) to (d) above shall be obtained at the cost and expense of the Borrowers and the Borrowers shall within three Business Days of demand by the Facility Agent pay to the Facility Agent all costs and expenses incurred by it in obtaining any such valuation. The cost of the valuations referred to in paragraph (d) for the Borrowers shall be limited to twice per annum, unless an Event of Default has occurred or the covenant contained in Clause 25.1 (*Minimum required security cover*) is not complied with, in which case the cost of all valuations shall be borne by the Borrowers.

26 ACCOUNTS AND APPLICATION OF EARNINGS

26.1 Account bank

Subject to Clause 26.8 (*Location of Accounts*), each Account must be held with the Account Bank.

26.2 Accounts

- (a) Each Borrower must operate each of its Accounts and must procure that the Shareholder operates each of its Accounts in accordance with this Clause 26 (*Accounts and Application of Earnings*) and the provisions of the relevant Account Security.
- (b) Account Security must be provided in respect of any Account opened after the date of this Agreement.

26.3 Payments into the Time Deposit Account

Upon the Shareholder opening the Time Deposit Account and the execution of Account Security in relation to each such Account, a Borrower may, provided that there is no Event of Default which is continuing, transfer the Minimum Liquidity Amount from the Earnings Account to the Time Deposit Account.

26.4 Payments out of the Time Deposit Account

(a) The Security Agent shall instruct the Account Bank to transfer any amount standing to the credit of a Time Deposit Account:

- (i) on expiry of the term of the deposit on the Time Deposit Account, at the Shareholder's request, in accordance with the provisions of the Account Bank's Terms and Conditions; or
- (ii) at any time (subject to the payment of any break costs payable in accordance with the terms of the deposit), to meet any Borrower's prepayment obligations under any of Clauses 7.1 (*Illegality*) or 7.4 (*Mandatory prepayment on sale, arrest or Total Loss*),

Provided that in each case:

- (A) there is no Event of Default which is continuing; and
- (B) no breach of Clause 21 (*Financial Covenants*) has occurred or will occur as a result of such transfer.

(b) Where no transfer can be made as a result of the proviso under paragraph (a) above, interest shall be payable on the amount then standing to the credit of the relevant Time Deposit Account at the Account Bank's discretion and in accordance with market standard conditions at that time.

(c) In the event of any conflict between the provisions of the Terms and Conditions and this Agreement, this Agreement shall prevail.

26.5 Payment of Earnings

Each Borrower shall ensure that, subject only to the provisions of the relevant General Assignment, all the Earnings in respect of the Vessel owned by it are paid in to the Earnings Account.

26.6 Application of Earnings

Subject to paragraph (b) below, the Borrowers will transfer from the Earnings Account to the Facility Agent:

- (a) on each relevant Repayment Date, the amount of the relevant Repayment Instalment then due on that Repayment Date; and
- (b) on the last day of each relevant Interest Period, the amount of interest then due on that date; and

- (c) on any day on which an amount is otherwise due from any Borrower under a Finance Document, an amount necessary to meet that due amount, and each Borrower irrevocably authorizes and instructs:
 - (i) the Account Bank to make those transfers in accordance with the instructions of the Facility Agent (copied to the Security Agent, who, as security taker under the Account Security, agrees for itself and on behalf of the other pledgees that such transfers may be made);
 - (ii) the Facility Agent to apply the transferred amounts in payment of the relevant Repayment Instalment, interest amount or other amount due.

26.7 Application of funds

Until an Event of Default occurs, the Facility Agent shall on each Repayment Date and on each Interest Payment Date distribute to the Finance Parties in accordance with Clause 34 (*Payment Mechanics*) so much of the then balance on the Earnings Account as equals:

- (a) the Repayment Instalment due on that Repayment Date; and
- (b) the amount of interest payable on that Interest Payment Date, in discharge of the Borrowers' liability for that Repayment Instalment or that interest.

26.8 Location of Accounts

Each Borrower shall and shall procure that the Shareholder shall promptly:

- (a) comply with any requirement of the Facility Agent as to the location or relocation of each of its Accounts; and
- (b) execute any documents which the Facility Agent specifies to create or maintain in favour of the Security Agent Security over (and/or rights of set-off, consolidation or other rights in relation to) the relevant Account.

26.9 Miscellaneous Accounts provisions

- (a) No Finance Party is responsible or liable to any Obligor for:
 - (i) any non-payment of any liability of an Obligor which could be paid out of moneys standing to the credit of the Earnings Account; or
 - (ii) any withdrawal wrongly made, if made in good faith.

27 EVENTS OF DEFAULT

27.1 General

Each of the events or circumstances set out in this Clause 27 (*Events of Default*) is an Event of Default except for Clause 27.18 (*Acceleration*) and Clause 27.19 (*Enforcement of security*).

27.2 Non-payment

A Transaction Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; and
- (b) payment is made within five Business Days of its due date.

27.3 Specific obligations

A breach occurs of Clause 4.6 (*Waiver of conditions precedent*), Clause 21 (*Financial Covenants*), Clause 22.9 (*Title*), Clause 22.10 (*Negative pledge*), Clause 22.20 (*Unlawfulness, invalidity and ranking; Security imperilled*), Clause 23.2 (*Maintenance of obligatory insurances*), Clause 23.3 (*Terms of obligatory insurances*), Clause 23.5 (*Renewal of obligatory insurances*), Clause 24.9 (*Compliance with laws etc.*) in relation to Sanctions, Clause 24.12 (*Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws*) or Clause 25 (*Security Cover*).

27.4 Other obligations

- (a) A Transaction Obligor does not comply with any provision of the Finance Documents to which it is a party (other than those referred to in Clause 27.2 (*Non-payment*) and Clause 27.3 (*Specific obligations*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within fifteen days of the Facility Agent giving notice to the Borrowers or (if earlier) any Transaction Obligor becoming aware of the failure to comply.

27.5 Misrepresentation

Any representation or statement made or deemed to be made by a Transaction Obligor in the Finance Documents or any other document delivered by or on behalf of any Transaction Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

27.6 Cross default

- (a) Any Financial Indebtedness of any Transaction Obligor (other than the Approved Manager) is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any Transaction Obligor (other than the Approved Manager) is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described) unless the Transaction Obligor (other than the Approved Manager) is contesting the declaration of an event of default or of the Financial Indebtedness becoming due and payable in good faith and on substantial grounds by appropriate proceedings and adequate reserves (in the reasonable opinion of the Facility Agent) have been set aside for its payment if such proceedings fail.

- (c) Any commitment for any Financial Indebtedness of any Transaction Obligor (other than the Approved Manager) is cancelled or suspended by a creditor of that Transaction Obligor as a result of an event of default (however described).
- (d) Any creditor of any Transaction Obligor (other than the Approved Manager) becomes entitled to declare any Financial Indebtedness of that Transaction Obligor due and payable prior to its specified maturity as a result of an event of default (however described) unless the Transaction Obligor is contesting the declaration of an event of default or of the Financial Indebtedness becoming due and payable in good faith and on substantial grounds by appropriate proceedings and adequate reserves (in the reasonable opinion of the Facility Agent) have been set aside for its payment if such proceedings fail.
- (e) No Event of Default will occur under this Clause 27.6 (*Cross default*) in respect of a person other than a Borrower if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than \$10,000,000 (or, in each case, its equivalent in any other currency).

27.7 Insolvency

- (a) A Transaction Obligor (other than the Approved Manager):
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law; or
 - (iii) suspends or threatens to suspend making payments on any of its debts.
- (b) A moratorium is declared in respect of any indebtedness of any Transaction Obligor (other than the Approved Manager). If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

27.8 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Transaction Obligor (other than an Approved Manager who is not affiliated to the Group);
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any Transaction Obligor (other than an Approved Manager who is not affiliated to the Group);
 - (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Transaction Obligor (other than an Approved Manager who is not affiliated to the Group) or any of its assets; or
 - (iv) enforcement of any Security over any assets of any Transaction Obligor (other than an Approved Manager who is not affiliated to the Group),or any analogous procedure or step is taken in any jurisdiction.
- (b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

27.9 Creditors' process

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of a Transaction Obligor (other than an arrest or detention of a Vessel in which case paragraph (b) of Clause 7.4 (*Mandatory prepayment on sale, arrest or Total Loss*) shall apply).

27.10 Ownership of the Borrowers

There is in respect of any Borrower, a change in its ownership which results in the Guarantor owning directly or indirectly (but if indirectly only through companies with registered shares), less than 100 per cent. of the shares in that Borrower.

27.11 Unlawfulness, invalidity and ranking

- (a) It is or becomes unlawful for a Transaction Obligor to perform any of its obligations under the Finance Documents.
- (b) Any obligation of a Transaction Obligor under the Finance Documents is not or ceases to be legal, valid, binding or enforceable.
- (c) Any Finance Document ceases to be in full force and effect or to be continuing or is or purports to be determined or any Transaction Security is alleged by a party to it (other than a Finance Party) to be ineffective.
- (d) Any Transaction Security proves to have ranked after, or loses its priority to, any other Security unless by operation of law.

27.12 Security imperilled; flag instability

- (a) Any Security created or intended to be created by a Finance Document is in any way imperilled or in jeopardy.
- (b) The state of the Approved Flag of any Vessel is or becomes involved in hostilities or civil war or there is a seizure of power in such state by unconstitutional means, or any other event occurs in relation to that Vessel, the relevant Mortgage or its Approved Flag and in the reasonable opinion of the Facility Agent such event is likely to have a Material Adverse Effect unless the relevant Borrower, within 30 days of the occurrence of such event (or such longer period as may be agreed by the Facility Agent acting with the authorisation of the Lenders) re-registers that Vessel on an alternative flag approved pursuant to Clause 24.2 (*Vessel's names and registration*) and subject to:
 - (i) that Vessel remaining subject to security securing the Security created by a first priority or preferred ship mortgage on that Vessel and, if appropriate, a first priority deed of covenant collateral to that mortgage (or equivalent first priority security) on substantially the same terms as the relevant Mortgage and on such other terms and in such other form as the Facility Agent, acting with the authorisation of the Lenders, shall reasonably approve or require; and
 - (ii) the execution of such other documentation amending and supplementing the Finance Documents, as the Facility Agent, acting with the authorisation of the Lenders, shall reasonably approve or require.

27.13 Cessation of business

Any member of the Group suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

27.14 Expropriation

The authority or ability of any member of the Group to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any member of the Group or any of its assets other than:

- (a) an arrest or detention of a Vessel (in which case paragraph (b) of Clause 7.4 (*Mandatory prepayment on sale, arrest or Total Loss*) shall apply); or
- (b) any Requisition.

27.15 Repudiation and rescission of agreements

A Transaction Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document or any of the Transaction Security or evidences an intention to rescind or repudiate a Transaction Document or any Transaction Security.

27.16 Litigation

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened, or any judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body is made, in relation to any of the Transaction Documents or the transactions contemplated in any of the Transaction Documents or against any member of the Group or its assets which has or is reasonably likely to have a Material Adverse Effect.

27.17 Material adverse change

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

27.18 Acceleration

On and at any time after the occurrence of an Event of Default the Facility Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrowers:

- (a) cancel the Total Commitments, whereupon they shall immediately be cancelled;
- (b) declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon it shall become immediately due and payable; and/or

- (c) declare that all or part of the Loan be payable on demand, whereupon it shall immediately become payable on demand by the Facility Agent acting on the instructions of the Majority Lenders,
- and the Facility Agent may serve notices under paragraphs (a), (b) and (c) above simultaneously or on different dates and the Security Agent may take any action referred to in Clause 27.19 (*Enforcement of security*) if no such notice is served or simultaneously with or at any time after the service of any of such notice.

27.19 Enforcement of security

On and at any time after the occurrence of an Event of Default the Security Agent may, and shall if so directed by the Majority Lenders, take any action which, as a result of the Event of Default or any notice served under Clause 27.18 (*Acceleration*).

SECTION 9

CHANGES TO PARTIES

28 CHANGES TO THE LENDERS

28.1 Assignments and transfers by the Lenders

Subject to this Clause 28 (*Changes to the Lenders*), a Lender (the “**Existing Lender**”) may:

- (a) assign any of its rights; or
- (b) transfer by novation or, as the case may be, sub-participation any of its rights and obligations, under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the “**New Lender**”).

28.2 Conditions of assignment or transfer

- (a) A notice or the consent of the Borrowers or the Guarantor is required for an assignment or transfer by an Existing Lender, unless the assignment or transfer is:
 - (i) to another Lender or an Affiliate of Lender;
 - (ii) if the Existing Lender is a fund, to a fund which is a Related Fund; or
 - (iii) made at a time when an Event of Default has occurred.
- (b) The consent of the Borrowers to an assignment or transfer may not be unreasonably withheld or delayed. The Borrowers will be deemed to have given their consent five Business Days after the Existing Lender has requested it unless consent is expressly refused by the Borrowers within that time.
- (c) The consent of the Borrowers to an assignment or transfer may not be withheld solely because the assignment or transfer may result in an increase to any amount payable under Clause 14.3 (*Mandatory Cost*).
- (d) The consent of the Facility Agent is required for an assignment or transfer by an Existing Lender, such consent not to be unreasonably withheld.
- (e) An assignment will only be effective on:
 - (i) receipt by the Facility Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent) that the New Lender will assume the same obligations to the other Creditor Parties as it would have been under if it were an Original Lender; and
 - (ii) performance by the Facility Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Facility Agent shall promptly notify to the Existing Lender and the New Lender.

- (f) A transfer will only be effective if the procedure set out in Clause 28.5 (*Procedure for transfer*) is complied with.
- (g) If:
- (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, a Transaction Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 12 (*Tax Gross Up and Indemnities*) or under that clause as incorporated by reference or in full in any other Finance Document or Clause 13 (*Increased Costs*),
- then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred. This paragraph (g) shall not apply in respect of an assignment or transfer made in the ordinary course of the primary syndication of the Facility.
- (h) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that:
- (A) the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender; and
 - (B) it has received a copy of each of the Security Documents which are governed by German law and which are account pledges, is aware of the contents of such account pledges and expressly consents to the declarations of the Security Agent made on behalf of the New Lender (as future pledgee) in such account pledges.

28.3 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of \$5,000.

28.4 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;
 - (ii) the financial condition of any Transaction Obligor;
 - (iii) the performance and observance by any Transaction Obligor of its obligations under the Finance Documents or any other documents;
- or

- (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,
and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties and the Creditor Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Transaction Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Finance Document or the Transaction Security; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Transaction Obligor and its related entities throughout the Security Period.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
 - (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 28 (*Changes to the Lenders*); or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Transaction Obligor of its obligations under the Finance Documents or otherwise.

28.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*), a transfer is effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with this Agreement and delivered in accordance with this Agreement, execute that Transfer Certificate. Upon execution by the Facility Agent, the Security Agent shall also execute the Transfer Certificate.
- (b) The Facility Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 28.9 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security, each of the Transaction Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the “**Discharged Rights and Obligations**”);

- (ii) each of the Transaction Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Transaction Obligor and the New Lender have assumed and/or acquired the same in place of that Transaction Obligor and the Existing Lender;
- (iii) the Facility Agent, the Security Agent, the Arranger, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Facility Agent, the Security Agent, the Arranger and the Existing Lenders shall each be released from further obligations to each other under the Finance Documents; and
- (iv) the New Lender shall become a Party as a “Lender”.

28.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Facility Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement. Upon execution by the Facility Agent, the Security Agent shall also execute the Assignment Agreement.
- (b) The Facility Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 28.9 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released from the obligations (the “**Relevant Obligations**”) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
 - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 28.6 (*Procedure for assignment*) to assign their rights under the Finance Documents (but not, without the consent of the relevant Transaction Obligor or unless in accordance with Clause 28.5 (*Procedure for transfer*), to obtain a release by that Transaction Obligor from the obligations owed to that Transaction Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 28.2 (*Conditions of assignment or transfer*).

28.7 Copy of Transfer Certificate or Assignment Agreement to Borrowers

The Facility Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrowers a copy of that Transfer Certificate or Assignment Agreement.

28.8 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 28 (*Changes to the Lenders*), each Lender may without consulting with or obtaining consent from any Transaction Obligor, at any time charge, assign or otherwise create Security 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 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 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 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 for the Lender as a party to any of the Finance Documents; or
 - (ii) require any payments to be made by a Transaction Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

28.9 Pro rata interest settlement

If the Facility Agent has notified the Lenders that it is able to distribute interest payments on a "*pro rata* basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 28.5 (*Procedure for transfer*) or any assignment pursuant to Clause 28.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):

- (a) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
- (b) The rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:

- (i) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
 - (ii) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 28.9 (*Pro rata interest settlement*), have been payable to it on that date, but after deduction of the Accrued Amounts.
- (c) In this Clause 28.9 (*Pro rata interest settlement*) references to “Interest Period” shall be construed to include a reference to any other period for accrual of fees.

29 CHANGES TO THE TRANSACTION OBLIGORS

29.1 Assignment or transfer by Transaction Obligors

No Transaction Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

29.2 Release of security

- (a) If a disposal of any asset subject to security created by a Security Document is made in the following circumstances:
- (i) the disposal is permitted by the terms of any Finance Document;
 - (ii) all the Lenders agree to the disposal;
 - (iii) the disposal is being made at the request of the Security Agent in circumstances where any security created by the Security Documents has become enforceable; or
 - (iv) the disposal is being effected by enforcement of a Security Document,
- the Security Agent may release the asset(s) being disposed of from any security over those assets created by a Security Document. However, the proceeds of any disposal (or an amount corresponding to them) must be applied in accordance with the requirements of the Finance Documents (if any).
- (b) If the Security Agent is satisfied that a release is allowed under this Clause 29.2 (*Release of security*) (at the request and expense of the Borrowers) each Finance Party must enter into any document and do all such other things which are reasonably required to achieve that release. Each other Finance Party irrevocably authorises the Security Agent to enter into any such document. Any release will not affect the obligations of any other Transaction Obligor under the Finance Documents.

THE FINANCE PARTIES

30 THE FACILITY AGENT, THE ARRANGER AND THE REFERENCE BANKS

30.1 Appointment of the Facility Agent

- (a) Each of the Arranger and the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Arranger and the Lenders authorises the Facility Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under, or in connection with, the Finance Documents together with any other incidental rights, powers, authorities and discretions.

30.2 Instructions

- (a) The Facility Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (B) in all other cases, the Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Facility Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.

- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in a Finance Document;
 - (ii) where a Finance Document requires the Facility Agent to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Facility Agent's own position in its personal capacity as opposed to its role of Facility Agent for the relevant Finance Parties.
- (e) If giving effect to instructions given by the Majority Lenders would in the Facility Agent's opinion have an effect equivalent to an amendment or waiver referred to in Clause 43 (*Amendments and Waivers*), the Facility Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Facility Agent) whose consent would have been required in respect of that amendment or waiver.
- (f) In exercising any discretion to exercise a right, power or authority under the Finance Documents where it has not received any instructions as to the exercise of that discretion the Facility Agent shall do so having regard to the interests of all the Finance Parties.
- (g) The Facility Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (h) Without prejudice to the remainder of this Clause 30.2 (*Instructions*), in the absence of instructions, the Facility Agent shall not be obliged to take any action (or refrain from taking action) even if it considers acting or not acting to be in the best interests of the Finance Parties. The Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Finance Parties.
- (i) The Facility Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (i) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security or Security Documents.

30.3 Duties of the Facility Agent

- (a) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (c) Without prejudice to Clause 28.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrowers*), paragraph (b) above shall not apply to any Transfer Certificate or any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

- (e) If the Facility Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent, the Arranger or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

30.4 Role of the Arranger

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

30.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Facility Agent or the Arranger as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor the Arranger shall not be bound to account to other Finance Party for any sum or the profit element of any sum received by it for its own account.

30.6 Application of receipts

Except as expressly stated to the contrary in any Finance Document, any moneys which the Facility Agent receives or recovers in its capacity as Facility Agent shall be applied by the Facility Agent in accordance with Clause 34.5 (*Application of receipts; partial payments*).

30.7 Business with the Group

The Facility Agent and the Arranger may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

30.8 Rights and discretions

- (a) The Facility Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (iii) rely on a certificate from any person:

- (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,
- as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.

- (b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Finance Parties) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 27.2 (*Non-payment*));
 - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and
 - (iii) any notice or request made by any Borrower (other than a Drawdown Request or a Selection Notice) is made on behalf of and with the consent and knowledge of all the Transaction Obligors.
- (c) The Facility Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be desirable.
- (e) The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Facility Agent may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
 - (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,unless such error or such loss was directly caused by the Facility Agent's gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under the Finance Documents.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arranger is obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

- (i) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

30.9 Responsibility for documentation

Neither the Facility Agent nor the Arranger is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Security Agent, the Arranger, a Transaction Obligor or any other person in, or in connection with, any Transaction Document or the transactions contemplated in the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; or
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document or the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party or Creditor Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

30.10 No duty to monitor

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Transaction Obligor of its obligations under any Transaction Document; or
- (c) whether any other event specified in any Transaction Document has occurred.

30.11 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to paragraph (e) of Clause 34.11 (*Disruption to Payment Systems etc.*) or any other provision of any Finance Document excluding or limiting the liability of the Facility Agent), the Facility Agent will not be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Transaction Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;

- (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Transaction Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party other than the Facility Agent may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Facility Agent may rely on this Clause subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or the Arranger to carry out:
 - (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party, on behalf of any Finance Party and each Finance Party confirms to the Facility Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Arranger.

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Facility Agent's liability, any liability of the Facility Agent arising under or in connection with any Transaction Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Facility Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent at any time which increase the amount of that loss. In no event shall the Facility Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent has been advised of the possibility of such loss or damages.

30.12 Lenders' indemnity to the Facility Agent

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 34.11 (*Disruption to Payment Systems etc.*) notwithstanding the Facility Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by a Transaction Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrowers shall immediately on demand reimburse any Lender for any payment that Lender makes to the Facility Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Facility Agent to an Obligor.

30.13 Resignation of the Facility Agent

- (a) The Facility Agent may resign and appoint one of its Affiliates acting through an office as successor by giving notice to the other Finance Parties and the Borrowers.
- (b) Alternatively, the Facility Agent may resign by giving 30 days' notice to the other Finance Parties and the Borrowers, in which case the Majority Lenders may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Facility Agent may appoint a successor Facility Agent.
- (d) If the Facility Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Facility Agent is entitled to appoint a successor Facility Agent under paragraph (c) above, the Facility Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Facility Agent to become a party to this Agreement as Facility Agent) agree with the proposed successor Facility Agent amendments to this Clause 30 (*The Facility Agent, the Arranger and the Reference Banks*) and any other term of this Agreement dealing with the rights or obligations of the Facility Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Facility Agent's normal fee rates and those amendments will bind the Parties.

- (e) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents. The Borrowers shall, within three Business Days of demand, reimburse the retiring Facility Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (f) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 14.4 (*Indemnity to the Facility Agent*) and this Clause 30 (*The Facility Agent, the Arranger and the Reference Banks*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Facility Agent. Any fees for the account of the retiring Facility Agent shall cease to accrue from (and shall be payable on) that date. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) The Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (e) above shall be for the account of the Borrowers.
- (i) The consent of the Borrowers (or any other Transaction Obligor) is not required for an assignment or transfer of rights and/or obligations by the Facility Agent.
- (j) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
 - (i) the Facility Agent fails to respond to a request under Clause 12.7 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Facility Agent pursuant to Clause 12.7 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Facility Agent notifies the Borrowers and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

30.14 Confidentiality

- (a) In acting as Facility Agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by a division or department of the Facility Agent other than the division or department responsible for complying with the obligations assumed by it under the Finance Documents, that information may be treated as confidential to that division or department, and the Facility Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Arranger is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

30.15 Relationship with the other Finance Parties

- (a) Subject to Clause 28.9 (*Pro rata interest settlement*), the Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Each Finance Party shall supply the Facility Agent with any information that the Security Agent may reasonably specify (through the Facility Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Finance Party shall deal with the Security Agent exclusively through the Facility Agent and shall not deal directly with the Security Agent.
- (c) Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 37.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 37.2 (*Addresses*) and sub-paragraph (ii) of paragraph (a) of Clause 37.5 (*Electronic communication*) and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

30.16 Credit appraisal by the Finance Parties

Without affecting the responsibility of any Transaction Obligor for information supplied by it or on its behalf in connection with any Transaction Document, each Finance Party confirms to the Facility Agent and the Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Transaction Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Transaction Document, the Security Property, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (d) the adequacy, accuracy or completeness of any information provided by the Facility Agent, any Party or by any other person under, or in connection with, any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Security Assets.

30.17 Facility Agent's management time

Any amount payable to the Facility Agent under Clause 14.4 (*Indemnity to the Facility Agent*), Clause 16 (*Costs and expenses*) and Clause 30.12 (*Lenders' indemnity to the Facility Agent*) shall include the cost of utilising the Facility Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Facility Agent may notify to the Borrowers and the other Finance Parties, and is in addition to any fee paid or payable to the Facility Agent under Clause 11 (*Fees*).

30.18 Deduction from amounts payable by the Facility Agent

If any Party owes an amount to the Facility Agent under the Finance Documents, the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

30.19 Reliance and engagement letters

Each Creditor Party confirms that each of the Facility Agent and the Arranger has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arranger or the Facility Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

30.20 Full freedom to enter into transactions

Without prejudice to Clause 30.7 (*Business with the Group*) or any other provision of a Finance Document and notwithstanding any rule of law or equity to the contrary, the Facility Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Transaction Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Transaction Obligor or any person who is party to, or referred to in, a Finance Document);
- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Transaction Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrowers or any person who is a party to, or referred to in, a Finance Document,

and, in particular, the Facility Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

30.21 Capital Markets

- (a) For the period between the date of this Agreement and until the last Maturity Date should the Guarantor initiate, engage in, or otherwise enter into any public offering or private placement of any equity or debt securities or a combination thereof, or alternatively should the Guarantor pursue a structured financing not limited to asset backed securities, (collectively the “**Covered Transactions**”), then the Agent or any of its Affiliates shall have the right, but not the obligation, to pitch for future business from the Guarantor, and to be considered in good faith when doing so alongside other providers, to act as a lead underwriter, co-manager, placement agent, or similar role as the case may be, as well as the right to match quotes without the right to be awarded the business automatically if it matches such quotes in connection with such Covered Transactions

- (b) The role of the Agent (or its Affiliate as applicable) in such Covered Transactions will be subject to an appropriate underwriting or placement agreement based on market terms and conditions mutually agreeable to the Agent (or its Affiliate as applicable) and the Guarantor, and the Agent (or its Affiliate as applicable) shall be entitled to obtain customary fees in connection with such role, which shall be derived on the basis of the transaction economics paid on a per transaction basis.

30.22 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 30.21(a) (*Role of Reference Banks*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

30.23 Third Party Reference Banks

A Reference Bank which is not a Party may rely on Clause 30.21(a) (*Role of Reference Banks*), Clause 43.3 (*Other exceptions*) and Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*) subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.

31 THE SECURITY AGENT

31.1 Trust

- (a) The Security Agent declares that it holds the Security Property on trust for the Creditor Parties on the terms contained in this Agreement and shall deal with the Security Property in accordance with this Clause 31 (*The Security Agent*) and the other provisions of the Finance Documents.
- (b) Each other Finance Party authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under, or in connection with, the Finance Documents together with any other incidental rights, powers, authorities and discretions.

31.2 Parallel Debt (Covenant to pay the Security Agent)

- (a) Each Obligor irrevocably and unconditionally undertakes to pay to the Security Agent its Parallel Debt which shall be amounts equal to, and in the currency or currencies of, its Corresponding Debt.

- (b) The Parallel Debt of an Obligor:
- (i) shall become due and payable at the same time as its Corresponding Debt;
 - (ii) is independent and separate from, and without prejudice to, its Corresponding Debt.
- (c) For the purposes of this Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*), the Security Agent:
- (i) is the independent and separate creditor of each Parallel Debt;
 - (ii) acts in its own name and not as agent, representative or trustee of the Finance Parties and its claims in respect of each Parallel Debt shall not be held on trust; and
 - (iii) shall have the independent and separate right to demand payment of each Parallel Debt in its own name (including, without limitation, through any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in any kind of insolvency proceeding).
- (d) The Parallel Debt of an Obligor shall be:
- (i) decreased to the extent that its Corresponding Debt has been irrevocably and unconditionally paid or discharged; and
 - (ii) increased to the extent that its Corresponding Debt has increased,
and the Corresponding Debt of an Obligor shall be:
 - (A) decreased to the extent that its Parallel Debt has been irrevocably and unconditionally paid or discharged; and
 - (B) increased to the extent that its Parallel Debt has increased,
- in each case provided that the Parallel Debt of an Obligor shall never exceed its Corresponding Debt.
- (e) All amounts received or recovered by the Security Agent in connection with this Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) to the extent permitted by applicable law, shall be applied in accordance with Clause 34.5 (*Application of receipts; partial payments*).
- (f) This Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) shall apply, with any necessary modifications, to each Finance Document.

31.3 Enforcement through Security Agent only

The Creditor Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent.

31.4 Instructions

- (a) The Security Agent shall:
- (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by:
 - (A) all Lenders (or the Facility Agent on their behalf) if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (B) in all other cases, the Majority Lenders (or the Facility Agent on their behalf); and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (i) above (or if this Agreement stipulates the matter is a decision for any other Finance Party or group of Finance Parties, in accordance with instructions given to it by that Finance Party or group of Finance Parties).
- (b) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or the Facility Agent on their behalf) (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties, from that Finance Party or group of Finance Parties) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Paragraph (a) above shall not apply:
- (i) where a contrary indication appears in a Finance Document;
 - (ii) where a Finance Document requires the Security Agent to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the relevant Creditor Parties.
 - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (A) Clause 31.28 (*Application of receipts upon enforcement*);
 - (B) Clause 31.29 (*Permitted Deductions*); and
 - (C) Clause 31.30 (*Prospective liabilities*).
- (e) If giving effect to instructions given by the Majority Lenders would in the Security Agent's opinion have an effect equivalent to an amendment or waiver referred to in Clause 43 (*Amendments and Waivers*), the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that amendment or waiver.

- (f) In exercising any discretion to exercise a right, power or authority under the Finance Documents where either:
 - (i) it has not received any instructions as to the exercise of that discretion; or
 - (ii) the exercise of that discretion is subject to sub-paragraph (iv) of paragraph (d) above,the Security Agent shall do so having regard to the interests of all the Creditor Parties.
- (g) The Security Agent may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (h) Without prejudice to the remainder of this Clause 31.4 (*Instructions*), in the absence of instructions, the Security Agent may (but shall not be obliged to) take such action in the exercise of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.
- (i) The Security Agent is not authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (i) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security or Security Documents.

31.5 Duties of the Security Agent

- (a) The Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) The Security Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (c) Except where a Finance Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Security Agent receives notice from a Party referring to any Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (e) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

31.6 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Security Agent as an agent, trustee or fiduciary of any Transaction Obligor.
- (b) The Security Agent shall not be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account.

31.7 Business with the Group

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with, any member of the Group.

31.8 Rights and discretions

- (a) The Security Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Finance Parties or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents;
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
 - (C) if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Finance Documents for so acting have been satisfied; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Security Agent shall be entitled to carry out all dealings with the other Finance Parties through the Facility Agent and may give to the Facility Agent any notice or other communication required to be given by the Security Agent to any Finance Party.

- (c) The Security Agent may assume (unless it has received notice to the contrary in its capacity as security agent for the Creditor Parties) that:
- (i) no Default has occurred;
 - (ii) any right, power, authority or discretion vested in any Party or any group of Finance Parties has not been exercised; and
 - (iii) any notice or request made by a Borrower (other than a Drawdown Request or a Selection Notice) is made on behalf of and with the consent and knowledge of all the Transaction Obligors.
- (d) The Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (e) Without prejudice to the generality of paragraph (d) above or paragraph (f) below, the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by the Facility Agent or the Lenders) if the Security Agent in its reasonable opinion deems this to be desirable.
- (f) The Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (g) The Security Agent may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
- (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,
- unless such error or such loss was directly caused by the Security Agent's gross negligence or wilful misconduct.
- (h) Unless a Finance Document expressly provides otherwise the Security Agent may disclose to any other Party any information it reasonably believes it has received as security agent under the Finance Documents.
- (i) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (j) Notwithstanding any provision of any Finance Document to the contrary, the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

31.9 Responsibility for documentation

None of the Security Agent, any Receiver or Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Facility Agent, the Security Agent, the Arranger, a Transaction Obligor or any other person in, or in connection with, any Transaction Document or the transactions contemplated in the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; or
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document or the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Creditor Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

31.10 No duty to monitor

The Security Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Transaction Obligor of its obligations under any Transaction Document; or
- (c) whether any other event specified in any Transaction Document has occurred.

31.11 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Security Agent or any Receiver or Delegate), none of the Security Agent nor any Receiver or Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Transaction Document or the Security Property, unless directly caused by its gross negligence or wilful misconduct;
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Transaction Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document or the Security Property; or
 - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
 - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or

- (B) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.
- (b) No Party other than the Security Agent, that Receiver or that Delegate (as applicable) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause subject to Clause 1.5 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Security Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Security Agent if the Security Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Security Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Security Agent to carry out:
- (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Finance Party,
- on behalf of any Finance Party and each Finance Party confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Security Agent or any Receiver or Delegate, any liability of the Security Agent or any Receiver or Delegate arising under or in connection with any Transaction Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, any Receiver or Delegate at any time which increase the amount of that loss. In no event shall the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, the Receiver or Delegate has been advised of the possibility of such loss or damages.

31.12 Lenders' indemnity to the Security Agent

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under the Finance Documents (unless the Security Agent, Receiver or Delegate has been reimbursed by a Transaction Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrowers shall immediately on demand reimburse any Lender for any payment that Lender makes to the Security Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Security Agent to an Obligor.

31.13 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its Affiliates acting through an office as successor by giving notice to the other Finance Parties and the Borrowers.
- (b) Alternatively, the Security Agent may resign by giving 30 days' notice to the other Finance Parties and the Borrowers, in which case the Majority Lenders may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Security Agent may appoint a successor Security Agent.
- (d) The retiring Security Agent shall make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents. The Borrowers shall, within three Business Days of demand, reimburse the retiring Security Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (e) The Security Agent's resignation notice shall only take effect upon:
 - (i) the appointment of a successor; and
 - (ii) the transfer, by way of a document expressed as a deed, of all the Security Property to that successor.
- (f) Upon the appointment of a successor, the retiring Security Agent shall be discharged, by way of a document executed as a deed, from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) of Clause 31.24 (*Winding up of trust*) and paragraph (d) above) but shall remain entitled to the benefit of Clause 14.5 (*Indemnity to the Security Agent*) and this Clause 31 (*The Security Agent*) and any other provisions of a Finance Document which are expressed to limit or exclude its liability (or to indemnify it) in acting as Security Agent. Any fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

- (g) The Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrowers.
- (h) The consent of the Borrowers (or any other Transaction Obligor) is not required for an assignment or transfer of rights and/or obligations by the Security Agent.

31.14 Confidentiality

- (a) In acting as Security Agent for the Finance Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by a division or department of the Security Agent other than the division or department responsible for complying with the obligations assumed by it under the Finance Documents, that information may be treated as confidential to that division or department, and the Security Agent shall not be deemed to have notice of it nor shall it be obliged to disclose such information to any Party.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

31.15 Credit appraisal by the Finance Parties

Without affecting the responsibility of any Transaction Obligor for information supplied by it or on its behalf in connection with any Transaction Document, each Finance Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under, or in connection with, any Transaction Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Transaction Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under, or in connection with, any Transaction Document, the Security Property, the transactions contemplated by the Transaction Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document or the Security Property;

- (d) the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or by any other person under, or in connection with, any Transaction Document, the transactions contemplated by any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Transaction Document; and
- (e) the right or title of any person in or to or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Security Assets.

31.16 Security Agent's management time

- (a) Any amount payable to the Security Agent under Clause 14.5 (*Indemnity to the Security Agent*), Clause 16 (*Costs and expenses*) and Clause 31.12 (*Lenders' indemnity to the Security Agent*) shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to the Borrowers and the other Finance Parties, and is in addition to any fee paid or payable to the Security Agent under Clause 11 (*Fees*).
- (b) Without prejudice to paragraph (a) above, in the event of:
 - (i) a Default;
 - (ii) the Security Agent being requested by a Transaction Obligor or the Majority Lenders to undertake duties which the Security Agent and the Borrowers agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Finance Documents; or
 - (iii) the Security Agent and the Borrowers agreeing that it is otherwise appropriate in the circumstances,the Borrowers shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them or determined pursuant to paragraph (c) below.
- (c) If the Security Agent and the Borrowers fail to agree upon the nature of the duties, or upon the additional remuneration referred to in paragraph (b) above or whether additional remuneration is appropriate in the circumstances, any dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrowers or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Borrowers) and the determination of any investment bank shall be final and binding upon the Parties.

31.17 Reliance and engagement letters

Each Creditor Party confirms that the Security Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Security Agent) the terms of any reliance letter or engagement letters or any reports or letters provided by accountants, auditors or providers of due diligence reports in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind it in respect of those, reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters.

31.18 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Transaction Obligor to any of the Security Assets;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;
- (d) take, or to require any Transaction Obligor to take, any step to perfect its title to any of the Security Assets or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to any Security Document.

31.19 Insurance by Security Agent

(a) The Security Agent shall not be obliged:

- (i) to insure any of the Security Assets;
- (ii) to require any other person to maintain any insurance; or
- (iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Majority Lenders request it to do so in writing and the Security Agent fails to do so within 14 days after receipt of that request.

31.20 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

31.21 Delegation by the Security Agent

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (b) That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Creditor Parties.
- (c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of any such delegate or sub delegate.

31.22 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:
 - (i) if it considers that appointment to be in the interests of the Creditor Parties; or
 - (ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,and the Security Agent shall give prior notice to the Borrowers and the Finance Parties of that appointment.
- (b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

31.23 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Transaction Obligor may have to any of the Security Assets and shall not be liable for or bound to require any Transaction Obligor to remedy any defect in its right or title.

31.24 Releases

Upon a disposal of any of the Security Assets pursuant to the enforcement of the Transaction Security by a Receiver, a Delegate or the Security Agent, the Security Agent is irrevocably authorised (at the cost of the Obligors and without any consent, sanction, authority or further confirmation from any other Creditor Party) to release, without recourse or warranty, that property from the Transaction Security and to execute any release of the Transaction Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.

31.25 Winding up of trust

If the Security Agent, with the approval of the Facility Agent determines that:

- (a) all of the Secured Liabilities and all other obligations secured by the Security Documents have been fully and finally discharged; and
 - (b) no Creditor Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Transaction Obligor pursuant to the Finance Documents,
- then
- (i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and
 - (ii) any Security Agent which has resigned pursuant to Clause 31.13 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each Security Document.

31.26 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

31.27 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement and the other Finance Documents. Where there are any inconsistencies between (i) the Trustee Acts 1925 and 2000 and (ii) the provisions of this Agreement and any other Finance Document, the provisions of this Agreement and any other Finance Document shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement and any other Finance Document shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000.

31.28 Application of receipts upon enforcement

All amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document, under Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) or in connection with the realisation or enforcement of all or any part of the Security Property (for the purposes of this Clause 31 (*The Security Agent*), the “**Recoveries**”) shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the remaining provisions of this Clause 31 (*The Security Agent*)), in the following order of priority:

- (a) in discharging any sums owing to the Security Agent (in its capacity as such) other than pursuant to Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) or any Receiver or Delegate;
- (b) in payment or distribution to the Facility Agent, on its behalf and on behalf of the other Creditor Parties, for application towards the discharge of all sums due and payable by any Transaction Obligor under any of the Finance Documents in accordance with Clause 34.5 (*Application of receipts; partial payments*);
- (c) if none of the Transaction Obligors is under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Transaction Obligor; and
- (d) the balance, if any, in payment or distribution to the relevant Transaction Obligor.

31.29 Permitted Deductions

- (a) The Security Agent may, in its discretion:
 - (i) set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
 - (ii) pay all Taxes which may be assessed against it in respect of any of the Security Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).
- (b) For the purposes of sub-paragraph (i) of paragraph (a) above, if the Security Agent has become entitled to require a sum to be paid to it on demand, that sum shall be treated as due and payable, even if no demand has yet been served.

31.30 Prospective liabilities

Following acceleration, the Security Agent may, in its discretion, or at the request of the Facility Agent, hold any Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) for later payment to the Facility Agent for application in accordance with Clause 34.5 (*Application of receipts; partial payments*) in respect of:

- (a) any sum to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Agent or, in the case of paragraph (b) only, the Facility Agent, reasonably considers, in each case, might become due or owing at any time in the future.

31.31 Investment of proceeds

Prior to the payment of the proceeds of the Recoveries to the Facility Agent for application in accordance with Clause 34.5 (*Application of receipts; partial payments*) the Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the payment from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 31.31 (*Investment of proceeds*).

31.32 Currency conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at a market rate of exchange.
- (b) The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

31.33 Good discharge

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Facility Agent on behalf of the Creditor Parties and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
- (b) The Security Agent is under no obligation to make the payments to the Facility Agent under paragraph (a) above in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

31.34 Amounts received by Obligors

If any of the Obligors receives or recovers any amount which, under the terms of any of the Finance Documents, should have been paid to the Security Agent, that Obligor will hold the amount received or recovered on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement.

31.35 Application and consideration

In consideration for the covenants given to the Security Agent by each Obligor in relation to Clause 31.2 (*Parallel Debt (Covenant to pay the Security Agent)*) the Security Agent agrees with each Obligor to apply all moneys from time to time paid by such Obligor to the Security Agent in accordance with the foregoing provisions of this Clause 31 (*The Security Agent*).

31.36 Full freedom to enter into transactions

Without prejudice to Clause 31.7 (*Business with the Group*) or any other provision of a Finance Document and notwithstanding any rule of law or equity to the contrary, the Security Agent shall be absolutely entitled:

- (a) to enter into and arrange banking, derivative, investment and/or other transactions of every kind with or affecting any Transaction Obligor or any person who is party to, or referred to in, a Finance Document (including, but not limited to, any interest or currency swap or other transaction, whether related to this Agreement or not, and acting as syndicate agent and/or security agent for, and/or participating in, other facilities to such Transaction Obligor or any person who is party to, or referred to in, a Finance Document);

- (b) to deal in and enter into and arrange transactions relating to:
 - (i) any securities issued or to be issued by any Transaction Obligor or any other person; or
 - (ii) any options or other derivatives in connection with such securities; and
- (c) to provide advice or other services to the Borrowers or any person who is a party to, or referred to in, a Finance Document, and, in particular, the Security Agent shall be absolutely entitled, in proposing, evaluating, negotiating, entering into and arranging all such transactions and in connection with all other matters covered by paragraphs (a), (b) and (c) above, to use (subject only to insider dealing legislation) any information or opportunity, howsoever acquired by it, to pursue its own interests exclusively, to refrain from disclosing such dealings, transactions or other matters or any information acquired in connection with them and to retain for its sole benefit all profits and benefits derived from the dealings transactions or other matters.

32 CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

33 SHARING AMONG THE FINANCE PARTIES

33.1 Payments to Finance Parties

If a Finance Party (a “**Recovering Finance Party**”) receives or recovers any amount from a Transaction Obligor other than in accordance with Clause 34 (*Payment Mechanics*) (a “**Recovered Amount**”) and applies that amount to a payment due to it under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 34 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 34.5 (*Application of receipts; partial payments*).

33.2 **Redistribution of payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Transaction Obligor and distribute it among the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with Clause 34.5 (*Application of receipts; partial payments*) towards the obligations of that Transaction Obligor to the Sharing Finance Parties.

33.3 **Recovering Finance Party’s rights**

On a distribution by the Facility Agent under Clause 33.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from a Transaction Obligor, as between the relevant Transaction Obligor and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by that Transaction Obligor.

33.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the “**Redistributed Amount**”); and
- (b) as between the relevant Transaction Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Transaction Obligor.

33.5 **Exceptions**

- (a) This Clause 33 (*Sharing among the Finance Parties*) shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Transaction Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
 - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

ADMINISTRATION

34 PAYMENT MECHANICS**34.1 Payments to the Facility Agent**

- (a) On each date on which a Transaction Obligor or a Lender is required to make a payment under a Finance Document, that Transaction Obligor or Lender shall make an amount equal to such payment available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Facility Agent) and with such bank as the Facility Agent, in each case, specifies.

34.2 Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 34.3 (*Distributions to a Transaction Obligor*) and Clause 34.4 (*Clawback and pre-funding*) be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), as specified by that Party or, in the case of an Advance, to such account of such person as may be specified by the Borrowers in a Drawdown Request.

34.3 Distributions to a Transaction Obligor

The Facility Agent may (with the consent of the Transaction Obligor or in accordance with Clause 35 (*Set-Off*)) apply any amount received by it for that Transaction Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Transaction Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

34.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

- (c) If the Facility Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrowers before receiving funds from the Lenders then if and to the extent that the Facility Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrowers:
- (i) the Facility Agent shall notify the Borrowers of the Lender's identity and the Borrowers shall on demand refund it to the Facility Agent; and
 - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrowers shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

34.5 Application of receipts; partial payments

- (a) If the Facility Agent or the Security Agent (as applicable) receives a payment that is insufficient to discharge all the amounts then due and payable by a Transaction Obligor under the Finance Documents, the Facility Agent or the Security Agent (as applicable) shall apply that payment towards the obligations of that Transaction Obligor under the Finance Documents in the following order:
- (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of, and any other amounts owing to, the Facility Agent, the Security Agent, any Receiver or any Delegate under the Finance Documents;
 - (ii) **secondly**, in or towards payment pro rata of any accrued interest and fees due but unpaid to the Lenders under this Agreement;
 - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid to the Lenders under this Agreement; and
 - (iv) **fourthly**, in or towards payment pro rata of any other sum due to any Finance Party but unpaid under the Finance Documents.
- (b) The Facility Agent shall, if so directed by the Majority Lenders, vary, or instruct the Security Agent to vary (as applicable), the order set out in sub-paragraphs (ii) to (iv) of paragraph (a) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by a Transaction Obligor.

34.6 No set-off by Transaction Obligors

All payments to be made by a Transaction Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

34.7 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

34.8 Currency of account

- (a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from a Transaction Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than dollars shall be paid in that other currency.

34.9 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Borrowers); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Borrowers) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

34.10 Currency Conversion

- (a) For the purpose of, or pending any payment to be made by any Servicing Party under any Finance Document, such Servicing Party may convert any moneys received or recovered by it from one currency to another, at a market rate of exchange.
- (b) The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

34.11 Disruption to Payment Systems etc.

If either the Facility Agent determines (in its discretion) that a Disruption Event has occurred or the Facility Agent is notified by the Borrowers that a Disruption Event has occurred:

- (a) the Facility Agent may, and shall if requested to do so by the Borrowers, consult with the Borrowers with a view to agreeing with the Borrowers such changes to the operation or administration of the Facility as the Facility Agent may deem necessary in the circumstances;
- (b) the Facility Agent shall not be obliged to consult with the Borrowers in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Facility Agent and the Borrowers shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties and any Transaction Obligors as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 43 (*Amendments and Waivers*);
- (e) the Facility Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 34.11 (*Disruption to Payment Systems etc.*); and
- (f) the Facility Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

35 SET-OFF

A Finance Party may set off any matured obligation due from a Transaction Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Transaction Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

36 BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties to a Finance Document, each Party acknowledges and accepts that any liability of any party to a Finance Document under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

37 NOTICES

37.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

37.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents are:

- (a) in the case of the Borrowers, that specified in Schedule 1 (*The Parties*);
- (b) in the case of each Lender or any other Obligor, that specified in Schedule 1 (*The Parties*) or, if it becomes a Party after the date of this Agreement, that notified in writing to the Facility Agent on or before the date on which it becomes a Party;
- (c) in the case of the Facility Agent, that specified in Schedule 1 (*The Parties*); and
- (d) in the case of the Security Agent, that specified in Schedule 1 (*The Parties*),

or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

37.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
 - (i) if by way of fax, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 37.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to a Servicing Party will be effective only when actually received by that Servicing Party and then only if it is expressly marked for the attention of the department or officer of that Servicing Party specified in Schedule 1 (*The Parties*) (or any substitute department or officer as that Servicing Party shall specify for this purpose).
- (c) All notices from or to a Transaction Obligor shall be sent through the Facility Agent unless otherwise specified in any Finance Document.
- (d) Any communication or document made or delivered to the Borrowers in accordance with this Clause will be deemed to have been made or delivered to each of the Transaction Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

37.4 Notification of address and fax number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 37.2 (*Addresses*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

37.5 Electronic communication

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between an Obligor and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication. Each Obligor and each Finance Party agreed that such electronic communication is an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Facility Agent or the Security Agent only if it is addressed in such a manner as the Facility Agent or the Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 37.5 (*Electronic communication*).

37.6 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation prepared by a translator approved by the Facility Agent and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

38 CALCULATIONS AND CERTIFICATES

38.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

38.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

38.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

39 PARTIAL INVALIDITY

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

40 REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Creditor Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document. No election to affirm any Finance Document on the part of a Creditor Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

41 SETTLEMENT OR DISCHARGE CONDITIONAL

Any settlement or discharge under any Finance Document between any Finance Party and any Transaction Obligor shall be conditional upon no security or payment to any Finance Party by any Transaction Obligor or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.

42 IRREVOCABLE PAYMENT

If the Facility Agent considers that an amount paid or discharged by, or on behalf of, a Transaction Obligor or by any other person in purported payment or discharge of an obligation of that Transaction Obligor to a Creditor Party under the Finance Documents is capable of being avoided or otherwise set aside on the liquidation or administration of that Transaction Obligor or otherwise, then that amount shall not be considered to have been unconditionally and irrevocably paid or discharged for the purposes of the Finance Documents.

43 AMENDMENTS AND WAIVERS

43.1 Required consents

- (a) Subject to Clause 43.2 (*All Lender matters*) and Clause 43.3 (*Other exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and, in the case of an amendment, the Transaction Obligors and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 43 (*Amendments and Waivers*).
- (c) Without prejudice to the generality of Clause 30.8 (*Rights and discretions*), the Facility Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.

43.2 All Lender matters

Subject to Clause 43.4 (*Replacement of Screen Rate*), an amendment of or waiver or consent in relation to any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of “Majority Lenders” in Clause 1.1 (*Definitions*);
- (b) a postponement to or extension of the date of payment of any amount under the Finance Documents (other than in relation to Clause 7.3 (*Voluntary prepayment of Loan*)) in respect of a prepayment made pursuant to Clause 25.2 (*Provision of additional security; prepayment*) or Clause 7.4 (*Mandatory prepayment on sale, arrest or Total Loss*);
- (c) a reduction in the Margin or the amount of any payment of principal, interest, fees or commission payable;
- (d) a change in currency of payment of any amount under the Finance Documents;

- (e) an increase in any Commitment or the Total Commitments, an extension of any Availability Period or any requirement that a cancellation of Commitments reduces the Commitments rateably under the Facility;
 - (f) a change to any Transaction Obligor;
 - (g) a change to the Approved Flag;
 - (h) a change to the Approved Classification Society;
 - (i) a change to Clause 2 (*The Facility*);
 - (j) any provision which expressly requires the consent of all the Lenders;
 - (k) this Clause 43 (*Amendments and Waivers*);
 - (l) any change to Clause 2 (*The Facility*), Clause 3 (*Purpose*), Clause 5 (*Drawdown*), Clause 6.2 (*Effect of cancellation and prepayment on scheduled repayments*), Clause 7.4 (*Mandatory prepayment on sale, arrest or Total Loss*), Clause 7.5 (*Mandatory prepayment*), Clause 8 (*Interest*), Clause 25.7 (*Provision of valuations*), Clause 24.9 (*Compliance with laws, etc.*), Clause 24.12 (*Sanctions and Vessel trading*), Clause 24.13 (*Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws*), Clause 26 (*Accounts and Application of Earnings*), Clause 28 (*Changes to the Lenders*), Clause 33 (*Sharing among the Finance Parties*), Clause 47 (*Governing Law*) or Clause 48 (*Enforcement*);
 - (m) any release of, or material variation to, any Transaction Security, guarantee, indemnity or subordination arrangement set out in a Finance Document (except in the case of a release of Transaction Security as it relates to the disposal of an asset which is the subject of the Transaction Security and where such disposal is expressly permitted by the Majority Lenders or otherwise under a Finance Document);
 - (n) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
 - (i) the guarantee and indemnity granted under Clause 17 (*Guarantee and Indemnity*);
 - (ii) the Security Assets; or
 - (iii) the manner in which the proceeds of enforcement of the Transaction Security are distributed,(except in the case of sub-paragraphs (ii) and (iii) above, insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document);
 - (o) the release of the guarantee and indemnity granted under Clause 17 (*Guarantee and Indemnity*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document,
- shall not be made, or given, without the prior consent of all the Lenders.

43.3 Other exceptions

- (a) An amendment or waiver which relates to the rights or obligations of a Servicing Party or the Arranger or a Reference Bank (each in their capacity as such) may not be effected without the consent of that Servicing Party, the Arranger or that Reference Bank, as the case may be.
- (b) The Borrowers and the Facility Agent, the Arranger or the Security Agent, as applicable, may amend or waive a term of a Fee Letter to which they are party.

43.4 Replacement of Screen Rate

- (a) Subject to Clause 43.3 (*Other exceptions*), 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 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 Facility Agent (acting on the instructions of the Majority Lenders) and the Borrowers.
- (b) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within 2 Business Days (or such longer time period in relation to any request which the Borrowers and the Facility Agent may agree) of that request being made:
 - (i) its Commitment shall not be included for the purpose of calculating the Total Commitments 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.

43.5 Obligor Intent

Without prejudice to the generality of Clauses 1.2 (*Construction*) and 17.4 (*Waiver of defences*) each Obligor expressly confirms that it intends that any guarantee contained in this Agreement or any other Finance Document and any Security created by any Finance Document shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

44 CONFIDENTIAL INFORMATION

44.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 44.2 (*Disclosure of Confidential Information*) and Clause 44.3 (*Disclosure to numbering service providers*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

44.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, insurers, insurance advisors, insurance brokers, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Facility Agent or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

- (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction including a securitisation under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Transaction Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (iii) appointed by any Finance Party or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 30.15 (*Relationship with the other Finance Parties*));
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in sub-paragraph (i) or (ii) of paragraph (b) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation including any applicable data protection laws;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitrations, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 28.8 (*Security over Lenders' rights*);
- (viii) who is a Party, a member of the Group or any related entity of a Transaction Obligor;
- (ix) as a result of the registration of any Finance Document as contemplated by any Finance Document or any legal opinion obtained in connection with any Finance Document; or
- (x) with the consent of the Guarantor;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to sub-paragraphs (i), (ii) and (iii) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to sub-paragraph (iv) of paragraph (b) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;

- (C) in relation to sub-paragraphs (v), (vi) and (vii) of paragraph (b) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom sub-paragraph (i) or (ii) of paragraph (b) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered in to a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrowers and the relevant Finance Party; and
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Transaction Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information,

provided that such disclosure would not constitute a breach of any rules and regulations of the SEC and the rules of the public stock exchange in which the Guarantor is listed (on the same basis if such disclosure had been made by the Guarantor).

Any non-disclosure undertaking contained herein shall not prevent the Guarantor from disclosing any information required to be disclosed by law, regulation or any governmental or competent regulatory authority (including without limitation, any securities exchange), provided that, to the extent reasonably practicable, the Guarantor shall inform the Facility Agent on the proposed form, timing, nature and purpose of the disclosure.

44.3 Disclosure to numbering service providers

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or one or more Transaction Obligors the following information:
 - (i) names of Transaction Obligors;
 - (ii) country of domicile of Transaction Obligors;
 - (iii) place of incorporation of Transaction Obligors;
 - (iv) date of this Agreement;
 - (v) Clause 47 (*Governing Law*);
 - (vi) the name of the Facility Agent;

- (vii) date of each amendment and restatement of this Agreement;
- (viii) amount of Total Commitments;
- (ix) currency of the Facility;
- (x) type of Facility;
- (xi) ranking of Facility;
- (xii) Maturity Date of the Facility;
- (xiii) changes to any of the information previously supplied pursuant to sub-paragraphs (i) to (xii) above; and
- (xiv) such other information agreed between such Finance Party and the Borrowers,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or one or more Transaction Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) Each Obligor represents, on behalf of itself and the other Transaction Obligors, that none of the information set out in sub-paragraphs (i) to (xiv) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Facility Agent shall notify the Guarantor and the other Finance Parties of:
 - (i) the name of any numbering service provider appointed by the Facility Agent in respect of this Agreement, the Facility and/or one or more Transaction Obligors; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Transaction Obligors by such numbering service provider.

44.4 Entire agreement

This Clause 44 (*Confidential Information*) constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

44.5 Inside information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

44.6 Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrowers:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (v) of paragraph (b) of Clause 44.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 44 (*Confidential Information*).

44.7 Continuing obligations

The obligations in this Clause 44 (*Confidential Information*) are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

45 CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

45.1 Confidentiality and disclosure

- (a) The Facility Agent and each Obligor agree to keep each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c), (d) and (e) below.
- (b) The Facility Agent may disclose:
 - (i) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to the Borrower pursuant to Clause 8.4 (*Notification of rates of interest*); and
 - (ii) any Funding Rate or any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Facility Agent may disclose any Funding Rate or any Reference Bank Quotation, and each Obligor may disclose any Funding Rate, to:

- (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this sub-paragraph (i) is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances;
 - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the relevant Obligor, as the case may be, it is not practicable to do so in the circumstances; and
 - (iv) any person with the consent of the relevant Lender or Reference Bank, as the case may be.
- (d) The Facility Agent's obligations in this Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*) relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 8.4 (*Notification of rates of interest*) **provided that** (other than pursuant to sub-paragraph (i) of paragraph (b) above) the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.
- (e) The Guarantor may disclose such information as is required in connection with the Guarantor's reporting obligations under or in connection with the rules and regulations of the SEC and the rules of the public stock exchange in which the Guarantor is listed.

45.2 **Related obligations**

- (a) The Facility Agent and each Obligor acknowledge that each Funding Rate (and, in the case of the Facility Agent, each Reference Bank Quotation) is or may be price sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent and each Obligor undertake not to use any Funding Rate or, in the case of the Facility Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Facility Agent and each Obligor agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to sub-paragraph (ii) of paragraph (c) of Clause 45.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

(ii) upon becoming aware that any information has been disclosed in breach of this Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

45.3 No Event of Default

No Event of Default will occur under Clause 27.4 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 45 (*Confidentiality of Funding Rates and Reference Bank Quotations*).

46 COUNTERPARTS

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

GOVERNING LAW AND ENFORCEMENT

47 GOVERNING LAW

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

48 ENFORCEMENT

48.1 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 Obligors accept that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Obligor will argue to the contrary.
- (c) This Clause 48.1 (*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.

48.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Transaction Obligor (other than a Transaction Obligor incorporated in England and Wales):
 - (i) irrevocably appoints Hill Dickinson LLP at its current address 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 relevant Obligor 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 Borrowers (on behalf of all the Transaction Obligors) must immediately (and in any event within seven days of such event taking place) appoint another agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another agent for this purpose.

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

EXECUTION PAGES

BORROWERS

SIGNED by
duly authorised
for and on behalf of
KOHYLIA SHIPMANAGEMENT S.A.
in the presence of:

) /s/ Strati Sakellariou
) Attorney-in-fact
)
)
)

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

) /s/ Aikaterina Dimitriou
)
) Watson Farley & Williams
348 Syngrou Avenue
17674 Kallithea
Athens, Greece

SIGNED by
duly authorised
for and on behalf of
FLORAL MARINE LTD.
in the presence of:

) /s/ Strati Sakellariou
) Attorney-in-fact
)
)
)

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

) /s/ Aikaterina Dimitriou
)
) Watson Farley & Williams
348 Syngrou Avenue
17674 Kallithea
Athens, Greece

SIGNED by
duly authorised
for and on behalf of
IANTHE MARITIME S.A.
in the presence of:

) /s/ Strati Sakellariou
) Attorney-in-fact
)
)
)

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

) /s/ Aikaterina Dimitriou
)
) Watson Farley & Williams
348 Syngrou Avenue
17674 Kallithea
Athens, Greece

SIGNED by
duly authorised
for and on behalf of
CUSTOMIZED DEVELOPMENT S.A.
in the presence of:

) /s/ Strati Sakellariou
) Attorney-in-fact
)
)
)

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

) /s/ Aikaterina Dimitriou
)
) Watson Farley & Williams
348 Syngrou Avenue
17674 Kallithea
Athens, Greece

GUARANTOR

SIGNED by
duly authorised
for and on behalf of
NAVIOS MARITIME PARTNERS L.P.
in the presence of:

) /s/ Strati Sakellariou
) Attorney-in-fact
)
)
)

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

) /s/ Aikaterina Dimitriou
)
) Watson Farley & Williams
348 Syngrou Avenue
17674 Kallithea
Athens, Greece

ORIGINAL LENDERS

SIGNED for and on behalf of
DVB BANK SE, AMSTERDAM BRANCH
as attorney-in-fact:

) /s/ Christina Economides
) _____
) _____

ARRANGER

SIGNED for and on behalf of
DVB BANK SE, AMSTERDAM BRANCH
as attorney-in-fact:

) /s/ Christina Economides
) _____
) _____

FACILITY AGENT

SIGNED for and on behalf of
DVB BANK SE, AMSTERDAM BRANCH
as attorney-in-fact:

) /s/ Christina Economides
) _____
) _____

ARRANGER

SIGNED for and on behalf of
DVB BANK SE, AMSTERDAM BRANCH
as attorney-in-fact:

) /s/ Christina Economides
) _____
) _____

ACCOUNT BANK

SIGNED for and on behalf of
DVB BANK SE
as attorney-in-fact:

)
)
)

/s/ Christina Economides

Subsidiaries of Navios Maritime Partners L.P.

Navios Maritime Operating L.L.C., a Marshall Islands limited liability company

Alegria Shipping Corporation, a Marshall Islands corporation

Felicity Shipping Corporation, a Marshall Islands corporation

Galaxy Shipping Corporation, a Marshall Islands corporation

Gemini Shipping Corporation, a Marshall Islands corporation

Libra Shipping Enterprises Corporation, a Marshall Islands corporation

Aldebaran Shipping Corporation, a Marshall Islands corporation

Prosperity Shipping Corporation, a Marshall Islands corporation

Fantastiks Shipping Corporation, a Marshall Islands corporation

Aurora Shipping Enterprises Ltd., a Marshall Islands corporation

Sagittarius Shipping Corporation, a Marshall Islands corporation

Palermo Shipping S.A., a Marshall Islands corporation

Hyperion Enterprises Inc., a Marshall Islands corporation

Chilali Corp., a Marshall Islands corporation

Surf Maritime Co., a Marshall Islands corporation

JTC Shipping and Trading Ltd., a Maltese corporation

Pandora Marine Inc., a Marshall Islands corporation

Customized Development S.A. a Liberian corporation

Orbiter Shipping Co., a Marshall Islands corporation

Kohylia Shipmanagement S.A, a Marshall Islands corporation

Floral Marine Ltd., a Marshall Islands corporation

Kymata Shipping Co., a Marshall Islands corporation

Golem Navigation Limited, a Marshall Islands corporation

Joy Shipping Corporation, a Marshall Islands corporation

Micaela Shipping Corporation, a Marshall Islands corporation

Pearl Shipping Corporation, a Marshall Islands corporation

Velvet Shipping Corporation, a Marshall Islands corporation

Rubina Shipping Corporation, a Marshall Islands corporation
Topaz Shipping Corporation, a Marshall Islands corporation
Beryl Shipping Corporation, a Marshall Islands corporation
Cheryl Shipping Corporation, a Marshall Islands corporation
Christal Shipping Corporation, a Marshall Islands corporation
Dune Shipping Corporation, a Marshall Islands corporation
Citrine Shipping Corporation, a Marshall Islands corporation
Perigiali Navigation Limited, a Marshall Islands corporation
Navios Partners Finance (US) Inc., a Delaware corporation
Navios Partners Europe Finance Inc., a Marshall Islands corporation
Finian Navigation Co., a Marshall Islands corporation
Ammos Shipping Corp., a Marshall Islands corporation
Wave Shipping Corp., a Marshall Islands corporation
Casual Shipholding Co., a Marshall Islands corporation
Avery Shipping Company, a Marshall Islands corporation
Coasters Ventures Ltd., a Marshall Islands corporation
Iante Maritime S.A., a Marshall Islands corporation
Cavalli Navigation Inc., a Marshall Islands corporation
Cavos Navigation Co., a Marshall Islands corporation
Seymour Trading Limited, a Marshall Islands corporation
Goldie Services Company, a Marshall Islands corporation
Andromeda Shiptrade Limited, a Marshall Islands corporation
Esmeralda Shipping Corporation, a Marshall Islands corporation
Triangle Shipping Corporation, a Marshall Islands corporation

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Angeliki Frangou, certify that:

1. I have reviewed this annual report on Form 20-F for the year ended December 31, 2018 of Navios Maritime Partners L.P.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the Audit Committee of the company's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: April 9, 2019

/s/ Angeliki Frangou

Angeliki Frangou
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Efstratios Desypris, certify that:

1. I have reviewed this annual report on Form 20-F for the year ended December 31, 2018 of Navios Maritime Partners L.P.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the Audit Committee of the company's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: April 9, 2019

/s/ Efstratios Desypris

Efstratios Desypris
Chief Financial Officer
(Principal Financial Officer)

Certification
Pursuant To Section 906 of the Sarbanes-Oxley Act Of
2002
(Subsections (A) And (B) Of Section 1350,
Chapter 63 of Title 18, United States Code)

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), each of the undersigned officers of Navios Maritime Partners L.P., (the "Company"), does hereby certify, to such officer's knowledge, that:

(i) the Annual Report on Form 20-F for the fiscal year ended December 31, 2018 (the "Form 20-F") of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934;

(ii) and the information contained in the Form 20-F fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: April 9, 2019

/s/ Angeliki Frangou

Angeliki Frangou
Chief Executive Officer

Dated: April 9, 2019

/s/ Efstratios Desypris

Efstratios Desypris
Chief Financial Officer

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statement on Form F-3 (333-215529) of Navios Maritime Partners L.P. of our report dated April 9, 2019 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 20-F.

/s/ PricewaterhouseCoopers S.A.

Athens, Greece
April 9, 2019

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement (Form F-3 No. 333-215529) of Navios Maritime Partners LP and in the related Prospectus of our report dated March 8, 2019, with respect to the consolidated financial statements of Navios Maritime Containers LP, included as an exhibit in this Annual Report (Form 20-F) for the year ended December 31, 2018.

/s/ Ernst & Young (Hellas) Certified Auditors Accountants S.A.

Athens, Greece
April 9, 2019

NAVIOS MARITIME CONTAINERS L.P.
CONSOLIDATED BALANCE SHEET
(Expressed in thousands of U.S. dollars—except for unit data)

	December 31, 2018	December 31, 2017
ASSETS		
Current assets		
Cash and cash equivalents	\$ 16,958	\$ 14,221
Restricted cash	1,934	280
Accounts receivable, net	2,643	642
Balance due from related parties, current	—	5,643
Inventories	599	536
Other current assets	2,903	49
Prepaid expenses	100	—
Total current assets	25,137	21,371
Non-current assets		
Vessels, net	342,693	177,597
Intangible assets	25,350	58,496
Deferred drydock and special survey costs, net	11,386	3,582
Balance due from related parties, non-current	7,862	5,765
Other long-term assets	1,099	—
Total non-current assets	388,390	245,440
Total assets	\$ 413,527	\$ 266,811
LIABILITIES AND PARTNERS' CAPITAL		
Current liabilities		
Accounts payable	\$ 3,574	\$ 582
Accrued expenses	2,302	3,934
Deferred income and cash received in advance	2,152	2,544
Balance due to related parties, current	4,065	—
Financial liability short term, net	7,665	—
Current portion of long-term debt, net	27,626	42,499
Total current liabilities	47,384	49,559
Non-current liabilities		
Long-term financial liability, net of current portion	78,100	—
Long-term debt, net of current portion	105,570	76,534
Total non-current liabilities	183,670	76,534
Total liabilities	231,054	126,093
Commitment and contingencies		
	—	—
Partners' capital		
Common unit holders — 34,603,100 and 29,148,554 common units issued and outstanding as of December 31, 2018 and December 31, 2017, respectively	182,473	140,718
Total Partners' capital	182,473	140,718
Total liabilities and Partners' capital	\$ 413,527	\$ 266,811

NAVIOS MARITIME CONTAINERS L.P.
CONSOLIDATED STATEMENTS OF INCOME
(Expressed in thousands of U.S. dollars—except for unit and per unit data)

	Year Ended December 31, 2018	Period from April 28, 2017 (date of inception) to December 31, 2017
Revenue	133,921	39,188
Time charter and voyage expenses	(4,178)	(1,257)
Direct vessel expenses	(1,314)	(672)
Management fees (entirely through related parties transactions)	(53,772)	(16,488)
General and administrative expenses	(7,413)	(2,262)
Listing transaction-related expenses	(4,990)	—
Depreciation and amortization	(38,552)	(13,578)
Interest expense and finance cost	(11,785)	(2,293)
Interest income	90	25
Other income	1,017	7
Other expense	(324)	(32)
Net income	\$ 12,700	\$ 2,638
Net earnings per common unit, basic and diluted	\$ 0.38	\$ 0.14
Weighted average number of common units, basic and diluted	33,527,135	18,371,855

NAVIOS MARITIME CONTAINERS L.P.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Expressed in thousands of U.S. dollars—except for unit data)

	Year Ended December 31, 2018	Period from April 28, 2017 (date of inception) to December 31, 2017
OPERATING ACTIVITIES:		
Net income	\$ 12,700	\$ 2,638
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	38,552	13,578
Amortization of deferred financing costs	1,598	430
Amortization of deferred drydock and special survey costs	1,314	225
Changes in operating assets and liabilities:		
Increase in accounts receivable	(2,001)	(642)
Decrease/(increase) in balance due from related companies, current	5,643	(5,195)
Increase in inventories	(63)	(536)
Increase in other current assets	(2,854)	(4)
Increase in prepaid expenses	(100)	—
Increase in balance due from related parties, non-current	(2,097)	(5,765)
Increase in other long term assets	(1,099)	—
Increase in accounts payable	2,992	536
(Decrease)/increase in accrued expenses	(1,631)	2,541
Increase/(decrease) in due to related companies	4,065	(1,674)
(Decrease)/increase in deferred income and cash received in advance	(392)	298
Payments for drydock and special survey costs	(9,118)	(3,807)
Net cash provided by operating activities	\$ 47,509	\$ 2,623
INVESTING ACTIVITIES:		
Cash acquired through asset acquisition	—	5,433
Acquisition of vessels and time charters at favorable terms	(170,503)	(254,660)
Net cash used in investing activities	\$ (170,503)	\$ (249,227)
FINANCING ACTIVITIES:		
Proceeds from long-term debt and financial liability, net	216,200	127,760
Repayment of long-term debt and financial liability	(114,255)	(8,340)
Debt issuance costs	(3,615)	(815)
Proceeds from issuance of common units, net of offering costs	29,055	142,500
Net cash provided by financing activities	\$ 127,385	\$ 261,105
Net increase in cash and cash equivalents and restricted cash	4,391	14,501
Cash and cash equivalents and restricted cash, beginning of period	14,501	—
Cash and cash equivalents and restricted cash, end of period	\$ 18,892	\$ 14,501
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION		
Cash paid for interest, net	\$ 9,028	\$ 1,599

NAVIOS MARITIME CONTAINERS L.P.
CONSOLIDATED STATEMENTS OF CHANGES IN PARTNERS' CAPITAL
(Expressed in thousands of U.S. dollars—except for unit data)

	Common unit holders		Total Partners' Capital
	Units	Amount	
Balance April 28, 2017 (date of inception)	—	\$ —	\$ —
Proceeds from private placements, net of offering costs	29,148,554	142,503	142,503
Deemed distribution	—	(4,423)	(4,423)
Net income	—	2,638	2,638
Balance December 31, 2017	29,148,554	\$ 140,718	\$ 140,718
Proceeds from private placements, net of offering costs	5,454,546	29,055	29,055
Net income	—	12,700	12,700
Balance, December 31, 2018	34,603,100	\$ 182,473	\$ 182,473