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

FORM 10-Q

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

For the quarterly period ended September 30, 2014

OR

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

Commission File No. 001-35210

HC2 HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

460 Herndon Parkway, Suite 150,
Herndon, VA
(Address of principal executive offices)

54-1708481
(I.R.S. Employer
Identification No.)

20170
(Zip Code)

(703) 456-4100
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes No

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

<u>Class</u>	<u>Outstanding as of October 31, 2014</u>
Common Stock, \$0.001 par value	23,814,601

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HC2 HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share amounts)
(UNAUDITED)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
NET REVENUE	\$ 179,433	\$ 61,077	\$ 319,373	\$ 178,487
OPERATING EXPENSES				
Cost of revenue	158,639	58,752	282,606	169,704
Selling, general and administrative	20,246	6,293	40,482	29,749
Depreciation and amortization	921	1	1,475	2
(Gain) loss on sale or disposal of assets	(448)	(2)	(81)	(8)
Asset impairment expense	—	146	—	146
Total operating expenses	179,358	65,190	324,482	199,593
INCOME (LOSS) FROM OPERATIONS	75	(4,113)	(5,109)	(21,106)
INTEREST EXPENSE	(2,103)	(3)	(3,116)	(8)
AMORTIZATION OF DEBT DISCOUNT	(805)	—	(1,381)	—
LOSS ON EARLY EXTINGUISHMENT OR RESTRUCTURING OF DEBT	(6,947)	—	(6,947)	—
GAIN FROM CONTINGENT VALUE RIGHTS VALUATION	—	—	—	14,904
INTEREST INCOME AND OTHER EXPENSE, net	(1,092)	(76)	524	(184)
FOREIGN CURRENCY TRANSACTION GAIN (LOSS)	170	19	573	(232)
INCOME (LOSS) FROM CONTINUING OPERATIONS BEFORE INCOME TAXES AND INCOME (LOSS) FROM EQUITY INVESTEEs	(10,702)	(4,173)	(15,456)	(6,626)
INCOME (LOSS) FROM EQUITY INVESTEEs	(288)	—	(288)	—
INCOME TAX (EXPENSE) BENEFIT	(4,515)	3,308	(6,470)	3,090
INCOME (LOSS) FROM CONTINUING OPERATIONS	(15,505)	(865)	(22,214)	(3,536)
INCOME (LOSS) FROM DISCONTINUED OPERATIONS, net of tax	(106)	(21,490)	(62)	(19,718)
GAIN (LOSS) FROM SALE OF DISCONTINUED OPERATIONS, net of tax	663	15,650	(121)	150,695
NET INCOME (LOSS)	(14,948)	(6,705)	(22,397)	127,441
Less: Net (income) loss attributable to noncontrolling interest	(931)	—	(1,990)	—
NET INCOME (LOSS) ATTRIBUTABLE TO HC2 HOLDINGS, INC.	(15,879)	(6,705)	(24,387)	127,441
Less: Preferred stock dividends and accretion	1,004	—	1,204	—
NET INCOME (LOSS) ATTRIBUTABLE TO COMMON STOCK AND PARTICIPATING PREFERRED STOCKHOLDERS	\$ (16,883)	\$ (6,705)	\$ (25,591)	\$ 127,441
BASIC INCOME (LOSS) PER COMMON SHARE:				
Income (loss) from continuing operations attributable to HC2 Holdings, Inc.	\$ (0.75)	\$ (0.06)	\$ (1.38)	\$ (0.25)
Income (loss) from discontinued operations	—	(1.53)	—	(1.41)
Gain (loss) from sale of discontinued operations	0.03	1.11	(0.01)	10.77
NET INCOME (LOSS) ATTRIBUTABLE TO HC2 HOLDINGS, INC.	\$ (0.72)	\$ (0.48)	\$ (1.39)	\$ 9.11
DILUTED INCOME (LOSS) PER COMMON SHARE:				
Income (loss) from continuing operations attributable to HC2 Holdings, Inc.	\$ (0.75)	\$ (0.06)	\$ (1.38)	\$ (0.25)
Income (loss) from discontinued operations	—	(1.53)	—	(1.41)
Gain (loss) from sale of discontinued operations	0.03	1.11	(0.01)	10.77
NET INCOME (LOSS) ATTRIBUTABLE TO HC2 HOLDINGS, INC.	\$ (0.72)	\$ (0.48)	\$ (1.39)	\$ 9.11
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING				
Basic	23,372	14,077	18,348	13,987
Diluted	23,372	14,077	18,348	13,987
AMOUNTS ATTRIBUTABLE TO COMMON SHAREHOLDERS OF HC2 HOLDINGS, INC.				
Income (loss) from continuing operations attributable to HC2 Holdings, Inc.	\$ (17,440)	\$ (865)	\$ (25,408)	\$ (3,536)
Income (loss) from discontinued operations	(106)	(21,490)	(62)	(19,718)
Gain (loss) from sale of discontinued operations	663	15,650	(121)	150,695
NET INCOME (LOSS) ATTRIBUTABLE TO HC2 HOLDINGS, INC.	\$ (16,883)	\$ (6,705)	\$ (25,591)	\$ 127,441

See notes to condensed consolidated financial statements.

HC2 HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(in thousands)
(UNAUDITED)

	<u>Three Months Ended</u> <u>September 30,</u>		<u>Nine Months Ended</u> <u>September 30,</u>	
	<u>2014</u>	<u>2013</u>	<u>2014</u>	<u>2013</u>
NET INCOME (LOSS)	\$(14,948)	\$(6,705)	\$(22,397)	\$127,441
OTHER COMPREHENSIVE INCOME (LOSS)				
Foreign currency translation adjustment	(21)	(1,819)	(155)	(7,379)
Unrealized gain (loss) on available-for-sale securities	(1,655)	—	(1,655)	—
Less: Other comprehensive (income) attributable to the noncontrolling interest	(931)	—	(1,990)	—
COMPREHENSIVE INCOME ATTRIBUTABLE TO HC2 HOLDINGS, INC.	<u>\$(17,555)</u>	<u>\$(8,524)</u>	<u>\$(26,197)</u>	<u>\$120,062</u>

See notes to condensed consolidated financial statements.

HC2 HOLDINGS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts)
(UNAUDITED)

	<u>September 30,</u> <u>2014</u>	<u>December 31,</u> <u>2013</u>
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 111,739	\$ 8,997
Short-term investments	3,253	—
Accounts receivable (net of allowance for doubtful accounts receivable of \$4,639 and \$2,476 at September 30, 2014 and December 31, 2013, respectively)	170,516	18,980
Costs and recognized earnings in excess of billings on uncompleted contracts	26,604	—
Inventories	23,894	—
Prepaid expenses and other current assets	23,693	40,594
Assets held for sale	3,865	6,329
Total current assets	<u>363,564</u>	<u>74,900</u>
LONG-TERM INVESTMENTS	47,350	—
PROPERTY, PLANT AND EQUIPMENT—Net	239,562	2,962
GOODWILL	35,513	3,378
OTHER INTANGIBLE ASSETS—Net	21,161	—
OTHER ASSETS	22,721	6,440
TOTAL ASSETS	<u>\$ 729,871</u>	<u>\$ 87,680</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	\$ 55,811	\$ 6,964
Accrued interconnection costs	9,969	12,456
Accrued payroll and employee benefits	15,385	1,854
Accrued expenses and other current liabilities	49,394	5,550
Billings in excess of costs and recognized earnings on uncompleted contracts	58,403	—
Accrued income taxes	302	53
Accrued interest	578	—
Current portion of long-term debt	22,408	—
Liabilities held for sale	—	4,823
Total current liabilities	<u>212,250</u>	<u>31,700</u>
LONG-TERM DEBT	290,394	—
PENSION LIABILITY	46,172	—
DEFERRED TAX LIABILITY	12,363	—
OTHER LIABILITIES	1,726	1,571
Total liabilities	<u>562,905</u>	<u>33,271</u>
COMMITMENTS AND CONTINGENCIES (See Note 11)		
TEMPORARY EQUITY (See Note 14)		
Preferred stock, \$0.001 par value—20,000,000 shares authorized; Series A—30,000 and 0 shares issued and outstanding at September 30, 2014 and December 31, 2013, respectively; Series A-1—11,000 and 0 shares issued and outstanding at September 30, 2014 and December 31, 2013, respectively	39,524	—
STOCKHOLDERS' EQUITY:		
Common stock, \$0.001 par value—80,000,000 shares authorized; 23,689,816 and 14,257,545 shares issued and 23,658,190 and 14,225,919 shares outstanding at September 30, 2014 and December 31, 2013, respectively	24	14
Additional paid-in capital	134,748	98,598
Retained earnings (accumulated deficit)	(54,160)	(29,773)
Treasury stock, at cost—31,626 shares at September 30, 2014 and December 31, 2013, respectively	(378)	(378)
Accumulated other comprehensive loss	(15,862)	(14,052)
Total HC2 Holdings, Inc. stockholders' equity before noncontrolling interest	<u>64,372</u>	<u>54,409</u>
Non-controlling interest	63,070	—
Total permanent equity	<u>127,442</u>	<u>54,409</u>
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	<u>\$ 729,871</u>	<u>\$ 87,680</u>

See notes to condensed consolidated financial statements.

HC2 HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENT OF PERMANENT EQUITY
(in thousands)
(UNAUDITED)

	<u>Total</u>	<u>Common Stock</u>		<u>Additional Paid-In Capital</u>	<u>Treasury Stock</u>	<u>Retained Earnings (Accumulated Deficit)</u>	<u>Accumulated Other Comprehensive Income (Loss)</u>	<u>Non- controlling Interest</u>
		<u>Shares</u>	<u>Amount</u>					
Balance as of December 31, 2013	\$ 54,409	14,226	\$ 14	\$ 98,598	\$ (378)	\$ (29,773)	\$ (14,052)	\$ —
Share-based compensation expense	1,724	—	—	1,724	—	—	—	—
Proceeds from the exercise of warrants and stock options	24,348	7,590	8	24,340	—	—	—	—
Taxes paid in lieu of shares issued for share-based compensation	(41)	—	—	(41)	—	—	—	—
Preferred stock dividend and accretion	(1,204)	—	—	(1,204)	—	—	—	—
Preferred stock beneficial conversion feature	659	—	—	659	—	—	—	—
Issuance of common stock	6,000	1,500	2	5,998	—	—	—	—
Issuance of restricted stock	—	342	—	—	—	—	—	—
Noncontrolling interest in acquired companies	61,080	—	—	—	—	—	—	61,080
Contribution by noncontrolling interest	4,674	—	—	4,674	—	—	—	—
Net income (loss)	(22,397)	—	—	—	—	(24,387)	—	1,990
Foreign currency translation adjustment	(155)	—	—	—	—	—	(155)	—
Unrealized gain (loss) on available-for-sale securities	(1,655)	—	—	—	—	—	(1,655)	—
Balance as of September 30, 2014	<u>\$127,442</u>	<u>23,658</u>	<u>\$ 24</u>	<u>\$ 134,748</u>	<u>\$ (378)</u>	<u>\$ (54,160)</u>	<u>\$ (15,862)</u>	<u>\$ 63,070</u>

See notes to condensed consolidated financial statements.

HC2 HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(UNAUDITED)

	Nine Months Ended September 30,	
	2014	2013
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	\$ (22,397)	\$ 127,441
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Provision for doubtful accounts receivable	(114)	1,563
Share-based compensation expense	1,725	1,742
Depreciation and amortization	4,071	11,961
Amortization of deferred financing costs	288	—
(Gain) loss on sale or disposal of assets	635	(150,704)
(Gain) loss on sale of investments	(437)	—
Equity investment (income)/loss	288	—
Impairment of goodwill and long-lived assets	—	478
Amortization of debt discount	1,381	86
Loss on early extinguishment or restructuring of debt	6,947	21,178
Change in fair value of Contingent Value Rights	—	(14,904)
Deferred income taxes	1	(156)
Unrealized foreign currency transaction (gain) loss on intercompany and foreign debt	57	(700)
Changes in assets and liabilities, net of acquisitions:		
(Increase) decrease in accounts receivable	6,037	(5,201)
(Increase) decrease in costs and recognized earnings in excess of billings on uncompleted contracts	522	—
(Increase) decrease in inventories	(1,984)	—
(Increase) decrease in prepaid expenses and other current assets	25,539	(2,087)
(Increase) decrease in other assets	1,558	2,896
Increase (decrease) in accounts payable	1,751	(2,157)
Increase (decrease) in accrued interconnection costs	(2,618)	6,732
Increase (decrease) in accrued payroll and employee benefits	3,055	—
Increase (decrease) in accrued expenses, other current liabilities and other liabilities, net	(5,156)	(7,620)
Increase (decrease) in billings in excess of costs and recognized earnings on uncompleted contracts	(7,695)	—
Increase (decrease) in accrued income taxes	(2,198)	(3,506)
Increase (decrease) in accrued interest	502	(1,715)
Net cash provided by (used in) operating activities	<u>11,758</u>	<u>(14,673)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property, plant and equipment	(4,064)	(12,034)
Sale of property and equipment and other assets	3,696	9
Purchase of investments	(18,640)	—
Investment in debt security	(250)	—
Sale of investments	1,135	—
Cash from disposition of business, net of cash disposed	—	270,659
Cash paid for business acquisitions, net of cash acquired	(163,510)	(397)
Purchase of noncontrolling interest	(6,978)	—
Contribution by noncontrolling interest	15,500	—
Decrease in restricted cash	—	425
Net cash (used in) provided by investing activities	<u>(173,111)</u>	<u>258,662</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from long-term obligations	492,068	—
Principal payments on long-term obligations	(294,237)	(128,008)
Payment of fees on restructuring of debt	(837)	(1,256)
Proceeds from sale of common stock, net	6,000	1,145
Proceeds from sale of preferred stock, net	39,765	—
Proceeds from the exercise of warrants and stock options	24,344	—
Payment of dividend equivalents	—	(1,235)
Payment of dividends	(750)	(119,788)
Taxes paid in lieu of shares issued for share-based compensation	(41)	(837)
Net cash provided by (used) in financing activities	<u>266,312</u>	<u>(249,979)</u>
EFFECTS OF EXCHANGE RATE CHANGES ON CASH AND CASH EQUIVALENTS	<u>(2,217)</u>	<u>(1,669)</u>
NET CHANGE IN CASH AND CASH EQUIVALENTS	102,742	(7,659)
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	8,997	23,197
CASH AND CASH EQUIVALENTS, END OF PERIOD	<u>\$ 111,739</u>	<u>\$ 15,538</u>
SUPPLEMENTAL CASH FLOW INFORMATION:		
Cash paid for interest	\$ 2,388	\$ 10,367
Cash paid for taxes	\$ 7,761	\$ 608
Non-cash investing and financing activities:		
Capital lease additions	\$ —	\$ 148

See notes to condensed consolidated financial statements.

HC2 HOLDINGS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

1. ORGANIZATION AND BUSINESS

On April 9, 2014, we changed our name from PTGi Holding, Inc. to HC2 Holdings, Inc. (“HC2” and, together with its subsidiaries, the “Company”, “we” and “our”). The name change was effected pursuant to Section 253 of the General Corporation Law of the State of Delaware by the merger of our wholly owned subsidiary, HC2 Name Change, Inc., into us. In connection with the name change, we changed the ticker symbol of our common stock from “PTGI” to “HCHC”.

On May 29, 2014, the Company completed the acquisition of 2.5 million shares of common stock of Schuff International, Inc. (“Schuff”), a steel fabrication and erection company, and negotiated an agreement to purchase an additional 198,411 shares, representing an approximately 65% interest in Schuff. The aggregate consideration for the shares of Schuff acquired was approximately \$85 million, which was funded using the net proceeds from (i) the issuance of \$30 million of Series A Convertible Participating Preferred Stock of HC2 (the “Series A Preferred Stock”) and \$6 million of common stock of HC2, and (ii) the entry into a senior secured credit facility providing for an eighteen month term loan of \$80 million (“May Credit Facility”), each of which was also completed on May 29, 2014. Schuff repurchased a portion of its outstanding common stock in June 2014, which had the effect of increasing the Company’s ownership interest to 70%. In October 2014, the final results of a tender offer for all outstanding shares of Schuff were announced and the Company accepted for purchase 733,634 shares, which had the effect of increasing the Company’s ownership interest to 89%. On October 29, 2014, we entered into an open-market transaction to increase our ownership of Schuff to 90.6%, and we intend to execute a short-form merger as soon as practicable. Such short-form merger will increase our ownership of Schuff shares to 100%.

Schuff and its wholly-owned subsidiaries primarily operate as integrated fabricators and erectors of structural steel and heavy steel plates with headquarters in Phoenix, Arizona and operations in Arizona, Florida, Georgia, Texas, Kansas and California. Schuff’s construction projects are primarily in the aforementioned states. In addition, Schuff has construction projects in select international markets, primarily Panama. Schuff has a 49% interest in Schuff Hopsa Engineering, Inc. (“SHE”), a Panamanian joint venture with Empresas Hopsa, S.A., that provides steel fabrication services. Schuff controls the operations of SHE, as provided in the operating agreement. Therefore, the assets, liabilities, revenues and expenses of SHE are included in the consolidated financial statements of Schuff. Empresas Hopsa, S.A.’s 51% interest in SHE is presented as a non-controlling interest component of total equity.

On August 1, 2014, the Company paid \$15.5 million to acquire 15,500 shares of Series A Convertible Preferred Stock of American Natural Gas (“ANG”), representing an approximately 51% interest in ANG. ANG is a premier distributor of natural gas motor fuel headquartered in the Northeast that designs, builds, owns, operates and maintains compressed natural gas fueling stations for transportation.

On September 22, 2014, the Company completed the acquisition of Bridgehouse Marine Limited (“Bridgehouse”), the parent holding company of Global Marine Systems Limited (“GMSL”). The purchase price reflects an enterprise value of approximately \$260 million, including assumed indebtedness, and was funded using a portion of the net proceeds from (i) the issuance of \$11 million of Series A-1 Convertible Participating Preferred Stock of HC2 (the “Series A-1 Preferred Stock”) and (ii) a senior secured credit facility providing for a twelve month (subject to extension for an additional twelve months if the Company meets certain requirements set forth in the credit agreement governing the senior secured credit facility) term loan of \$214 million and a delayed draw term loan of \$36 million, each of which was also completed on September 22, 2014. With a portion of these proceeds, the Company paid off its May Credit Facility and its senior unsecured credit facility consisting of a term loan of \$17 million entered into on September 8, 2014 for the purpose of acquiring an ownership

HC2 HOLDINGS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—CONTINUED
(UNAUDITED)

interest in Novatel Wireless, Inc. (“September Credit Facility”). GMSL is a leading provider of engineering and underwater services on submarine cables. In conjunction with the acquisition, approximately 3% of the Company’s interest in GMSL was reserved for a group of individuals, leaving the Company’s controlling interest as of September 30, 2014 at approximately 97%.

GMSL has a 65% interest in Global Cable Technology, Ltd., which manufactures jointing kits. The assets, liabilities, revenue and expenses of Global Cable Technology, Ltd. are included in the consolidated financial statements of GMSL and the 35% interest is presented as a non-controlling interest component of total equity.

We have historically operated a telecommunications business including a network of direct routes and provided premium voice communication services for national telecom operators, mobile operators, wholesale carriers, prepaid operators, Voice over Internet Protocol (“VoIP”) service operators and Internet service providers (“ISPs”). The Company has provided telecommunications services from its North America Telecom and International Carrier Services (“ICS”) business units. In the second quarter of 2013, the Company entered into a definitive purchase agreement to sell its North America Telecom business and sought shareholder approval of such transaction. On July 31, 2013, the Company completed the initial closing of the sale of substantially all of its North America Telecom business. The sale of Primus Telecommunications, Inc. (“PTI”) was also contemplated as part of this transaction, and subject to regulatory approval. On July 31, 2014, having received the necessary regulatory approvals for PTI, we completed the divestiture of the remainder of our North America Telecom business.

During 2013, we also provided data center services in Canada through our BLACKIRON Data business unit. On April 17, 2013, we consummated the divestiture of BLACKIRON Data.

The Company currently has five reportable operating segments based on management’s organization of the enterprise—Telecommunications which includes ICS, Life Sciences which includes Genovel Orthopedics, Inc. (“Genovel”) involved with the development of products to treat early osteoarthritis of the knee, Manufacturing which includes Schuff, Marine Services which includes GMSL, and Utilities which includes ANG.

HC2 was formed as a corporation under the laws of Delaware in 1994 and operates as a holding company of operating subsidiaries primarily in the United States and the United Kingdom.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation—The accompanying unaudited condensed consolidated financial statements of HC2 have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) for interim financial reporting and Securities and Exchange Commission (“SEC”) regulations. Certain information and footnote disclosures normally included in the financial statements prepared in accordance with U.S. GAAP have been condensed or omitted pursuant to such principles and regulations. In the opinion of management, the financial statements reflect all adjustments (all of which are of a normal and recurring nature), which are necessary to present fairly the financial position, results of operations, cash flows and comprehensive income (loss) for the interim periods. The results for the Company’s three and nine months ended September 30, 2014 are not necessarily indicative of the results that may be expected for the year ending December 31, 2014. The financial statements should be read in conjunction with the Company’s audited consolidated financial statements included in the Company’s most recently filed Annual Report on Form 10-K. Schuff uses a 4-4-5 week quarterly cycle, which for the third quarter of 2014 ended on September 28, 2014.

Principles of Consolidation—The condensed consolidated financial statements include the accounts of the Company, its wholly owned subsidiaries and all other subsidiaries over which the Company exerts control. All

HC2 HOLDINGS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—CONTINUED
(UNAUDITED)

intercompany profits, transactions and balances have been eliminated in consolidation. As of September 30, 2014, the Company has a 97% interest in GMSL, a 70% interest in Schuff, a 51% interest in ANG and an 80% interest in Genovel. The results of GMSL, Schuff, ANG and Genovel are consolidated with the Company's results (with respect to results of operations of GMSL, Schuff and ANG, from and after their respective acquisition dates) based on guidance from the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") No. 810, "Consolidation" ("ASC 810"). The remaining interests not owned by the Company are presented as a non-controlling interest component of total equity. The Company determined that the results of operation for GMSL for the period September 22, 2014 – September 30, 2014 were immaterial and therefore did not include GMSL's results of operations in the condensed consolidated statements of operations for the three and nine months ended September 30, 2014.

Discontinued Operations—In the second quarter of 2013, the Company sold its BLACKIRON Data segment and reiterated its June 2012 commitment to dispose of ICS. In addition, in the second quarter of 2013, the Company entered into a definitive purchase agreement to sell its North America Telecom business and sought shareholder approval of such transaction. The Company completed the initial closing of the sale of its North America Telecom business on July 31, 2013 and completed the divestiture of the remainder of its North America Telecom business on July 31, 2014 (see Note 18—"Discontinued Operations"). In conjunction with the initial closing of the sale of the North America Telecom business, the Company redeemed its outstanding debt on August 30, 2013. Because the debt was required to be repaid as a result of the sale of North America Telecom, the interest expense and loss on early extinguishment or restructuring of debt of PTGi International Holding, Inc. has been allocated to discontinued operations. In December 2013, based on management's assessment of the requirements under Accounting Standards Codification ("ASC") No. 360, "Property, Plant and Equipment" ("ASC 360"), it was determined that ICS no longer met the criteria of a held for sale asset. On February 11, 2014, the Board of Directors officially ratified management's December 2013 assessment, and reclassified ICS from held for sale to held and used, effective December 31, 2013.

The Company has applied retrospective adjustments for the three and nine months ended September 30, 2013 to reflect the effects of the discontinued operations that occurred during 2013. Accordingly, revenue, costs and expenses of the discontinued operations have been excluded from the respective captions in the condensed consolidated statements of operations. In addition, the Company has applied retrospective adjustments for the three and nine months ended September 30, 2013 to reflect the Company's decision to cease its sale process of ICS. Accordingly, revenue, costs and expenses of ICS are now included in the respective captions in the condensed consolidated statements of operations. The assets and liabilities of the remaining portion of North America Telecom, PTI, have been classified as held for sale assets and liabilities. The held for sale assets and liabilities were removed from the specific line items on the condensed consolidated balance sheets as of December 31, 2013. See Note 18—"Discontinued Operations," for further information regarding these transactions.

Foreign Currency Transactions—Foreign currency transactions are transactions denominated in a currency other than a subsidiary's functional currency. A change in the exchange rates between a subsidiary's functional currency and the currency in which a transaction is denominated increases or decreases the expected amount of functional currency cash flows upon settlement of the transaction. That increase or decrease in expected functional currency cash flows is reported by the Company as a foreign currency transaction gain (loss). The primary component of the Company's foreign currency transaction gain (loss) is due to agreements in place with certain subsidiaries in foreign countries regarding intercompany transactions. The Company anticipates repayment of these transactions in the foreseeable future, and recognizes the realized and unrealized gains or losses on these transactions that result from foreign currency changes in the period in which they occur as foreign currency transaction gain (loss).

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Foreign Currency Translation—The assets and liabilities of the Company’s foreign subsidiaries are translated at the exchange rates in effect on the reporting date. Income and expenses are translated at the average exchange rate during the period. The net effect of such translation gains and losses are reflected within accumulated other comprehensive income (loss) in the stockholders’ equity section of the condensed consolidated balance sheets.

Accounts Receivable—Accounts receivable is stated at amounts due from customers net of an allowance for doubtful accounts. Our allowance for doubtful accounts considers historical experience, the age of certain receivable balances, credit history, current economic conditions and other factors that may affect the counterparty’s ability to pay.

Inventories

Schuff—Inventories, primarily steel components, are stated at the lower of cost or market under the first-in, first-out method.

GMSL—Inventory is valued at the lower of cost or market value under the first-in first-out method. Provision for obsolescence is made where appropriate and is charged to cost of revenue in the condensed consolidated statements of operations. Short-term work in progress on contracts is stated at cost less foreseeable losses. These costs include only direct labor and expenses incurred to date and exclude any allocation of overhead. The policy for long-term work in progress contracts is disclosed within the *Revenue and Cost Recognition* accounting policy for *GMSL*.

Investments —Investments in non-wholly-owned companies are generally consolidated or accounted for under the equity method of accounting when the Company has a 20% to 50% ownership interest or exercises significant influence over the venture. If the Company’s interest exceeds 50%, or if the Company has the power to direct the economic activities of the entity and the obligation to absorb losses, the results of the non-wholly-owned company are consolidated herein. All other investments are generally accounted for under the cost method.

Deferred Financing Costs—The Company capitalizes certain expenses incurred in connection with its long-term debt and line of credit obligations and amortizes them over the term of the respective debt agreement. The amortization expense of the deferred financing costs is included in interest expense on the condensed consolidated statements of operations. If the Company redeems portions of its long-term debt prior to the maturity date, deferred financing costs are charged to expense on a pro rata basis and are included in loss on early extinguishment or restructuring of debt on the condensed consolidated statements of operations.

Property, Plant and Equipment—Property, plant and equipment are stated at cost less accumulated depreciation, which is provided on the straight-line method over the estimated useful lives of the assets. Cost includes major expenditures for improvements and replacements which extend useful lives or increase capacity of the assets as well as expenditures necessary to place assets into readiness for use. Cost includes the original purchase price of the asset and the costs attributable to bringing the asset to its working condition for its intended use. Cost includes finance costs incurred prior to the asset being available for use. Expenditures for maintenance and repairs are expensed as incurred. Depreciation is determined on a straight-line basis over the estimated useful lives of the assets, which range from 5 to 40 years for buildings and improvements, up to 35 years for cable-ships and submersibles, 3 to 15 years for machinery and equipment, and 3 to 20 years for plant and motor vehicles. Plant includes equipment on the cable-ships that is portable and can be moved around the fleet. Plant also includes computer equipment. Leasehold improvements are amortized over the lives of the leases or estimated

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useful lives of the assets, whichever is shorter. Assets under construction are not depreciated until they are complete and available for use. Costs for internal use software that are incurred in the preliminary project stage and in the post-implementation stage are expensed as incurred. Costs incurred during the application development stage are capitalized and amortized over the estimated useful life of the software. When assets are sold or otherwise retired, the costs and accumulated depreciation are removed from the books and the resulting gain or loss is included in operating results. Property, plant and equipment that have been included as part of the assets held for sale are no longer depreciated from the time that they are classified as such. The Company periodically evaluates the carrying value of its property, plant and equipment based upon the estimated cash flows to be generated by the related assets. If impairment is indicated, a loss is recognized.

Goodwill and Other Intangible Assets—Under ASC No. 350, “Intangibles—Goodwill and Other” (“ASC 350”), goodwill and indefinite lived intangible assets are not amortized but are reviewed annually for impairment, or more frequently, if impairment indicators arise. Intangible assets that have finite lives are amortized over their estimated useful lives and are subject to the provisions of ASC 360.

Goodwill impairment is tested at least annually (October 1st) or when factors indicate potential impairment using a two-step process that begins with an estimation of the fair value of each reporting unit. Step 1 is a screen for potential impairment pursuant to which the estimated fair value of each reporting unit is compared to its carrying value. The Company estimates the fair values of each reporting unit by an estimation of the discounted cash flows of each of the reporting units based on projected earnings in the future (the income approach). If there is a deficiency (the estimated fair value of a reporting unit is less than its carrying value), a Step 2 test is required.

Step 2 measures the amount of impairment loss, if any, by comparing the implied fair value of the reporting unit’s goodwill with its carrying amount. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination is determined; i.e., through an allocation of the fair value of a reporting unit to all of the assets and liabilities of that unit as if the reporting unit had been acquired in a business combination. If the carrying amount of the reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment loss shall be recognized in an amount equal to that excess.

The Company also may utilize the provisions of Accounting Standards Update (“ASU”) No. 2011-08, “Testing Goodwill for Impairment” (“ASU 2011-08”), which allows the Company to use qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount.

Subsequent to classifying ICS as a discontinued operation in the second quarter of 2012 and its goodwill being classified as a held for sale asset, the reporting units were Canada and US. Subsequent to the sale of North America Telecom (which included the Canada reporting unit) in the third quarter of 2013, the Company had no goodwill attributable to the remaining US reporting unit. The US reporting unit goodwill was attributable to PTI, the unsold portion of North America Telecom, and was included in assets held for sale. As a result of the decision to cease the sale process of ICS as of December 31, 2013, ICS became a reporting unit and its goodwill was reclassified as a held and used asset. With the acquisition of Schuff and GMSL, each became their own reporting unit in May 2014 and September 2014, respectively, and will be subject to annual testing for impairment on October 1st.

Estimating the fair value of a reporting unit requires various assumptions including projections of future cash flows, perpetual growth rates and discount rates. The assumptions about future cash flows and growth rates are based on the Company’s assessment of a number of factors, including the reporting unit’s recent performance against budget, performance in the market that the reporting unit serves, and industry and general economic data from third party sources. Discount rate assumptions are based on an assessment of the risk inherent in those

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future cash flows. Changes to the underlying businesses could affect the future cash flows, which in turn could affect the fair value of the reporting unit.

Intangible assets subject to amortization consists of certain trade names, customer contracts and developed technology. These finite lived intangible assets are amortized based on their estimated useful lives. Such assets are subject to the impairment provisions of ASC 360, wherein impairment is recognized and measured only if there are events and circumstances that indicate that the carrying amount may not be recoverable. The carrying amount is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use of the asset group. An impairment loss is recorded if after determining that it is not recoverable, the carrying amount exceeds the fair value of the asset.

In addition to the foregoing, the Company reviews its goodwill and intangible assets for possible impairment whenever events or circumstances indicate that the carrying amounts of assets may not be recoverable. The factors that the Company considers important, and which could trigger an impairment review, include, but are not limited to: a more likely than not expectation of selling or disposing all, or a portion, of a reporting unit; a significant decline in the market value of our common stock or debt securities for a sustained period; a material adverse change in economic, financial market, industry or sector trends; a material failure to achieve operating results relative to historical levels or projected future levels; and significant changes in operations or business strategy.

Valuation of Long-lived Assets (Held for Sale)—Prior to December 31, 2013, ICS was included in held for sale assets. Under ASC 360, when a long-lived asset previously classified as held for sale is reclassified as held and used, the assets and liabilities are measured individually at the lower of the (1) carrying value prior to its held for sale classification, adjusted for any depreciation and amortization that would have been recognized and (2) the fair value as of the date of the decision not to sell. The Company determined that the carrying value of the current assets and current liabilities of ICS approximate fair value. With respect to the carrying value of the property and equipment of ICS, the Company first recorded depreciation for the period July 1, 2012 through December 31, 2013 and subsequently impaired any assets that had no future benefit. The resulting adjusted carrying value of ICS was lower than its fair value. The goodwill of ICS was tested for impairment under ASC 350 using a Step 1 and Step 2 approach. Because the fair value of ICS exceeded its adjusted carrying value under Step 1, no further analysis was required.

The Company makes significant assumptions and estimates in the process of determining fair value regarding matters that are inherently uncertain, such as estimating future cash flows, discount rates and growth rates. The resulting cash flows are projected over an extended period of time, which subjects those assumptions and estimates to an even larger degree of uncertainty. While the Company believes that its estimates are reasonable, different assumptions could materially affect the valuation of the net assets. The current year analysis of carrying value and fair value less costs to sell is disclosed in Note 18 —“Discontinued Operations.”

Valuation of Long-lived Assets (Held and Used)—The Company reviews long-lived assets whenever events or changes indicate that the carrying amount of an asset may not be recoverable. In making such evaluations, the Company compares the expected undiscounted future cash flows to the carrying amount of the assets. If the total of the expected undiscounted future cash flows is less than the carrying amount of the assets, the Company is required to make estimates of the fair value of the long-lived assets in order to calculate the impairment loss equal to the difference between the fair value and carrying value of the assets.

The Company makes significant assumptions and estimates in this process regarding matters that are inherently uncertain, such as determining asset groups and estimating future cash flows, remaining useful lives,

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discount rates and growth rates. The resulting undiscounted cash flows are projected over an extended period of time, which subjects those assumptions and estimates to an even larger degree of uncertainty. While the Company believes that its estimates are reasonable, different assumptions could materially affect the valuation of the long-lived assets. The Company derives future cash flow estimates from its historical experience and its internal business plans, which include consideration of industry trends, competitive actions, technology changes, regulatory actions, available financial resources for marketing and capital expenditures and changes in its underlying cost structure.

The Company makes assumptions about the remaining useful life of its long-lived assets. The assumptions are based on the average life of its historical capital asset additions and its historical asset purchase trend. In some cases, due to the nature of a particular industry in which the company operates, the Company may assume that technology changes in such industry render all associated assets, including equipment, obsolete with no salvage value after their useful lives. In certain circumstances in which the underlying assets could be leased for an additional period of time or salvaged, the Company includes such estimated cash flows in its estimate.

The estimate of the appropriate discount rate to be used to apply the present value technique in determining fair value was the Company's weighted average cost of capital which is based on the effective rate of its long-term debt obligations at the current market values (for periods during which the Company had long-term debt obligations) as well as the current volatility and trading value of the Company's common stock.

Use of Estimates—The preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the condensed consolidated financial statements and the reported amounts of net revenue and expenses during the reporting period. Actual results may differ from these estimates. Significant estimates include allowance for doubtful accounts receivable, accrued interconnection cost disputes, the extent of progress towards completion on contracts, contract revenue and costs on long-term contracts, market assumptions used in estimating the fair values of certain assets and liabilities, the calculation used in determining the fair value of HC2's stock options required by ASC No. 718, "Compensation—Stock Compensation" ("ASC 718"), income taxes and various other contingencies.

Estimates of fair value represent the Company's best estimates developed with the assistance of independent appraisals or various valuation techniques and, where the foregoing have not yet been completed or are not available, industry data and trends and by reference to relevant market rates and transactions. The estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Company. Accordingly, the Company cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially.

Revenue and Cost Recognition

Schuff—Schuff performs its services primarily under fixed-price contracts and recognizes revenues and costs from construction projects using the percentage of completion method. Under this method, revenue is recognized based upon either the ratio of the costs incurred to date to the total estimated costs to complete the project or the ratio of tons fabricated to date to total estimated tons. Revenue recognition begins when work has commenced. Costs include all direct material and labor costs related to contract performance, subcontractor costs, indirect labor, and fabrication plant overhead costs, which are charged to contract costs as incurred. Revenues relating to changes in the scope of a contract are recognized when the work has commenced, Schuff has made an estimate of the amount that is probable of being paid for the change and there is a high degree of

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probability that the charges will be approved by the customer or general contractor. At September 30, 2014, Schuff had \$30.3 million of unapproved change orders on open projects, for which it has recognized revenues on a percentage of completion basis. While Schuff has been successful in having the majority of its change orders approved in prior years, there is no guarantee that the majority of unapproved change orders at September 30, 2014 will be approved. Revisions in estimates during the course of contract work are reflected in the accounting period in which the facts requiring the revision become known. Provisions for estimated losses on uncompleted contracts are made in the period a loss on a contract becomes determinable.

Construction contracts with customers generally provide that billings are to be made monthly in amounts which are commensurate with the extent of performance under the contracts. Contract receivables arise principally from the balance of amounts due on progress billings on jobs under construction. Retentions on contract receivables are amounts due on progress billings, which are withheld until the completed project has been accepted by the customer.

Costs and recognized earnings in excess of billings on uncompleted contracts primarily represent revenue earned under the percentage of completion method which has not been billed. Billings in excess of related costs and recognized earnings on uncompleted contracts represent amounts billed on contracts in excess of the revenue allowed to be recognized under the percentage of completion method on those contracts.

ICS—Net revenue is derived from carrying a mix of business, residential and carrier long-distance traffic, data and Internet traffic. For certain voice services, net revenue is earned based on the number of minutes during a call, and are recorded upon completion of a call. Revenue for a period is calculated from information received through the Company's network switches. Customized software has been designed to track the information from the switch and analyze the call detail records against stored detailed information about revenue rates. This software provides the Company the ability to do a timely and accurate analysis of revenue earned in a period. Separate prepaid services software is used to track additional information related to prepaid service usage such as activation date, monthly usage amounts and expiration date. Revenue on these prepaid services is recognized as service is provided until expiration, when all unused minutes, which are no longer available to the customers, are recognized as revenue. Net revenue is also earned on a fixed monthly fee basis for unlimited local and long-distance voice plans and for the provision of data/Internet services (including retail VoIP), hosting, and colocation. In the United States, we charge customers Federal Universal Service Fund ("USF") fees. We recognize revenue on a gross basis for USF and related fees. We record these fees as revenue when billed. Net revenue represents gross revenue, net of allowance for doubtful accounts receivable, service credits and service adjustments. Cost of revenue includes network costs that consist of access, transport and termination costs. The majority of the Company's cost of revenue is variable, primarily based upon minutes of use, with transmission and termination costs being the most significant expense. Cost of revenue also includes fees such as Federal USF fees. Such costs are recognized when incurred in connection with the provision of telecommunications services.

Pensions—GMSL operates various pension schemes comprising both defined benefit plans and defined contribution plans. GMSL also makes contributions on behalf of employees who are members of the Merchant Navy Officers Pension Fund ("MNOFP").

For the defined benefit plans and the MNOFP plan, the amounts charged to income (loss) from operations are the current service costs and the gains and losses on settlements and curtailments. These are included as part of staff costs. Past service costs are recognized immediately if the benefits have vested. If the benefits have not vested immediately, the costs are recognized over the period vesting occurs. The interest costs and expected return of assets are shown as a net amount and included in interest income and other income (expense). Actuarial gains and losses are recognized immediately in the statement of operations.

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Defined benefit plans are funded with the assets of the plan held separately from those of GMSL, in separate trustee administered funds. Pension plan assets are measured at fair value and liabilities are measured on an actuarial basis using the projected unit method discounted at a rate of equivalent currency and term to the plan liabilities. The actuarial valuations are obtained at least triennially and are updated at each balance sheet date.

For the defined contribution plans, the amount charged to income (loss) from operations in respect of pension costs is the contributions payable in the period. Differences between contributions payable in the period and contributions actually paid are shown as either accruals or prepayments in the condensed consolidated balance sheet.

Income (Loss) Per Common Share—Basic income (loss) per common share is computed using the weighted average number of shares of common stock outstanding during the period. Diluted income (loss) per common share is computed using the weighted average number of shares of common stock, adjusted for the dilutive effect of potential common stock and related income from continuing operations, net of tax. Potential common stock, computed using the treasury stock method or the if-converted method, includes options, restricted stock units, warrants and convertible preferred stock.

Reclassification —Certain previous year amounts have been reclassified to conform with current year presentations, as related to the reporting of the Company's discontinued operations and new balance sheet line items.

Newly Adopted Accounting Principles

In July 2013, an update was issued to the Income Taxes Topic No. 740, ASU 2013-11, "Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists," which indicates that an unrecognized tax benefit, or a portion of an unrecognized tax benefit, should be presented in the financial statements as a reduction to a deferred tax asset for a net operating loss carryforward, a similar tax loss, or a tax credit carryforward, except as follows. To the extent a net operating loss carryforward, a similar tax loss, or a tax credit carryforward is not available at the reporting date under the tax law of the applicable jurisdiction to settle any additional income taxes that would result from the disallowance of a tax position or the tax law of the applicable jurisdiction does not require the entity to use, and the entity does not intend to use, the deferred tax asset for such purpose, the unrecognized tax benefit should be presented in the financial statements as a liability and should not be combined with deferred tax assets. The assessment of whether a deferred tax asset is available is based on the unrecognized tax benefit and deferred tax asset that exist at the reporting date and should be made presuming disallowance of the tax position at the reporting date. Early adoption is permitted and this accounting update should be applied prospectively from the beginning of the fiscal year of adoption. On January 1, 2014, the Company adopted this update, which did not have a material impact on the condensed consolidated financial statements.

In March 2013, an update was issued to the Foreign Currency Matters Topic No. 830, ASU 2013-05, "Parent's Accounting for the Cumulative Translation Adjustment upon Derecognition of Certain Subsidiaries or Groups of Assets within a Foreign Entity or of an Investment in a Foreign Entity," which indicates that the entire amount of a cumulative translation adjustment related to an entity's investment in a foreign entity should be released when there has been a (1) sale of a subsidiary or group of net assets within a foreign entity and the sale represents the substantially complete liquidation of the investment in the foreign entity; (2) loss of a controlling financial interest in an investment in a foreign entity; or (3) step acquisition for a foreign entity. Early adoption is permitted and this accounting update should be applied prospectively from the beginning of the fiscal year of adoption. On January 1, 2014, the Company adopted this update, which did not have a material impact on the condensed consolidated financial statements.

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In February 2013, an update was issued to the Liabilities Topic No. 405, ASU 2013-04, “Obligations Resulting from Joint and Several Liability Arrangements for Which the Total Amount of the Obligation is Fixed at the Reporting Date,” which indicates reporting entities are required to measure obligations resulting from certain joint and several liability arrangements where the total amount of the obligation is fixed as of the reporting date, as the sum of the amount the reporting entity agreed to pay on the basis of its arrangement among co-obligors and any additional amounts the reporting entity expects to pay on behalf of its co-obligors. On January 1, 2014, the Company adopted this update, which did not have a material impact on the condensed consolidated financial statements.

New Accounting Pronouncements

In June 2014, the FASB issued ASU 2014-12, “Compensation—Stock Compensation (Topic 718): Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period (a consensus of the FASB Emerging Issues Task Force),” in response to the EITF consensus on Issue 13-D. The ASU clarifies that entities should treat performance targets that can be met after the requisite service period of a share-based payment award as performance conditions that affect vesting. Therefore, an entity would not record compensation expense (measured as of the grant date without taking into account the effect of the performance target) related to an award for which transfer to the employee is contingent on the entity’s satisfaction of a performance target until it becomes probable that the performance target will be met. The ASU does not contain any new disclosure requirements. Early adoption is permitted. The Company’s effective date for adoption is January 1, 2016. The Company does not expect this accounting update to have a material effect on its condensed consolidated financial statements in future periods, although that could change.

In June 2014, an update was issued to the Development Stage Entities Topic No. 915, ASU 2014-10, “Elimination of Certain Financial Reporting Requirements, Including an Amendment to Variable Interest Entities Guidance in Topic 810, Consolidation. The amendments in ASU 2014-10 eliminate an exception provided to development stage entities in Topic 810, Consolidation, for determining whether an entity is a variable interest entity on the basis of the amount of investment equity that is at risk. The amendments to eliminate that exception simplify U.S. GAAP by reducing avoidable complexity in existing accounting literature and improve the relevance of information provided to financial statement users by requiring the application of the same consolidation guidance by all reporting entities. The elimination of the exception may change the consolidation analysis, consolidation decision, and disclosure requirements for a reporting entity that has an interest in an entity in the development stage. For public business entities, the amendment eliminating the exception to the sufficiency-of-equity-at-risk criterion for development stage entities in paragraph 4 810-10-15-16 should be applied retrospectively for annual reporting periods beginning after December 15, 2015, and interim periods therein. For all other entities, the amendments to Topic 810 should be applied retrospectively for annual reporting periods beginning after December 15, 2016, and interim reporting periods beginning after December 15, 2017. The Company does not expect this accounting update to have a material effect on its condensed consolidated financial statements in future period, although that could change.

In May 2014, the FASB and IASB issued their final standard on revenue from contracts with customers. The standard, issued as ASU 2014-09, “Revenue from Contracts with Customers (Topic 606),” by the FASB and as IFRS 15 by the IASB, outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and supersedes most current revenue recognition guidance, including industry-specific guidance. The core principle of the revenue model is that “an entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the

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entity expects to be entitled in exchange for those goods or services.” In applying the revenue model to contracts within its scope, an entity:

- Identifies the contract(s) with a customer (step 1).
- Identifies the performance obligations in the contract (step 2).
- Determines the transaction price (step 3).
- Allocates the transaction price to the performance obligations in the contract (step 4).
- Recognizes revenue when (or as) the entity satisfies a performance obligation (step 5).

The ASU applies to all contracts with customers except those that are within the scope of other topics in the FASB Accounting Standards Codification. Certain of the ASU’s provisions also apply to transfers of nonfinancial assets, including in-substance nonfinancial assets that are not an output of an entity’s ordinary activities (e.g., sales of (1) property, plant, and equipment; (2) real estate; or (3) intangible assets). Existing accounting guidance applicable to these transfers (e.g., ASC 360-20) has been amended or superseded. Compared with current U.S. GAAP, the ASU also requires significantly expanded disclosures about revenue recognition. The standard is effective for annual periods beginning after December 15, 2016, and interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (ii) a retrospective approach with the cumulative effect of initially adopting ASU 2014-09 recognized disclosures). We are currently evaluating the impact of our pending adoption of ASU 2014-09 on our consolidated financial statements and have not yet determined the method by which we will adopt the standard in 2017.

In April 2014, an update was issued to the Presentation of Financial Statements Topic No. 205 and Property, Plant and Equipment Topic No. 360, ASU 2014-08, “Reporting Discontinued Operations and Disclosures of Disposals of Components of an Entity”, which changes the criteria for reporting discontinued operations. The ASU revises the definition of a discontinued operation and expands the disclosure requirements. Entities should not apply the amendments to a component of an entity that is classified as held for sale before the effective date even if it is disposed of after the effective date. That is, the ASU must be adopted prospectively. Early adoption is permitted, but only for disposals (or classifications as held for sale) that have not been previously reported in the financial statements. The Company’s effective date for adoption is January 1, 2015. The Company does not expect this accounting update to have a material effect on its condensed consolidated financial statements in future periods, although that could change.

3. ACCOUNTS RECEIVABLE AND CONTRACTS IN PROGRESS

Accounts receivable consist of the following (in thousands):

	<u>September 30,</u> <u>2014</u>	<u>December 31,</u> <u>2013</u>
Contract receivables:		
Contracts in progress	\$ 91,854	\$ —
Unbilled retentions	33,693	—
Trade receivables	48,228	21,456
Other receivables	1,380	—
Allowance for doubtful accounts	(4,639)	(2,476)
	<u>\$ 170,516</u>	<u>\$ 18,980</u>

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Most of the Company's contract receivables are due from general contractors operating in Arizona, California, Colorado, Florida, Georgia, Nevada, Texas and Panama.

Costs and recognized earnings in excess of billings on uncompleted contracts and billings in excess of costs and recognized earnings on uncompleted contracts consist of the following:

	September 30, 2014	December 31, 2013
Costs incurred on contracts in progress	\$ 479,009	\$ —
Estimated earnings	51,923	—
	530,932	—
Less progress billings	562,731	—
	<u>\$ (31,799)</u>	<u>\$ —</u>
The above is included in the accompanying condensed consolidated balance sheet under the following captions:		
Costs and recognized earnings in excess of billings on uncompleted contracts	26,604	—
Billings in excess of costs and recognized earnings on uncompleted contracts	(58,403)	—
	<u>\$ (31,799)</u>	<u>\$ —</u>

4. INVENTORIES

Inventories consist of the following (in thousands):

	September 30, 2014	December 31, 2013
Raw materials	\$ 22,542	\$ —
Work in process	1,147	—
Finished goods	205	—
	<u>\$ 23,894</u>	<u>\$ —</u>

5. BUSINESS COMBINATIONS

Schuff

On May 29, 2014, the Company completed the acquisition of 2.5 million shares of common stock of Schuff, a steel fabrication and erection company and negotiated an agreement to purchase an additional 198,411 shares, representing an approximately 65% interest in Schuff. Schuff repurchased a portion of its outstanding common stock in June 2014, which had the effect of increasing the Company's ownership interest to 70%. In October 2014, the final results of tender offer for all outstanding shares of Schuff was announced and the Company accepted for purchase 733,634 shares, which had the effect of increasing the Company's ownership interest to 89%. On October 29, 2014, we entered into an open-market transaction to increase our ownership of Schuff to 90.6%, and we intend to execute a short-form merger as soon as practicable. Such short-form merger will increase our ownership of Schuff shares to 100%. Schuff and its wholly-owned subsidiaries primarily

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operate as integrated fabricators and erectors of structural steel and heavy steel plates with headquarters in Phoenix, Arizona and operations in Arizona, Florida, Georgia, Texas, Kansas and California. Schuff's construction projects are primarily in the aforementioned states. In addition, Schuff has construction projects in select international markets, primarily Panama. The Company acquired Schuff to diversify its portfolio of holdings and saw Schuff as an opportunity to enter the steel fabrication and erection market.

The transaction was accounted for using the acquisition method of accounting which requires, among other things, that assets acquired and liabilities assumed be recognized at their estimated fair values as of the acquisition date. Estimates of fair value included in the condensed consolidated financial statements, in conformity with ASC No. 820, "Fair Value Measurements and Disclosures" ("ASC 820"), represent the Company's best estimates and valuations developed with the assistance of independent appraisers and, where the following have not yet been completed or are not available, industry data and trends and by reference to relevant market rates and transactions. The following estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Company. Accordingly, the Company cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially. The table below summarizes the preliminary estimates of fair value of the Schuff assets acquired and liabilities assumed as of the acquisition date. Any changes to the initial estimates of the fair value of the assets and liabilities will be recorded as adjustments to those assets and liabilities and residual amounts will be allocated to goodwill. In accordance with ASC No. 805, "Business Combinations" ("ASC 805"), if additional information is obtained about these assets and liabilities within the measurement period (not to exceed one year from the date of acquisition), including finalization of asset appraisals, the Company will refine its estimates of fair value to allocate the purchase price more accurately. The purchase price of Schuff was valued at \$31.50 per share which represented both the cash paid by the Company for its 65% interest, and the fair value of the noncontrolling interest of 35%.

The preliminary purchase price allocation is as follows (in thousands):

Cash and cash equivalents	\$ (627)
Investments	1,714
Accounts receivable	130,622
Costs and recognized earnings in excess of billings on uncompleted contracts	27,126
Prepaid expenses and other current assets	3,079
Inventories	14,487
Property and equipment, net	85,662
Goodwill	24,612
Trade names	4,478
Other assets	2,947
Total assets acquired	294,100
Accounts payable	37,621
Accrued payroll and employee benefits	11,668
Accrued expenses and other current liabilities	12,532
Billings in excess of costs and recognized earnings on uncompleted contracts	65,985
Accrued income taxes	1,202
Accrued interest	76

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Current portion of long-term debt	15,460
Long-term debt	4,375
Deferred tax liability	7,815
Other liabilities	604
Minority interest	4,365
Total liabilities assumed	<u>161,703</u>
Enterprise value	132,397
Less fair value of noncontrolling interest	53,647
Purchase price attributable to controlling interest	<u>\$ 78,750</u>

The acquisition of Schuff resulted in goodwill of approximately \$24.6 million. Goodwill was the excess of the consideration transferred over the net assets recognized and represents the future economic benefits arising from other assets acquired that could not be individually identified and separately recognized. Goodwill was recognized as a new stand-alone reporting unit. Goodwill is not amortized and is not deductible for tax purposes.

The acquired amortizable intangible assets and the related estimated useful lives consist of the following (in thousands):

	<u>Preliminary Estimated Useful Lives</u>	<u>Preliminary Estimated Value May 29, 2014</u>
Trade names	15 years	\$ 4,478
Total intangible assets		<u>\$ 4,478</u>

ANG

On August 1, 2014, the Company paid \$15.5 million to acquire 15,500 shares of Series A Convertible Preferred Stock of ANG, representing an approximately 51% interest in ANG. ANG is a premier distributor of natural gas motor fuel headquartered in the Northeast that designs, builds, owns, operates and maintains compressed natural gas fueling stations for transportation. The Company acquired ANG for its strong growth potential which is in line with the Company's strategy to find investments that can generate high returns and significant cash flow.

The transaction was accounted for using the acquisition method of accounting. The table below summarizes the preliminary estimates of fair value of the ANG assets acquired and liabilities assumed as of the acquisition date. Any changes to the initial estimates of the fair value of the assets and liabilities will be recorded as adjustments to those assets and liabilities and residual amounts will be allocated to goodwill. In accordance with ASC 805, if additional information is obtained about these assets and liabilities within the measurement period (not to exceed one year from the date of acquisition), including finalization of asset appraisals, the Company will refine its estimates of fair value to allocate the purchase price more accurately. The purchase price of ANG was valued at \$17.7 million which represented both the cash paid by the Company for its 51% interest, and the fair value of the noncontrolling interest of 49%.

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The preliminary purchase price allocation is as follows (in thousands):

Cash and cash equivalents	\$15,704
Accounts receivable	306
Prepaid expenses and other current assets	31
Inventories	27
Property and equipment, net	1,921
Customer contracts	2,700
Trade names	6,300
Other assets	2
Total assets acquired	<u>26,991</u>
Accounts payable	49
Accrued payroll and employee benefits	5
Accrued expenses and other current liabilities	26
Billings in excess of costs and recognized earnings on uncompleted contracts	114
Current portion of long-term debt	34
Long-term debt	870
Deferred tax liability	3,530
Total liabilities assumed	<u>4,628</u>
Fair value of net assets acquired	22,363
Purchase price	<u>17,689</u>
Excess of fair value of net assets over purchase price	<u>\$ 4,674</u>

The acquisition of ANG resulted in an excess of the fair value of the net assets acquired over the purchase price of \$4.7 million. The Company does not believe that the circumstances surrounding the transaction give rise to a bargain purchase due to the related party nature of the transaction. The existing shareholders of ANG continue to manage the day-to-day operations and own the non-controlling interest. Accordingly, management has recorded the excess of the fair value of the assets acquired over the purchase price in additional paid-in capital.

The acquired amortizable intangible assets and the related estimated useful lives consist of the following (in thousands):

	<u>Preliminary Estimated Useful Lives</u>	<u>Preliminary Estimated Value August 1, 2014</u>
Customer contracts	10 years	\$ 2,700
Trade names	10 years	6,300
Total intangible assets		<u>\$ 9,000</u>

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GMSL

On September 22, 2014, the Company completed the acquisition of Bridgehouse and its subsidiary, GMSL. The purchase price reflects an enterprise value of approximately \$260 million, including assumed indebtedness. GMSL is a leading provider of engineering and underwater services on submarine cables. The Company acquired GMSL for its attractive valuation and strong cash position.

The transaction was accounted for using the acquisition method of accounting. The table below summarizes the preliminary estimates of fair value of the GMSL assets acquired and liabilities assumed as of the acquisition date. Any changes to the initial estimates of the fair value of the assets and liabilities will be recorded as adjustments to those assets and liabilities and residual amounts will be allocated to goodwill. In accordance with ASC 805, if additional information is obtained about these assets and liabilities within the measurement period (not to exceed one year from the date of acquisition), including finalization of asset appraisals, the Company will refine its estimates of fair value to allocate the purchase price more accurately. Specifically, the values for goodwill, customer contracts, trade name, developed technology and investments may change. The net enterprise value of GMSL was valued at \$131.4 million which represented both the cash paid by the Company for its 97% interest, and the fair value of the noncontrolling interest of 3%.

The preliminary purchase price allocation is as follows (in thousands):

Cash and cash equivalents	\$ 62,555
Accounts receivable	26,183
Prepaid expenses and other current assets	9,886
Inventories	7,395
Restricted cash	4,682
Property and equipment, net	156,976
Goodwill	7,523
Customer contracts	3,736
Trade name	2,761
Developed technology	1,299
Investments	32,025
Other assets	7,482
Total assets acquired	<u>322,503</u>
Accounts payable	8,965
Accrued expenses and other current liabilities	33,786
Accrued income taxes	1,251
Current portion of long-term debt	8,140
Long-term debt	78,356
Pension liability	45,923
Deferred tax liability	1,013
Other liabilities	1,178
Noncontrolling interest	12,498
Total liabilities assumed	<u>191,110</u>
Net enterprise value	131,393
Less fair value of noncontrolling interest	3,757
Purchase price attributable to controlling interest	<u>\$127,636</u>

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The acquisition of GMSL resulted in goodwill of approximately \$7.5 million. Goodwill was the excess of the consideration transferred over the net assets recognized and represents the future economic benefits arising from other assets acquired that could not be individually identified and separately recognized. Goodwill was recognized as a new stand-alone reporting unit. Goodwill is not amortized and is not deductible for tax purposes. The values for goodwill, customer contracts, trade name, developed technology and investments are estimates and may change.

The acquired amortizable intangible assets and the related estimated useful lives consist of the following (in thousands):

	Preliminary Estimated Useful Lives	Preliminary Estimated Value September 22, 2014
Customer contracts	4 years	\$ 3,736
Trade name	15 years	2,761
Developed technology	8 years	1,299
Total intangible assets		<u>\$ 7,796</u>

Pro Forma Adjusted Summary

The results of operations for Schuff, ANG, and GMSL have been included in the condensed consolidated financial statements subsequent to their acquisition dates. The Company determined that the results of operation for GMSL for the period September 22, 2014—September 30, 2014 were immaterial and therefore did not include GMSL's results of operations in the condensed consolidated statements of operations for the three and nine months ended September 30, 2014. Under the acquisition method of accounting, the total purchase price was allocated to the tangible and intangible assets acquired on the basis of their respective estimated fair values at the dates of acquisition. The valuation of the identifiable intangible assets and their useful lives acquired reflects management's estimates.

The following schedule presents unaudited consolidated pro forma results of operations data as if the acquisitions had occurred on January 1, 2013. This information does not purport to be indicative of the actual results that would have occurred if the acquisitions had actually been completed on the date indicated, nor is it necessarily indicative of the future operating results or the financial position of the combined company (in thousands, except per share amounts):

	Three Months Ended September 30,	
	2014	2013
Net revenue	\$ 223,595	\$ 212,021
Net income (loss) from continuing operations	(15,075)	4,056
Net income (loss) from discontinued operations	(106)	(21,669)
Gain (loss) from sale of discontinued operations	663	15,650
Net income (loss) attributable to HC2 Holdings, Inc.	<u>\$ (14,518)</u>	<u>\$ (1,963)</u>

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	Nine Months Ended September 30,	
	2014	2013
Net revenue	\$630,230	\$590,176
Net income (loss) from continuing operations	(619)	18,890
Net income (loss) from discontinued operations	(94)	(19,850)
Gain (loss) from sale of discontinued operations	(121)	150,695
Net income (loss) attributable to HC2 Holdings, Inc.	<u>\$ (834)</u>	<u>\$ 149,735</u>

All expenditures incurred in connection with the acquisitions were expensed and are included in selling, general and administrative expenses. Transaction costs incurred in connection with the Schuff acquisition were \$0.3 million during the nine months ended September 30, 2014. Transaction costs incurred in connection with the GMSL acquisition were \$4.3 million during the nine months ended September 30, 2014. The results of operations for Schuff, ANG, and GMSL have been included in the condensed consolidated results of operations from the respective acquisition dates through September 30, 2014. The Company recorded revenue of \$137.7 million and \$192.2 million and net income of \$3.5 million and \$6.1 million from Schuff for the three and nine months ended September 30, 2014, respectively. The Company recorded revenue of \$0.5 million and net loss of \$0.4 million from ANG for the three and nine months ended September 30, 2014.

6. INVESTMENTS

As of September 30, 2014, the Company had both current and long-term investments. The current investments are classified as available-for-sale securities and the change in value is recognized within accumulated other comprehensive income (loss). The fair market value is determined using quoted market prices (a Level 1 approach). The long-term investments are comprised of two types of investments; those accounted for under the equity method of accounting and investments in debt securities.

The long-term investments accounted for under the equity method of accounting include the following:

- \$32.0 million for investments in various joint ventures by GMSL;
- \$14.2 million in Novatel Wireless, Inc. for a combination of common stock, warrants and convertible preferred stock. The Company received (i) 7,363,334 shares of common stock at a stock price of \$1.75 per share, (ii) 5-year warrants to purchase an additional 4,117,647 shares of common stock at an exercise price of \$2.26 per share and (iii) 87,196 shares of Series C Convertible Preferred Stock at a price of \$17.50 per share. The Company's initial ownership stake is approximately 17%; and
- \$1.2 million in Kaneland LLC for stock under a subscription agreement representing a 35% ownership interest.

During the three and nine months ended September 30, 2014, the Company recorded \$0.3 million of equity in net loss from these investments. As of September 30, 2014, the net book value of the equity method investments was \$47.1 million. The long-term investments in debt securities include \$0.3 million of convertible debt of mParticle.

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7. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consist of the following (in thousands):

	September 30, 2014	December 31, 2013
Land	\$ 18,262	\$ —
Buildings	22,183	—
Building and leasehold improvements	7,804	386
Plants	2,451	—
Cable-ships and submersibles	147,426	—
Network equipment	5,273	5,303
Machinery and equipment	29,821	—
Transportation equipment	1,214	—
Furniture and fixtures	2,074	380
EDP equipment	1,978	—
Construction in progress	4,520	—
	<u>243,006</u>	<u>6,069</u>
Less accumulated depreciation and amortization	3,444	3,107
	<u>\$ 239,562</u>	<u>\$ 2,962</u>

Depreciation expense was \$2.8 million and \$3.8 million for the three and nine months ended September 30, 2014, respectively. Depreciation expense was immaterial for the three and nine months ended September 30, 2013 as a result of the property, plant and equipment of ICS being included in assets held for sale.

As of September 30, 2014 and December 31, 2013, total equipment under capital leases consisted of \$71.0 million and \$0, respectively, of cable-ships and submersibles.

8. ACCOUNTS PAYABLE

Accounts payable consists of the following (in thousands):

	September 30, 2014	December 31, 2013
Accounts payable	\$ 52,064	\$ 6,964
Retentions payable	3,747	—
	<u>\$ 55,811</u>	<u>\$ 6,964</u>

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9. LONG-TERM OBLIGATIONS

Long-term debt consists of the following (in thousands):

	<u>September 30, 2014</u>	<u>December 31, 2013</u>
Note payable collateralized by the Company's assets, with interest payable quarterly based on alternate base rate or LIBOR plus applicable margin (starting at 7.5% for alternate base rate and 8.5% for LIBOR) and increases by 25 basis points every quarter with principal due in 2016	207,025	—
Note payable collateralized by GMSL's assets, with interest payable monthly at LIBOR plus 3.5% and principal payable monthly, maturing in 2019	17,913	—
Note payable to a bank under a revolving line of credit agreement, collateralized by Schuff's assets, with interest payable monthly at the LIBOR plus 3%, maturing in 2019	13,610	—
Note payable collateralized by Schuff's real estate, with interest payable monthly at LIBOR plus 4% and principal payable monthly, maturing in 2019	4,792	
Note payable collateralized by ANG's assets, with interest payable monthly at 5.5% and principal payable monthly, maturing in 2018	846	
Obligations under capital leases	68,584	
Other	32	—
	<u>312,802</u>	<u>—</u>
Less current portion	22,408	—
	<u>\$ 290,394</u>	<u>\$ —</u>

Aggregate debt maturities are as follows (in thousands):

2014	17,599
2015	14,296
2016	216,275
2017	12,796
2018	19,141
Thereafter	32,695
	<u>\$312,802</u>

Redemption of 10% Notes, 10% Exchange Notes and 13% Notes and Satisfaction and Discharge of Related Indentures

On August 30, 2013, PTGi International Holding, Inc. (f/k/a Primus Telecommunications Holding, Inc. "PTHI"), consummated the redemption of approximately \$125.3 million of its 10% Senior Secured Notes due 2017 (the "10% Notes") and 10% Senior Secured Exchange Notes due 2017 (the "10% Exchange Notes"). The

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\$125.3 million consisted of approximately \$12.7 million in aggregate principal amount of its 10% Notes at a redemption price equal to 106.50% of the principal amount thereof and \$112.6 million in aggregate principal amount of its 10% Exchange Notes at a redemption price equal to 100.00% of the principal amount thereof, plus accrued but unpaid interest to the date of redemption. PTHI thereby satisfied and discharged the indenture governing the 10% Notes and 10% Exchange Notes (the “10% Notes Indenture”), as a result of which all of the obligations of PTHI, as the issuer of the 10% Notes and 10% Exchange Notes, and the guarantors of the 10% Notes and 10% Exchange Notes (including HC2) under the 10% Notes Indenture ceased to be of further effect (subject to certain exceptions) and the liens on collateral of PTHI and the guarantors of the 10% Notes and 10% Exchange Notes securing such notes were released. In connection with the August 2013 10% Notes and 10% Exchange Notes redemption, the Company incurred \$0.8 million of premiums and other costs and wrote off \$0.8 million and \$14.8 million of deferred financing costs, respectively, and \$0.1 million and \$0.5 million of original issue discount, respectively, in the third quarter of 2013. Aside from the applicable redemption price, no other redemption premium was paid for the 10% Exchange Notes.

On August 30, 2013, PTHI and Primus Telecommunications Canada Inc. (“PTCI”) consummated the redemption of approximately \$2.4 million in aggregate principal amount of its 13% Senior Secured Notes due 2016 (the “13% Notes”) at a redemption price equal to 106.50% of the principal amount thereof, plus accrued but unpaid interest to the date of redemption. PTHI and PTCI thereby satisfied and discharged the indenture governing the 13% Notes (the “13% Notes Indenture”), as a result of which all of the obligations of PTHI and PTCI, as the issuers of the 13% Notes, and the guarantors of the 13% Notes (including HC2) under the 13% Notes Indenture ceased to be of further effect (subject to certain exceptions). Liens on collateral securing the 13% Notes had previously been released in connection with the amendment of the 13% Notes Indenture that became effective on July 7, 2011. In connection with the August 2013 13% Notes redemption, the Company incurred \$0.2 million of premiums and other costs and wrote off \$3.7 million of deferred financing costs and \$0.02 million of original issue discount in the third quarter of 2013.

Credit Facilities

On September 22, 2014, the Company entered into a senior secured credit facility providing for a twelve month term loan of \$214 million and a delayed draw term loan of \$36 million relating to its acquisition of GMSL pursuant to a Credit Agreement (the “Credit Agreement”) by and among HC2, certain subsidiary guarantors of HC2, the lenders party thereto from time to time, Jefferies LLC, as lead arranger, as book manager, as documentation agent for the lenders and as syndication agent for the lenders, and Jefferies Finance LLC, as administrative agent for the lenders and as collateral agent for the secured parties. The Company used a portion of these proceeds to finance the acquisition of GMSL and pay off HC2’s May Credit Facility and September Credit Facility. The Credit Agreement contains certain customary representations, affirmative covenants and negative covenants, including a financial covenant that requires HC2 to maintain a certain collateral coverage ratio and Schuff to maintain a minimum EBITDA and certain limitations on capital expenditures that may be made by each of HC2 and Schuff. Borrowings under the Credit Agreement will bear interest at a floating rate which can be, at HC2’s option, either (i) an alternate base rate (of not less than 2%) plus an applicable margin or (ii) a LIBOR borrowing rate for a specified interest period (of not less than 1%) plus an applicable margin. The applicable margin for borrowings under the Credit Agreement starts at 7.50% per annum for alternate base rate loans and 8.50% per annum for LIBOR loans and increases by 25 basis points every three months. The Company’s obligations under the Credit Agreement are secured by substantially all of the Company’s assets, other than the assets of Schuff, GMSL and their respective subsidiaries. The Credit Agreement contains various restrictive covenants. At September 30, 2014, the Company was in compliance with these covenants.

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Prior to the payoff of the May Credit Facility, the Company made partial principal payments according to covenants within the agreement that required that portions of escrows received and proceeds from the exercise of warrants be used to pay down the May Credit Facility. In connection with those partial prepayments, the Company wrote off \$0.1 million of deferred financing costs and \$1.9 million of original issue discount in the third quarter of 2014. In connection with the payoff of the remaining balance of the May Credit Facility, the Company incurred \$0.9 million of prepayment premiums and wrote off \$0.3 million of deferred financing costs and \$2.5 million of original issue discount in the third quarter of 2014. In connection with the payoff of the September Credit Facility, the Company wrote off \$0.4 million of deferred financing costs and \$0.8 million of original issue discount in the third quarter of 2014.

Schuff has a Credit and Security Agreement (the “Credit Facility”) with Wells Fargo Credit, Inc. (“Wells Fargo”). On May 5, 2014, Schuff amended its Credit Facility, pursuant to which Wells Fargo extended the maturity date of the Credit Facility to April 30, 2019, lowered the interest rate charged in connection with borrowings under the line of credit and allowed for the issuance of a note payable totaling \$5,000,000, collateralized by its real estate (“Real Estate Term Advance”). The Real Estate Term Advance has a 5 year amortization period requiring monthly principal payments and a final balloon payment at maturity. The Real Estate Term Advance has a floating interest rate of LIBOR plus 4.0% and requires monthly interest payments. The proceeds of the Real Estate Term Advance, in conjunction with cash generated from operations and borrowings under the Credit Facility, were used to pay the remaining balance of the previous real estate term loan issued under the Credit Facility. On September 26, 2014 and October 21, 2014, Schuff amended the Schuff Facility to allow for a new \$15.0 million term loan to be used for equipment financing and working capital requirements related to a recent project award. The new term loan has a five-year amortization period with terms substantially similar to the Real Estate Term Advance. The October 21, 2014 amendment also reduces the restrictions on dividend payments to shareholders. The amendment allows dividends to be paid to Schuff shareholders up to four times a year, subject to the following conditions: (a) the consent of Wells Fargo, which is the Schuff Facility lender (which consent shall not be unreasonably withheld); (b) maintenance of a fixed charge ratio of 1.20 to 1; (c) a minimum excess availability under the Schuff Facility of \$10 million before and after the payment of a dividend and (d) Schuff is not in default under the Schuff Facility at the time of the dividend payment. The Credit Facility is secured by a first priority, perfected security interest in all of Schuff’s assets, excluding the real estate, and its present and future subsidiaries and a second priority, perfected security interest in all of Schuff’s real estate. The security agreements pursuant to which Schuff’s assets are pledged prohibit any further pledge of such assets without the written consent of the bank. The Credit Facility has a floating interest rate of LIBOR plus 3.00% (3.23% at September 28, 2014) and requires monthly interest payments. The Credit Facility contains various restrictive covenants. At September 30, 2014, Schuff was in compliance with these covenants.

SHE has a Line of Credit Agreement (the “International LOC”) with Banco General, S.A. (“Banco General”) in Panama pursuant to which Banco General agreed to advance up to a maximum amount of \$3,500,000. On October 30, 2014, Banco General sent a notification that they were reducing the line of credit from \$3,500,000 to \$2,000,000. The line of credit is secured by a first priority, perfected security interest in SHE’s property and plant. The interest rate is 5.25% plus 1% of the special interest compensation fund (“FECCI”). The line of credit contains covenants that, among other things, limit SHE’s ability to incur additional indebtedness, change its business, merge, consolidate or dissolve and sell, lease, exchange or otherwise dispose of its assets, without prior written notice.

GMSL established a term loan with DVB Bank in January 2014. This term loan has a 4.5 year term and bears interest at the rate of 3.65% plus the USD LIBOR rate. As of September 30, 2014, £11,028,736 in principal amount (the equivalent of \$17,912,516 based on conversion rates in effect as of September 30, 2014) remained outstanding under this term loan.

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At September 30, 2014, the Company had \$312.8 million of borrowings and \$3.9 million of outstanding letters of credit issued under its credit facilities. There was \$32.5 million available under the Schuff Credit Facility at September 30, 2014. At September 30, 2014, Schuff had no borrowings and no outstanding letters of credit issued under its International LOC. There was \$3.5 million available under Schuff's International LOC at September 30, 2014.

GMSL Capital Leases

GMSL is a party to two leases to finance the use of two vessels: the Innovator (such applicable lease, the "Innovator Lease") and the Cable Retriever (such applicable lease, the "Cable Lease," and together with the Innovator Lease, the "GMSL Leases"). The Innovator Lease expires in 2018, subject to the Company's ability to extend the Innovator Lease for four one-year periods through 2022. The principal amount thereunder bears interest at the rate of approximately 10.4%. The Cable Lease expires in 2023. The principal amount thereunder bears interest at the rate of approximately 4.0%.

As of September 30, 2014, £42,227,000 in aggregate principal amount (the equivalent of \$68,583,786 based on conversion rates in effect as of September 30, 2014) remained outstanding under the GMSL Leases.

10. INCOME TAXES

Income Tax Expense/Benefit

Income tax expense was \$4.5 million and \$6.5 million for the three and nine months ended September 30, 2014, respectively and income tax benefit of \$3.3 million and \$3.1 million for the three and nine months ended September 30, 2013, respectively. The increase in tax expense was due primarily to the taxable income at Schuff.

NOL Limitation

As of September 30, 2014, the Company had an estimated NOL carryforward in the amount of \$195 million. This amount does not include 2014 activity. In the first quarter of 2014, substantial acquisitions of HC2 stock were reported by new beneficial owners of 5% or more of the Company's common stock on Schedule 13D filings made with the SEC. On May 29, 2014, the Company issued 30,000 shares of Series A Preferred Stock and 1,500,000 shares of common stock to finance the acquisition of Schuff. During the second quarter the Company completed a Section 382 review. The conclusions of this review indicate that an ownership change had occurred as of May 29, 2014. The Company's annual Section 382 base limit following the ownership change is estimated to be \$2.16 million per year. The Company also determined that it had a net unrealized built in gain (NUBIG) at the time of the change. Pursuant to Internal Revenue Code Section 382(h), the Company is able to increase its Section 382 annual base limitation by an incremental limitation estimated to be a total of \$7.1 million in the first five years following the ownership change. On this basis the annual limitation for the first five years is estimated to be \$3.58 million, decreasing to \$2.16 million for the subsequent 15 years.

Unrecognized Tax Benefits

The Company follows the provision of ASC No. 740-10, "Income Taxes" which prescribes a comprehensive model for how a company should recognize, measure, present, and disclose in its financial statements uncertain tax positions that the Company has taken or expects to take on a tax return. The Company is subject to challenge from various taxing authorities relative to certain tax planning strategies, including certain intercompany transactions as well as regulatory taxes. It is expected that the amount of unrecognized tax benefits, reflected in

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the Company's financial statements, will change in the next twelve months; however, the Company does not expect the change to have a significant impact on the results of operations or the financial position of the Company. During the three and nine months ended September 30, 2014, penalties and interest were immaterial.

Examinations

The Company conducts business globally, and as a result, HC2 or one or more of its subsidiaries files income tax returns in the United States federal jurisdiction and various state and foreign jurisdictions. In the normal course of business the Company is subject to examination by taxing authorities throughout the world. The Company is currently under examination in various domestic and foreign tax jurisdictions, which when resolved, are not expected to have a material effect on its condensed consolidated financial statements.

The following table summarizes the open tax years for each major jurisdiction:

<u>Jurisdiction</u>	<u>Open Tax Years</u>
United States Federal	2002—2013
United Kingdom	2005—2013
Netherlands	2008—2013

11. COMMITMENTS AND CONTINGENCIES

Future minimum lease payments under non-cancellable operating leases as of September 30, 2014 are as follows (in thousands):

<u>Year Ending December 31,</u>	<u>Operating Leases</u>
2014 (as of September 30, 2014)	\$ 1,235
2015	4,448
2016	3,817
2017	3,048
2018	2,264
Thereafter	12,393
Total long-term obligations	<u>\$ 27,205</u>

The Company has contractual obligations to utilize an external vendor for certain customer support functions and to utilize network facilities from certain carriers with terms greater than one year.

The Company's rent expense under operating leases was \$0.8 million and \$4.2 million for the three and nine months ended September 30, 2014, respectively and \$0.5 million and \$2.2 million for the three and nine months ended September 30, 2013, respectively. The rent expense for the three and nine months ended September 30, 2014 includes costs associated with the terminations of facilities leases.

Litigation

The Company is subject to claims and legal proceedings that arise in the ordinary course of business. Such matters are inherently uncertain, and there can be no guarantee that the outcome of any such matter will be decided favorably to the Company or that the resolution of any such matter will not have a material adverse

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effect upon the Company's business, consolidated financial position, results of operations or cash flow. The Company does not believe that any of such pending claims and legal proceedings will have a material adverse effect on its business, consolidated financial position, results of operations or cash flow.

12. EMPLOYEE RETIREMENT PLANS

HC2 and Schuff each maintain a 401(k) retirement savings plan which covers eligible employees and permits participants to contribute to the plan, subject to Internal Revenue Code restrictions and which features matching contributions.

Certain of Schuff's fabrication and erection workforce are subject to collective bargaining agreements. Schuff contributes to union-sponsored, multi-employer pension plans. Contributions are made in accordance with negotiated labor contracts. The passage of the Multi-Employer Pension Plan Amendments Act of 1980 (the "Act") may, under certain circumstances, cause Schuff to become subject to liabilities in excess of contributions made under collective bargaining agreements. Generally, liabilities are contingent upon the termination, withdrawal, or partial withdrawal from the plans. Under the Act, liabilities would be based upon Schuff's proportionate share of each plan's unfunded vested benefits.

Effective March 31, 2012, Schuff withdrew from the Steelworkers Pension Trust and incurred an initial withdrawal liability of approximately \$2.6 million. During 2013, Schuff negotiated with the Steelworkers Pension Trust and reduced the liability to approximately \$2.4 million. Schuff is required to make quarterly payments of approximately \$0.2 million through September 1, 2015. The remaining balance of the withdrawal liability at September 30, 2014 was approximately \$0.8 million, and is included in other liabilities (current and long-term) in the condensed consolidated balance sheets. Prior to its withdrawal from the Steelworkers Pension Trust, Schuff made contributions of \$0.2 million during the year ended December 30, 2012.

Schuff made contributions to the California Ironworkers Field Pension Trust ("Field Pension") of \$1.1 million during the nine months ended September 30, 2014. Schuff's funding policy is to make monthly contributions to the plan. Schuff's employees represent less than 5% of the participants in the Field Pension. As of September 30, 2014, Schuff has not undertaken to terminate, withdraw, or partially withdraw from the Field Pension.

To replace the benefits associated with the Steelworkers Pension Trust upon Schuff's withdrawal from that plan, Schuff agreed to make profit share contributions to a 401(k) defined contribution retirement savings plan (the "Union 401k") for union steelworkers. Contributions made to the Union 401k by union steelworkers are 100% vested immediately. Union steelworkers are eligible for the profit share contributions after completing a probationary period (640 hours of work) and are 100% vested in the profit share contributions three years from the date of hire. Union steelworkers are not required to make contributions to the Union 401(k) to receive the profit share contributions. Profit share contributions are made for each hour worked by each eligible union steelworker at the following rates: \$0.50 per hour from April 1, 2013 to March 31, 2014 and \$0.55 per hour from April 1, 2014 and beyond. Profit share contributions amounted to approximately \$50,000 for the nine months ended September 30, 2014.

13. SHARE-BASED COMPENSATION

On April 11, 2014, HC2's Board of Directors adopted the HC2 Holdings, Inc. 2014 Omnibus Equity Award Plan (the "Omnibus Plan"), which was approved by our stockholders at the annual meeting of stockholders held on June 12, 2014. The Omnibus Plan provides that no further awards will be granted pursuant to HC2's

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Management Compensation Plan, as amended (the “Prior Plan”). However, awards that had been previously granted pursuant to the Prior Plan will continue to be subject to and governed by the terms of the Prior Plan. As of September 30, 2014, there were 472,002 shares of HC2 common stock underlying outstanding awards under the Prior Plan.

The Compensation Committee (the “Committee”) of the Board of Directors of HC2 administers HC2’s Omnibus Plan and the Prior Plan and has broad authority to administer, construe and interpret the plans.

The Omnibus Plan provides for the grant of awards of non-qualified stock options, incentive (qualified) stock options, stock appreciation rights, restricted stock awards, restricted stock units, other stock based awards, performance compensation awards (including cash bonus awards) or any combination of the foregoing. HC2 typically issues new shares of common stock upon the exercise of stock options, as opposed to using treasury shares. The Omnibus Plan authorizes the issuance of up to 5,000,000 shares of HC2 common stock, subject to adjustment as provided in the Omnibus Plan.

The Company follows guidance which addresses the accounting for share-based payment transactions whereby an entity receives employee services in exchange for either equity instruments of the enterprise or liabilities that are based on the fair value of the enterprise’s equity instruments or that may be settled by the issuance of such equity instruments. The guidance generally requires that such transactions be accounted for using a fair-value based method and share-based compensation expense be recorded, based on the grant date fair value, estimated in accordance with the guidance, for all new and unvested stock awards that are ultimately expected to vest as the requisite service is rendered.

There were 1,645,685 and 690,948 options granted during the nine months ended September 30, 2014 and 2013, respectively. Of the 1,645,685 options granted during the nine months ended September 30, 2014, 1,568,864 of such options were granted to Philip Falcone on May 21, 2014, in connection with his appointment as Chairman, President and Chief Executive Officer of HC2. These options were issued pursuant to a standalone option agreement with Mr. Falcone and not pursuant to the Omnibus Plan. The weighted average fair value at date of grant for options granted during the nine months ended September 30, 2014 was \$1.40 per option. The fair value of each option grant was estimated on the date of grant using the Black-Scholes option-pricing model with the following assumptions shown as a weighted average for the year:

	Nine Months Ended September 30,	
	2014	2013
Expected option life	6 years	4 - 5.75 years
Risk-free interest rate	1.96% - 2.73%	1.17 - 1.73%
Expected volatility	36.74% - 37.80%	35.55 - 37.23%
Dividend yield	0%	0%

Total share-based compensation expense recognized by the Company was \$0.7 million and \$1.7 million for the three and nine months ended September 30, 2014, respectively and \$0.2 million and \$1.7 million for the three and nine months ended September 30, 2013, respectively. Most of HC2’s stock awards vest ratably during the vesting period. The Company recognizes compensation expense for equity awards, reduced by estimated forfeitures, using the straight-line basis.

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Restricted Stock

A summary of HC2's restricted stock activity during the nine months ended September 30, 2014 is as follows:

	<u>Shares</u>	<u>Weighted Average Grant Date Fair Value</u>
Unvested—December 31, 2013	22,500	\$ 13.59
Granted	345,761	\$ 4.05
Vested	(133,833)	\$ 5.52
Forfeitures	—	\$ —
Unvested—September 30, 2014	<u>234,428</u>	<u>\$ 4.14</u>

As of September 30, 2014, the unvested restricted stock represented \$0.9 million of compensation expense that is expected to be recognized over the weighted average remaining vesting period of 1.7 years. The number of shares of unvested restricted stock expected to vest is 234,428.

Stock Options

A summary of HC2's stock option activity during the nine months ended September 30, 2014 is as follows:

	<u>Shares</u>	<u>Weighted Average Exercise Price</u>
Outstanding—December 31, 2013	589,859	\$ 3.17
Granted	1,645,685	\$ 4.53
Exercised	(230,300)	\$ 2.43
Forfeitures	(229,901)	\$ 4.47
Outstanding—September 30, 2014	<u>1,775,343</u>	<u>\$ 4.45</u>
Eligible for exercise	<u>667,566</u>	<u>\$ 4.32</u>

The following table summarizes the intrinsic values and remaining contractual terms of HC2's stock options:

	<u>Intrinsic Value</u>	<u>Weighted Average Remaining Life in Years</u>
Options outstanding—September 30, 2014	\$175,238	9.5
Options exercisable—September 30, 2014	\$144,260	9.2

During the nine months ended September 30, 2014, the intrinsic value of the exercised options was \$0.3 million. As of September 30, 2014, the Company had 1,107,777 unvested stock options outstanding of which \$1.4 million of compensation expense is expected to be recognized over the weighted average remaining vesting period of 1.6 years. The number of unvested stock options expected to vest is 1,107,777 shares, with a weighted average remaining life of 9.5 years, a weighted average exercise price of \$4.45, and an intrinsic value of \$0.2 million.

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14. EQUITY

As of September 30, 2014 and December 31, 2013, there were 23,658,190 and 14,225,919 shares of common stock outstanding, respectively. As of September 30, 2014 and December 31, 2013, there were 41,000 and 0 shares of Preferred Stock outstanding, respectively.

Class A and B Warrants

In July 2009, HC2 issued (A) Class A warrants (the “Class A Warrants”) to purchase shares of HC2’s common stock, which were divided into three separate series (Class A-1, Class A-2 and Class A-3 Warrants), each of which series consisted of 1,000,000 warrants to purchase an original aggregate amount of up to 1,000,000 shares of HC2 common stock; and (B) Class B warrants (the “Class B Warrants”) and, together with the Class A Warrants, the “Warrants”) to purchase an original aggregate amount of up to 1,500,000 shares of HC2 common stock. In connection with the issuance of the Warrants, HC2 entered into a Warrant Agreement for each of the Class A Warrants and the Class B Warrants, in each case with Broadridge Financial Solutions, Inc. (successor-in-interest to StockTrans, Inc.), as warrant agent. The Warrants had a five-year term which expired on July 1, 2014. As a result of special cash dividends paid in 2012 and 2013, antidilution adjustment provisions were triggered and the original exercise price and the number of shares of HC2 common stock issuable upon exercise were adjusted.

There were 878,940 Class A-1 Warrants exercised during the nine months ended September 30, 2014, resulting in the issuance of 3,855,289 shares of HC2’s common stock. There were 780,753 Class A-2 Warrants exercised during the nine months ended September 30, 2014, resulting in the issuance of 3,424,641 shares of HC2’s common stock. There were 5,709 Class A-3 Warrants exercised during the nine months ended September 30, 2014, resulting in the issuance of 25,041 shares of HC2’s common stock. The warrants expired on July 1, 2014.

Preferred and Common Stock

On May 29, 2014, HC2 issued 30,000 shares of Series A Preferred Stock and 1,500,000 shares of common stock, the proceeds of which were used to pay for a portion of the purchase price for the acquisition of Schuff. On September 22, 2014, HC2 issued 11,000 shares of Series A-1 Preferred Stock (together with the Series A Preferred Stock, the “Preferred Stock”). Each share of Series A-1 Preferred Stock is convertible at a conversion price of \$4.25. In connection with the issuance of the Series A-1 Preferred Stock, HC2 amended the certificate of designation governing the Series A Preferred Stock on September 22, 2014, which changed the applicable conversion price from \$4.25 to \$4.00, reflected the issuance of the Series A-1 Preferred Stock as a class of preferred stock which ranks at parity with the Series A Preferred Stock and made certain other changes to conform the terms of the Series A Preferred Stock to those of the Series A-1 Preferred Stock. The conversion prices for the Preferred Stock are subject to adjustments for dividends, certain distributions, stock splits, combinations, reclassifications, reorganizations, mergers, recapitalizations and similar events. The Preferred Stock will accrue a cumulative quarterly cash dividend at an annualized rate of 7.5%. The accrued value of the Preferred Stock will accrete quarterly at an annualized rate of 4% that will be reduced to 2% or 0% if the Company achieves specified rates of growth measured by increases in its net asset value.

The Company recorded a beneficial conversion feature on both of its Series A and Series A-1 Preferred Stock as a result of the fair market value of the Company’s common stock exceeding the conversion price. The Company recorded a \$0.3 million beneficial conversion feature on its Series A-1 Preferred Stock which was calculated using the intrinsic value (\$4.36—\$4.25) multiplied by the number of convertible common shares

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(\$11,000,000 / \$4.25). The Company recorded a \$0.4 million beneficial conversion feature on its Series A Preferred Stock as a result of the adjustment to the conversion price from \$4.25 to \$4.00. The beneficial conversion feature was calculated using the intrinsic value (\$4.05—\$4.00) multiplied by the number of convertible common shares (\$30,000,000 / \$4.00).

Each share of Preferred Stock may be converted by the holder into common stock at any time based on the then-applicable conversion price. On the seventh anniversary of the issue date of the Series A Preferred Stock, holders of the Preferred Stock shall be entitled to cause the Company to redeem the Preferred Stock at the accrued value per share plus accrued but unpaid dividends. Each share of Preferred Stock that is not so redeemed will be automatically converted into shares of common stock at the conversion price then in effect. Upon a change of control, holders of the Preferred Stock shall be entitled to cause HC2 to redeem their Preferred Stock at a price per share equal to the greater of (i) the accrued value of the Preferred Stock, which amount would be multiplied by 150% in the event of a change in control occurring on or prior to the third anniversary of the issue date of the Series A Preferred Stock plus and accrued but unpaid dividends and (ii) the value that would be received if the share of Preferred Stock were converted into common stock immediately prior to the change of control.

At any time after the third anniversary of the issue date of the Series A Preferred Stock, HC2 may redeem the Preferred Stock, in whole but not in part, at a price per share generally equal to 150% of the accrued value per share plus accrued but unpaid dividends. After the third anniversary of the issue date of the Series A Preferred Stock, HC2 may force conversion of the Preferred Stock into common stock if the common stock's thirty-day volume-weighted average price ("VWAP") exceeds 150% of the then-applicable conversion price and the common stock's daily VWAP exceeds 150% of the then-applicable conversion price for at least twenty trading days out of the thirty trading day period used to calculate the thirty-day VWAP.

In periods when the Company generates income, the Company calculates basic earnings per share using the two-class method, pursuant to ASC No. 260, "Earnings Per Share." The two-class method is required as the shares of the Company's Preferred Stock qualify as participating securities, having the right to receive dividends should dividends be declared on common stock. Under this method, earnings for the period are allocated on a pro-rata basis to the common stockholders and to the holders of preferred stock based on the weighted average number of common shares outstanding and the number of shares that could be converted. The Company does not use the two-class method in periods when it generates a loss as the holders of the Preferred Stock do not participate in losses.

15. FAIR VALUE OF FINANCIAL INSTRUMENTS AND DERIVATIVES

The carrying amounts reported in the condensed consolidated balance sheets for cash and cash equivalents, accounts receivable, inventory, costs and recognized earnings in excess of billings, accounts payable, accrued expenses, billings in excess of costs and recognized earnings, and other current assets and liabilities approximate fair value due to relatively short periods to maturity. The Company's investments in available-for-sale securities, recorded at fair value using quoted market prices (a Level 1 approach), as of September 30, 2014 was \$3.3 million. The estimated aggregate fair value of the Company's debt, based on significant other observable inputs (a Level 2 approach) approximated its carrying value of \$312.8 million at September 30, 2014.

16. OPERATING SEGMENT AND RELATED INFORMATION

The Company currently has two primary reportable geographic segments—United States and United Kingdom; and Other. The Company has five reportable operating segments based on management's

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organization of the enterprise—Telecommunications, Life Sciences, Manufacturing, Marine Services and Utilities. The Company also has non-operating Corporate segment. Net revenue and long-lived assets by geographic segment is reported on the basis of where the entity is domiciled. All inter-segment revenues are eliminated. The Company has no single customer representing greater than 10% of its revenues. The Company determined that the results of operation for GMSL for the period September 22, 2014 – September 30, 2014 were immaterial and therefore did not include GMSL's results of operations in the condensed consolidated statements of operations for the three and nine months ended September 30, 2014.

Summary information with respect to the Company's geographic and operating segments is as follows (in thousands):

	Three Months Ended		Nine Months Ended	
	September 30, 2014	September 30, 2013	September 30, 2014	September 30, 2013
Net Revenue by Geographic Region				
United States	\$ 161,402	\$ 31,863	\$ 266,390	\$ 79,126
United Kingdom	15,678	29,214	49,360	99,361
Other	2,353	—	3,623	—
Total	<u>\$ 179,433</u>	<u>\$ 61,077</u>	<u>\$ 319,373</u>	<u>\$ 178,487</u>
Net Revenue by Segment				
Telecommunications	\$ 41,267	\$ 61,077	\$ 126,731	\$ 178,487
Manufacturing	137,706	—	192,182	—
Utilities	460	—	460	—
Total	<u>\$ 179,433</u>	<u>\$ 61,077</u>	<u>\$ 319,373</u>	<u>\$ 178,487</u>
Income (Loss) from Operations				
Telecommunications	(1,344)	(4,113)	(1,241)	(21,106)
Life Sciences	(495)	—	(1,430)	—
Manufacturing	10,716	—	14,843	—
Utilities	(758)	—	(758)	—
Corporate	(8,044)	—	(16,523)	—
Total	<u>\$ 75</u>	<u>\$ (4,113)</u>	<u>\$ (5,109)</u>	<u>\$ (21,106)</u>
Capital Expenditures				
Telecommunications	\$ 38	\$ 2,079	\$ 294	\$ 12,034
Manufacturing	3,321	—	3,707	—
Utilities	41	—	41	—
Corporate	—	—	22	—
Total	<u>\$ 3,400</u>	<u>\$ 2,079</u>	<u>\$ 4,064</u>	<u>\$ 12,034</u>

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The above capital expenditures exclude assets acquired under terms of capital lease and vendor financing obligations.

	September 30, 2014	December 31, 2013
Property, Plant and Equipment—Net		
United States	\$ 76,673	\$ 2,303
United Kingdom	157,357	659
Other	5,532	—
Total	\$ 239,562	\$ 2,962
	September 30, 2014	December 31, 2013
Assets		
United States	\$ 382,897	\$ 71,481
United Kingdom	334,284	16,199
Other	12,690	—
Total	\$ 729,871	\$ 87,680

17. BACKLOG

Schuff's backlog was \$409.7 million (\$278.7 million under contracts or purchase orders and \$131.0 million under letters of intent) at September 30, 2014. Schuff's backlog increases as contract commitments, letters of intent, notices to proceed and purchase orders are obtained, decreases as revenues are recognized and increases or decreases to reflect modifications in the work to be performed under the contracts, notices to proceed, letters of intent or purchase orders. Schuff's backlog can be significantly affected by the receipt, or loss, of individual contracts. Approximately \$243.6 million, representing 59.4% of Schuff's backlog at September 30, 2014, was attributable to five contracts, letters of intent, notices to proceed or purchase orders. If one or more of these large contracts or other commitments are terminated or their scope reduced, Schuff's backlog could decrease substantially.

18. DISCONTINUED OPERATIONS

On April 17, 2013, the Company completed the sale of its BLACKIRON Data business to Rogers Communications Inc., a Canadian telecommunications company, and its affiliates for CAD\$200.0 million (or approximately USD\$195.6 million giving effect to the currency exchange rate on the day of sale). The Company recorded a \$135.0 million gain from the sale of this segment during the second quarter of 2013. In addition, the purchase agreement contains customary indemnification obligations, representations, warranties and covenants for a transaction of this nature. In connection with the closing of the transaction, CAD\$20.0 million (or approximately USD\$19.5 million giving effect to the currency exchange rate on the day of sale) was retained from the purchase price and placed into escrow until July 17, 2014 for purposes of satisfying potential indemnification claims pursuant to the purchase agreement. The escrow has been recorded as part of prepaid expenses and other current assets in the condensed consolidated balance sheets. In July 2014, we received the escrow proceeds of \$19.5 million. A majority of the proceeds was used to pay down then-existing credit facilities.

On July 31, 2013, the Company completed the sale of Lingo, Inc., iPrimus, USA, Inc., 3620212 Canada Inc., PTCI, Telesonic Communications Inc., and Globility Communications Corporation to affiliates of York

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Capital Management, an investment firm (together “York”), for \$129 million. The sale of PTI was also contemplated as part of this transaction, subject to regulatory approval. The Company recorded a \$13.8 million gain from the sale of this segment during the year ended December 31, 2013. In addition, the purchase agreement contains customary indemnification obligations, representations, warranties and covenants for a transaction of this nature. Certain indemnification obligations are subject to a cap of \$12.9 million. The Company received \$126.0 million, net of \$15.25 million held in escrow as part of the initial closing, with an additional \$3.0 million held in escrow to be paid upon closing of the sale of PTI. The escrow has been recorded as part of prepaid expenses and other current assets in the condensed consolidated balance sheets. On July 31, 2014, having received the necessary regulatory approvals for PTI, we completed the divestiture of the remainder of our North America Telecom business. On July 31, 2014, the escrow proceeds of \$3.0 million were released and the Company recorded a \$0.7 million gain from the sale of PTI. A portion of the proceeds was used to pay down then-existing credit facilities.

Pursuant to the terms of the purchase agreement, \$6.45 million of the purchase price was placed in escrow to be released 14 months after the closing date, subject to any deductions required to satisfy indemnification obligations of HC2 under the purchase agreement. In addition, \$4.0 million of the purchase price was placed in escrow to cover any payments required in connection with the post-closing working capital and cash adjustments, of which \$3.2 million was disbursed to the Company and \$0.8 million was disbursed to the purchaser upon completion of such adjustments in February 2014. The \$0.8 million was recorded as an adjustment to the gain that was recorded in 2013, which resulted in a net gain from this transaction of \$13.0 million. Furthermore, \$4.8 million of the purchase price was placed in escrow to cover certain tax liabilities, which will be released after a positive ruling with respect to the underlying matter is received or 30 days after expiration of the applicable statute of limitations relating to the underlying matter. The \$6.45 million escrow deposit is recorded in prepaid expenses and other current assets, while the \$4.8 million escrow deposit is recorded in other assets in the condensed consolidated balance sheet as of September 30, 2014. In October 2014, we received the escrow proceeds of \$6.45 million.

The Company evaluated the remaining carrying value of North America Telecom, i.e. PTI, in the third quarter of 2013 which resulted in such carrying value being higher than its fair value less costs to sell by \$0.3 million and have attributed such adjustment to the long-lived assets of PTI. As the adjustment is related to North America Telecom, it is classified within income (loss) from discontinued operations, net of tax on the condensed consolidated statements of operations.

As a result of these events, the Company’s condensed consolidated financial statements reflect BLACKIRON Data and North America Telecom as well as PTHI’s interest expense and loss on early extinguishment or restructuring of debt, as discontinued operations for the three and nine months ended September 30, 2013. Accordingly, revenue, costs and expenses of the discontinued operations have been excluded from the respective captions in the condensed consolidated statements of operations. The net operating results of the discontinued operations have been reported, net of applicable income taxes as income or loss (where applicable) from discontinued operations. The assets and liabilities of the remaining portion of North America Telecom, PTI, have been classified as held for sale assets and liabilities. The held for sale assets and liabilities were removed from the specific line items on the condensed consolidated balance sheets as of December 31, 2013.

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Summarized operating results of the discontinued operations are as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Net revenue	\$ 971	\$ 17,789	\$7,439	\$128,988
Operating expenses	1,045	15,620	7,387	115,947
Income from operations	(74)	2,169	52	13,041
Interest expense	(14)	(2,848)	(17)	(11,357)
Gain (loss) on early extinguishment or restructuring of debt	—	(21,178)	—	(21,178)
Interest income and other income (expense)	(9)	(70)	(60)	(24)
Foreign currency transaction loss	—	(37)	—	(376)
Income (loss) before income tax	(97)	(21,964)	(25)	(19,894)
Income tax (expense)	(9)	474	(37)	176
Income from discontinued operations	<u>\$ (106)</u>	<u>\$ (21,490)</u>	<u>\$ (62)</u>	<u>\$ (19,718)</u>

Summarized assets and liabilities of the remaining portion of North America Telecom, PTI, classified as held for sale as of December 31, 2013 are as follows (in thousands):

	North America Telecom (1) December 31, 2013
Accounts receivable	\$ 670
Prepaid expenses and other current assets	839
Long-lived assets and other non-current assets	4,820
Assets held for sale	<u>\$ 6,329</u>
Accounts payable	\$ 869
Accrued interconnection costs	420
Accrued expenses and other liabilities	3,534
Liabilities held for sale	<u>\$ 4,823</u>

(1) Included in the table above is the remaining goodwill of the US reporting unit of \$3.7 million and customer relationships of \$0.4 million, applicable to PTI.

Assets held for sale as of September 30, 2014 include \$3.9 million of property and equipment of Schuff that is currently in process of being sold.

19. BASIC AND DILUTED INCOME (LOSS) PER COMMON SHARE

Basic income (loss) per common share is calculated by dividing income (loss) attributable to common shareholders by the weighted average common shares outstanding during the period. Diluted income per common share adjusts basic income per common share for the effects of potentially dilutive common share equivalents.

The Company had no dilutive common share equivalents during the three and nine months ended September 30, 2014 due to the results of operations being a loss from continuing operations, net of tax. For the three and nine months ended September 30, 2014, the Company had no dilutive common share equivalents.

The Company had dilutive common share equivalents during the three and nine months ended September 30, 2013, due to the results of operations being income from continuing operations, net of tax. For the

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three and nine months ended September 30, 2013, the following were dilutive and were included in the calculation of diluted loss per common share due to their dilutive effect:

Three months ended September 30, 2013

- 0.2 million shares issuable upon exercise of stock options and RSUs under the Management Compensation Plan; and
- 1.1 million shares issuable upon exercise of Warrants.

Nine months ended September 30, 2013

- 0.2 million shares issuable upon exercise of stock options and RSUs under the Management Compensation Plan; and
- 1.0 million shares issuable upon exercise of Warrants.

A calculation of basic income (loss) per common share to diluted income (loss) per common share is set forth below (in thousands, except per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Income (loss) from continuing operations attributable to HC2 Holdings, Inc.	\$(17,440)	\$ (865)	\$(25,408)	\$ (3,536)
Income (loss) from discontinued operations	(106)	(21,490)	(62)	(19,718)
Gain (loss) from sale of discontinued operations	663	15,650	(121)	150,695
Net income (loss)—basic	<u>\$(16,883)</u>	<u>\$ (6,705)</u>	<u>\$(25,591)</u>	<u>\$127,441</u>
Net income (loss)—diluted	<u>\$(16,883)</u>	<u>\$ (6,705)</u>	<u>\$(25,591)</u>	<u>\$127,441</u>
Weighted average common shares outstanding—basic	<u>23,372</u>	<u>14,077</u>	<u>18,348</u>	<u>13,987</u>
Weighted average common shares outstanding—diluted	<u>23,372</u>	<u>14,077</u>	<u>18,348</u>	<u>13,987</u>
Basic income (loss) per common share:				
Income (loss) from continuing operations attributable to HC2 Holdings, Inc.	\$ (0.75)	\$ (0.06)	\$ (1.38)	\$ (0.25)
Income (loss) from discontinued operations	—	(1.53)	—	(1.41)
Gain (loss) from sale of discontinued operations	0.03	1.11	(0.01)	10.77
Net income (loss) attributable to HC2 Holdings, Inc.	<u>\$ (0.72)</u>	<u>\$ (0.48)</u>	<u>\$ (1.39)</u>	<u>\$ 9.11</u>
Diluted income (loss) per common share:				
Income (loss) from continuing operations attributable to HC2 Holdings, Inc.	\$ (0.75)	\$ (0.06)	\$ (1.38)	\$ (0.25)
Income (loss) from discontinued operations	—	(1.53)	—	(1.41)
Gain (loss) from sale of discontinued operations	0.03	1.11	(0.01)	10.77
Net income (loss) attributable to HC2 Holdings, Inc.	<u>\$ (0.72)</u>	<u>\$ (0.48)</u>	<u>\$ (1.39)</u>	<u>\$ 9.11</u>

HC2 HOLDINGS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—CONTINUED
(UNAUDITED)

20. SUBSEQUENT EVENTS

Final Results of Tender Offer for All Outstanding Shares of Schuff

In October 2014, the final results of a tender offer for all outstanding shares of Schuff were announced and the Company accepted for purchase 733,634 shares, which had the effect of increasing the Company's ownership interest to 89%. On October 29, 2014, we entered into an open-market transaction to increase our ownership of Schuff to 90.6%, and we intend to execute a short-form merger as soon as practicable. Such short-form merger will increase our ownership of Schuff shares to 100%.

Reformed and Clarified Option Agreement with Philip Falcone

On October 26, 2014, HC2 and Philip Falcone reformed and clarified the option (the "Option") originally granted to Mr. Falcone in May 2014 to purchase 1,568,864 shares of HC2's common stock (such Option, as reformed and clarified, the "Option Clarification"). See Note 14—"Equity" for additional information with respect to the Option. The Option Clarification clarified the operation of the anti-dilution provisions of the Option upon the issuance of rights, warrants, options, exchangeable securities or convertible securities entitling the holder thereof to subscribe for, purchase or otherwise acquire shares of HC2's capital stock. Promptly following the execution of the Option Clarification, on October 28, 2014, HC2 issued to Mr. Falcone additional anti-dilution adjustment options exercisable for an aggregate of 1,782,082 shares of common stock as a result of (i) HC2's issuance of (x) 1,500,000 shares of common stock in connection with the May 29, 2014 issuance of Series A Preferred Stock and (y) additional shares of common stock at various times upon the exercise of HC2 Warrants prior to their expiration on July 1, 2014, (ii) HC2's issuance of Series A Preferred Stock on May 29, 2014, as well as the pay-in-kind ("PIK") dividends with respect thereto on June 30, 2014 and September 30, 2014 and (iii) HC2's issuance of Series A-1 Preferred Stock on September 22, 2014, as well as the PIK dividends with respect thereto on September 30, 2014.

Offering of Senior Notes

On November 3, 2014, the Company announced that it proposed to offer \$250 million aggregate principal amount of senior secured notes due 2019 to qualified institutional buyers pursuant to Rule 144A under the Securities Act, and to certain persons in offshore transactions in accordance with Regulation S under the Securities Act.

Litigation

On November 6, 2014, a putative stockholder class action complaint challenging the buyout by the Company of the minority interest in Schuff International, Inc. ("Schuff International") was filed in the Court of Chancery of the State of Delaware, captioned Mark Jacobs v. Philip A. Falcone, Keith M. Hladek, Paul Voigt, Michael R. Hill, Rustin Roach, D. Ronald Yagoda, Phillip O. Elbert, HC2 Holdings, Inc., and Schuff International, Inc., Civil Action No. 10323 (the "Complaint"). The Complaint alleges, among other things, that in connection with the buyout the individual members of the Schuff International board of directors and the Company, as the controlling stockholder of Schuff International, breached their fiduciary duties to members of the plaintiff class. The Complaint seeks a rescission of the buyout or rescissory and compensatory damages, as well as attorney's fees and other relief. The Company believes that the allegations and claims set forth in the Complaint are without merit and intends to defend them vigorously. See "Risk Factors — Legal proceedings could affect the timing and increase the price we pay in our acquisition of Schuff.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with the information in our unaudited condensed consolidated financial statements and the notes thereto included herein, as well as our audited consolidated financial statements and the notes thereto contained in our Annual Report on Form 10-K for the year ended December 31, 2013. Some of the information contained in this discussion and analysis includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section in Part II, Item 1A of this Quarterly Report on Form 10-Q and our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2014, the "Risk Factors" section in our Annual Report on Form 10-K for the year ended December 31, 2013 as well as the section below entitled "—Special Note Regarding Forward-Looking Statements" for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Unless the context otherwise requires, in this Quarterly Report on Form 10-Q, "HC2" means HC2 Holdings, Inc. and the "Company," "we" and "our" mean HC2 together with its subsidiaries. "US GAAP" means accounting principles accepted in the United States of America.

Introduction and Overview of Operations

We are a diversified holding company focused on acquiring and investing in businesses with attractive assets that we consider to be undervalued or fairly valued and growing our acquired businesses.

On May 29, 2014, we completed the acquisition of 2.5 million shares of common stock of Schuff International, Inc. ("Schuff"), a steel fabrication and erection company and negotiated an agreement to purchase an additional 198,411 shares, representing an approximately 65% interest in Schuff. Schuff repurchased a portion of its outstanding common stock in June 2014, which had the effect of increasing the Company's ownership interest to 70%. In October 2014, the final results of a tender offer for all outstanding shares of Schuff were announced and the Company accepted for purchase 733,634 shares, which had the effect of increasing the Company's ownership interest to 89%. On October 29, 2014, we entered into an open-market transaction to increase our ownership of Schuff to 90.6%, and we intend to execute a short-form merger as soon as practicable. Such short-form merger will increase our ownership of Schuff shares to 100%. Schuff and its wholly-owned subsidiaries primarily operate as integrated fabricators and erectors of structural steel and heavy steel plates with headquarters in Phoenix, Arizona and operations in Arizona, Florida, Georgia, Texas, Kansas and California. Schuff's construction projects are primarily in the aforementioned states. In addition, Schuff has construction projects in select international markets, primarily Panama.

On August 1, 2014, the Company paid \$15.5 million to acquire 15,500 shares of Series A Convertible Preferred Stock of American Natural Gas ("ANG"), representing an approximately 51% interest in ANG. ANG is a premier distributor of natural gas motor fuel headquartered in the Northeast that designs, builds, owns, operates and maintains compressed natural gas fueling stations for transportation.

On September 22, 2014, the Company completed the acquisition of Bridgehouse Marine Limited ("Bridgehouse"), the parent holding company of Global Marine Systems Limited ("GMSL"). The purchase price reflects our enterprise value of approximately \$260 million, including assumed indebtedness, and was funded using the net proceeds from (i) the issuance of \$11 million of Series A-1 Convertible Participating Preferred Stock of HC2 (the "Series A-1 Preferred Stock") and (ii) a senior secured credit facility providing for a twelve month (subject to extension for an additional twelve months if the Company meets certain requirements set forth in the credit agreement governing the senior secured credit facility) term loan of \$214 million and a delayed draw term loan of \$36 million, each of which was also completed on September 22, 2014. With a portion of these proceeds, the Company paid off its senior secured credit facility providing for an eighteen month term loan of

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\$80 million (“May Credit Facility”) and its senior unsecured credit facility consisting of a term loan of \$17 million (“September Credit Facility”). GMSL is a leading provider of engineering and underwater services on submarine cables. In conjunction with the acquisition, approximately 3% of the Company’s interest in GMSL was reserved for a group of individuals, leaving the Company’s controlling interest as of September 30, 2014 at approximately 97%.

GMSL has a 65% interest in Global Cable Technology, Ltd., which manufactures jointing kits. The assets, liabilities, revenue and expenses of Global Cable Technology, Ltd. are included in the consolidated financial statements of GMSL and the 35% ownership is presented as a non-controlling interest component of total equity.

We have also historically operated a telecommunications business including a network of direct routes and provided premium voice communication services for national telecom operators, mobile operators, wholesale carriers, prepaid operators, Voice over Internet Protocol (“VoIP”) service operators and Internet service providers (“ISPs”). The Company has provided telecommunications services from its North America Telecom and International Carrier Services (“ICS”) business units. In the second quarter of 2013, the Company entered into a definitive purchase agreement to sell its North America Telecom business and sought shareholder approval of such transaction. On July 31, 2013, the Company completed the initial closing of the sale of substantially all of its North America Telecom business. The sale of Primus Telecommunications, Inc. (“PTI”) was also contemplated as part of this transaction, subject to regulatory approval. On July 31, 2014, having received the necessary regulatory approvals for PTI, we completed the divestiture of the remainder of our North America Telecom business.

During 2013, we also provided data center services in Canada through our BLACKIRON Data business unit. On April 17, 2013, we consummated the divestiture of BLACKIRON Data.

The Company currently has five reportable operating segments based on management’s organization of the enterprise—Telecommunications which includes ICS, Life Sciences which includes Genovel Orthopedics, Inc. (“Genovel”) involved with the development of products to treat early osteoarthritis of the knee, Manufacturing which includes Schuff, Marine Services which includes GMSL, and Utilities which includes ANG.

We are evaluating several strategic and business alternatives, which may include the following: acquiring assets or businesses unrelated to our current or historical operations, operating, growing or acquiring additional assets or businesses related to our current or historical operations, including expanding our ICS business, or winding down or selling our existing operations, including the ICS business. As part of any acquisition strategy, we may raise capital in the form of debt or equity securities (including preferred stock) or a combination thereof. We have broad discretion in selecting a business strategy for the Company. If we elect to pursue an acquisition, we have broad discretion in identifying and selecting both the industries and the possible acquisition or business combination opportunities. We have not identified a specific industry to focus on and there can be no assurance that we will, or we will be able to, identify or successfully complete any such transactions. In connection with evaluating these strategic and business alternatives, we may at any time be engaged in ongoing discussions with respect to possible acquisitions, business combinations and debt or equity securities offerings of widely varying sizes. There can be no assurance that any of these discussions will result in a definitive agreement and if they do, what the terms or timing of any agreement would be. Based on Schedule 13D filings of Harbinger Group Inc. (“HGI”) and Philip Falcone, HGI, Mr. Falcone and other HGI-affiliated entities beneficially own approximately 27.6% of HC2’s common stock (based on the amount of HC2’s outstanding common stock as of October 31, 2014). Our affiliation with HGI and its personnel may give us access to new acquisition and business combination opportunities, which may include businesses which are controlled by, affiliated with or otherwise known to HGI or its affiliates or personnel. However, HGI and its affiliates and personnel are not obligated to provide us with access to any acquisition or business combination opportunities and may at any time be seeking investment opportunities similar to those being considered by the Company. While we search for additional acquisition opportunities, we manage a portion of our available cash and acquire interests in possible acquisition targets through our wholly-owned subsidiary, HC2 Investment Securities, LLC, a Delaware limited liability company.

Recent Developments

Offering of Senior Notes

On November 3, 2014, the Company announced that it proposed to offer \$250 million aggregate principal amount of senior secured notes due 2019 to qualified institutional buyers pursuant to Rule 144A under the Securities Act, and to certain persons in offshore transactions in accordance with Regulation S under the Securities Act.

Schuff Tender Offer

In October 2014, the final results of a tender offer for all outstanding shares of Schuff were announced and the Company accepted for purchase 733,634 shares, which had the effect of increasing the Company's ownership interest to 89%. On October 29, 2014, we entered into an open-market transaction to increase our ownership of Schuff to 90.6%, and we intend to execute a short-form merger as soon as practicable. Such short-form merger will increase our ownership of Schuff shares to 100%.

Acquisition of Global Marine Systems Limited

On September 22, 2014, the Company completed the acquisition of Bridgehouse, the parent company of GMSL, representing an approximate 97% interest in GMSL. The purchase price reflects an enterprise value of approximately \$260 million, including assumed indebtedness, and was funded using the net proceeds from (i) the issuance of \$11 million of Series A-1 Preferred Stock and (ii) a senior secured credit facility providing for a term loan of \$214 million and a delayed draw term loan of \$36 million, each of which was also completed on September 22, 2014. With a portion of these proceeds, the Company paid off its May Credit Facility and September Credit Facility.

Preferred Stock and Common Stock Issuance

On May 29, 2014, HC2 issued 30,000 shares of Series A Convertible Participating Preferred Stock of HC2 (the "Series A Preferred Stock") and 1,500,000 shares of common stock, the proceeds of which were used to pay for a portion of the purchase price for the acquisition of Schuff. On September 22, 2014, HC2 issued 11,000 shares of Series A-1 Preferred Stock (together with the Series A Preferred Stock, the "Preferred Stock"). Each share of Series A-1 Preferred Stock is convertible at a conversion price of \$4.25. In connection with the issuance of the Series A-1 Preferred Stock, HC2 amended the certificate of designation governing the Series A Preferred Stock on September 22, 2014, which changed the applicable conversion price from \$4.25 to \$4.00, reflected the issuance of the Series A-1 Preferred Stock as a class of preferred stock which ranks at parity with the Series A Preferred Stock and made certain other changes to conform the terms of the Series A Preferred Stock to those of the Series A-1 Preferred Stock. The conversion prices for the Preferred Stock are subject to adjustments for dividends, certain distributions, stock splits, combinations, reclassifications, reorganizations, mergers, recapitalizations and similar events. See Note 14—"Equity—Preferred and Common Stock" to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q for additional terms of the Preferred Stock.

Investment in Novatel Wireless, Inc. ("Novatel")

On September 8, 2014, the Company made an initial cash investment of approximately \$14.2 million in Novatel for a combination of common stock, warrants and convertible preferred stock. The Company received (i) 7,363,334 shares of common stock at a stock price of \$1.75 per share, (ii) 5-year warrants to purchase an additional 4,117,647 shares of common stock at an exercise price of \$2.26 per share and (iii) 87,196 shares of Series C Convertible Preferred Stock at a price of \$17.50 per share. The Company's initial ownership stake is approximately 17%. Novatel is a leader in the design and development of intelligent wireless solutions based on 2G, 3G and 4G technologies.

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Acquisition of American Natural Gas

On August 1, 2014, the Company paid \$15.5 million to acquire 15,500 shares of Series A Convertible Preferred Stock of ANG, representing an approximately 51% interest in ANG. ANG is a premier distributor of natural gas motor fuel headquartered in the Northeast that designs, builds, owns, operates and maintains compressed natural gas fueling stations for transportation.

Foreign Currency

Foreign currency can impact our financial results. During the three months ended September 30, 2014, approximately 10.1% of our net revenue from continuing operations was derived from sales and operations outside the U.S. The reporting currency for our condensed consolidated financial statements is the United States dollar (the "USD"). The local currency of each country is the functional currency for each of our respective entities operating in that country. In the future, we expect to continue to derive a portion of our net revenue and incur a portion of our operating costs from outside the U.S., and therefore changes in exchange rates may continue to have a significant, and potentially adverse, effect on our results of operations. Our risk of loss regarding foreign currency exchange rate risk is caused primarily by fluctuations in the USD/British pound sterling ("GBP") exchange rate. Due to a percentage of our revenue derived outside of the U.S., changes in the USD relative to the GBP could have an adverse impact on our future results of operations. In addition, prior to the sale of BLACKIRON Data and North America Telecom during the second and third quarters of 2013, respectively, we also experienced risk of loss regarding foreign currency exchange rates due to fluctuations in the USD/Canadian dollar ("CAD") exchange rates. We have agreements with certain subsidiaries for repayment of a portion of the investments and advances made to these subsidiaries. As we anticipate repayment in the foreseeable future, we recognize the unrealized gains and losses in foreign currency transaction gain (loss) on the condensed consolidated statements of operations. The exposure of our income from operations to fluctuations in foreign currency exchange rates is reduced in part because a majority of the costs that we incur in connection with our foreign operations are also denominated in local currencies.

We are exposed to financial statement gains and losses as a result of translating the operating results and financial position of our international subsidiaries. We translate the local currency statements of operations of our foreign subsidiaries into USD using the average exchange rate during the reporting period. Changes in foreign exchange rates affect the reported profits and losses and cash flows of our international subsidiaries and may distort comparisons from year to year. By way of example, when the USD strengthens compared to the GBP, there could be a negative or positive effect on the reported results for our Telecommunications and Marine Services segments, depending upon whether such businesses are operating profitably or at a loss. It takes more profits in GBP to generate the same amount of profits in USD and a greater loss in GBP to generate the same amount of loss in USD. The opposite is also true. For instance, when the USD weakens against the GBP, there is a positive effect on reported profits and a negative effect on reported losses.

For the three and nine months ended September 30, 2014 as compared to the three and nine months ended September 30, 2013, the USD was weaker on average as compared to the GBP. The following tables demonstrate the impact of currency fluctuations on our net revenue for the three and nine months ended September 30, 2014 and 2013:

Net Revenue by Location, including Discontinued Operations—in USD (in thousands)

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2014	2013	Variance \$	Variance %	2014	2013	Variance \$	Variance %
Canada (1)	\$ —	\$13,080	\$(13,080)	-100.0%	\$ —	\$109,167	\$(109,167)	-100.0%
United Kingdom	15,604	29,214	(13,610)	-46.6%	49,286	99,361	(50,075)	-50.4%

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Net Revenue by Location, including Discontinued Operations—in Local Currencies (in thousands)

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2014	2013	Variance \$	Variance %	2014	2013	Variance \$	Variance %
Canada (1) (in CAD)	\$ —	\$13,622	\$(13,622)	-100.0%	\$ —	\$111,090	\$(111,090)	-100.0%
United Kingdom (in GBP)	9,339	18,925	(9,586)	-50.7%	29,546	64,307	(34,761)	-54.1%

(1) Table includes revenues from discontinued operations which are subject to currency risk.

Critical Accounting Policies

See “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies” in our Annual Report on Form 10-K for the year ended December 31, 2013 for a detailed discussion of our critical accounting policies. These policies include revenue recognition, accounting for cost of revenue, goodwill and other intangible assets, valuation of long-lived assets and accounting for income taxes.

No significant changes in our critical accounting policies have occurred since December 31, 2013.

Financial Presentation Background

In the following presentations and narratives within this Management’s Discussion and Analysis of Financial Condition and Results of Operations, we compare the Company’s results of operations for the three and nine months ended September 30, 2014 as compared to the three and nine months ended September 30, 2013. The Company determined that the results of operation for GMSL for the period September 22, 2014—September 30, 2014 were immaterial and therefore did not include GMSL’s results of operations in the condensed consolidated statements of operations for the three and nine months ended September 30, 2014.

Discontinued Operations

2013 Developments—In the second quarter of 2013, the Company sold its BLACKIRON Data segment and reiterated its June 2012 commitment to dispose of ICS. In addition, in the second quarter of 2013, the Company entered into a definitive purchase agreement to sell its North America Telecom business and sought shareholder approval of such transaction. The Company completed the initial closing of the sale of its North America Telecom business on July 31, 2013 and completed the divestiture of the remainder of its North America Telecom business on July 31, 2014. In conjunction with the initial closing of the sale of the North America Telecom business, the Company redeemed its outstanding debt issued by PTGi International Holding, Inc. (“PTHI”) on August 30, 2013. Because the debt was required to be repaid as a result of the sale of North America Telecom, the interest expense and loss on early extinguishment or restructuring of debt of PTHI has been allocated to discontinued operations. In December 2013, based on management’s assessment of the requirements under ASC 360, it was determined that ICS no longer met the criteria of a held for sale asset. On February 11, 2014, the Board of Directors officially ratified management’s December 2013 assessment, and reclassified ICS from held for sale to held and used, effective December 31, 2013. As a result, ICS became classified as a continuing operation. ICS had been classified as a discontinued operation since the second quarter of 2012 as a result of being held for sale.

As a result of these events, the Company’s condensed consolidated financial statements reflect BLACKIRON Data and North America Telecom as well as PTHI’s interest expense and loss on early extinguishment or restructuring of debt, as discontinued operations for the three and nine months ended September 30, 2013. Accordingly, revenue, costs and expenses of the discontinued operations have been excluded from the respective captions in the condensed consolidated statements of operations. The net operating results of the discontinued operations have been reported, net of applicable income taxes as income or loss (where applicable) from discontinued operations. The assets and liabilities of the remaining portion of

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North America Telecom, PTI, have been classified as held for sale assets and liabilities. The held for sale assets and liabilities were removed from the specific line items on the condensed consolidated balance sheets as of December 31, 2013.

Summarized operating results of the discontinued operations are as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2014	2013	2014	2013
Net revenue	\$ 971	\$ 17,789	\$7,439	\$128,988
Operating expenses	1,045	15,620	7,387	115,947
Income from operations	(74)	2,169	52	13,041
Interest expense	(14)	(2,848)	(17)	(11,357)
Gain (loss) on early extinguishment or restructuring of debt	—	(21,178)	—	(21,178)
Interest income and other income (expense)	(9)	(70)	(60)	(24)
Foreign currency transaction loss	—	(37)	—	(376)
Income (loss) before income tax	(97)	(21,964)	(25)	(19,894)
Income tax (expense)	(9)	474	(37)	176
Income from discontinued operations	\$ (106)	\$ (21,490)	\$ (62)	\$ (19,718)

Results of Operations

Results of operations for the three months ended September 30, 2014 as compared to the three months ended September 30, 2013

(in thousands)	Quarter Ended				Quarter-over-Quarter	
	September 30, 2014		September 30, 2013		Variance	Variance %
	Net Revenue	% of Total	Net Revenue	% of Total		
Telecommunications	41,267	23.0%	61,077	100.0%	(19,810)	-32.4%
Manufacturing	137,706	76.7%	—	0.0%	137,706	100.0%
Utilities	460	0.3%	—	0.0%	460	100.0%
Total Net Revenue	179,433	100.0%	61,077	100.0%	118,356	193.8%

Net revenue: Net revenue increased \$118.4 million, or 193.8%, to \$179.4 million for the three months ended September 30, 2014 from \$61.1 million for the three months ended September 30, 2013. The increase is primarily due to our acquisition of Schuff. The decrease in Telecommunications is primarily due to a significant decline in both domestic and international terminations quarter over quarter.

(in thousands)	Quarter Ended				Quarter-over-Quarter	
	September 30, 2014		September 30, 2013		Variance	Variance %
	Cost of Revenue	% of Net Revenue	Cost of Revenue	% of Net Revenue		
Telecommunications	39,464	95.6%	58,752	96.2%	(19,288)	-32.8%
Manufacturing	118,839	86.3%	—	0.0%	118,839	100.0%
Utilities	336	73.0%	—	0.0%	336	100.0%
Total Cost of Revenue	158,639	88.4%	58,752	96.2%	99,887	170.0%

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Cost of revenue: Cost of revenue increased \$99.9 million to \$158.6 million, or 88.4% of net revenue, for the three months ended September 30, 2014 from \$58.8 million, or 96.2% of net revenue, for the three months ended September 30, 2013. The increase is primarily due to our acquisition of Schuff. The decrease in Telecommunications is primarily due to the decrease in net revenue in such segment. While there have been significant declines in both net revenue and cost of revenue in Telecommunications, cost of revenue as a percentage of net revenue decreased 60 basis points quarter over quarter.

(in thousands)	Quarter Ended				Quarter-over-Quarter	
	September 30, 2014		September 30, 2013		Variance	Variance %
	SG&A	% of Net Revenue	SG&A	% of Net Revenue		
Telecommunications	2,308	5.6%	4,044	6.6%	(1,736)	-42.9%
Life Sciences	494	0.0%	—	0.0%	494	0.0%
Manufacturing	8,058	5.9%	—	0.0%	8,058	0.0%
Utilities	679	147.6%	—	0.0%	679	0.0%
Corporate	8,707	0.0%	2,249	0.0%	6,458	287.1%
Total SG&A	<u>20,246</u>	<u>11.3%</u>	<u>6,293</u>	<u>10.3%</u>	<u>13,953</u>	<u>221.7%</u>

Selling, general and administrative expenses: Selling, general and administrative expenses increased \$13.9 million to \$20.2 million, or 11.3% of net revenue, for the three months ended September 30, 2014 from \$6.3 million, or 10.3% of net revenue, for the three months ended September 30, 2013. The decrease in Telecommunications was primarily due to a \$0.9 million decrease in salaries and benefits resulting from headcount reductions and a \$0.6 million decrease in occupancy. The increase in Manufacturing was due to our acquisition of Schuff. The increase in Corporate was primarily due to \$6.2 million higher professional fees related to our acquisitions and a \$0.9 million increase in general and administrative expenses which was partially offset by a \$1.0 million decrease in salaries and benefits resulting from headcount reductions.

Depreciation and amortization expense: Depreciation and amortization expense for the three months ended September 30, 2014 was \$2.8 million, a portion of which was included in cost of revenue. Depreciation expense was an immaterial amount for the three months ended September 30, 2013 as the property and equipment of Telecommunications was included in assets held for sale. In accordance with US GAAP, held for sale assets are not depreciated. When Telecommunications was no longer considered to be held for sale, we began to record depreciation based on the revised carrying values.

Interest expense: Interest expense was \$2.1 million for the three months ended September 30, 2014. Interest expense was immaterial for the three months ended September 30, 2013. The increase in interest expense in 2014 was due to our new credit facilities.

Loss on early extinguishment of debt: Loss on early extinguishment of debt was \$6.9 million and \$0 for the three months ended September 30, 2014 and 2013, respectively. The loss was due to the payoff of our prior credit facilities.

Interest income and other expense, net: Interest income and other expense, net was expense of \$1.1 million and expense of \$0.1 million for the three months ended September 30, 2014 and 2013, respectively.

Foreign currency transaction gain (loss): Foreign currency transaction gain (loss) was a gain of \$0.2 million for the three months ended September 30, 2014. Foreign currency transaction gain (loss) was immaterial for the three months ended September 30, 2013. The gains and losses are attributable to the impact of foreign currency exchange rate changes on intercompany debt balances and on receivables and payables denominated in a currency other than the subsidiaries' functional currency.

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Loss from equity investees: Loss from equity investees was \$0.3 million and \$0 for the three months ended September 30, 2014 and September 30, 2013, respectively.

Income tax expense: Income tax expense was \$4.5 million and benefit of \$3.3 million for the three months ended September 30, 2014 and September 30, 2013, respectively. The increase in tax expense was due primarily to the taxable income at Schuff.

Results of operations for the nine months ended September 30, 2014 as compared to the nine months ended September 30, 2013

(in thousands)	Nine Months Ended				Year-over-Year	
	September 30, 2014		September 30, 2013		Variance	Variance %
	Net Revenue	% of Total	Net Revenue	% of Total		
Telecommunications	126,731	39.7%	178,487	100.0%	(51,756)	-29.0%
Manufacturing	192,182	60.2%	—	0.0%	192,182	100.0%
Utilities	460	0.1%	—	0.0%	460	100.0%
Total Net Revenue	<u>319,373</u>	<u>100.0%</u>	<u>178,487</u>	<u>100.0%</u>	<u>140,886</u>	<u>78.9%</u>

Net revenue: Net revenue increased \$140.9 million, or 78.9%, to \$319.4 million for the nine months ended September 30, 2014 from \$178.5 million for the nine months ended September 30, 2013. The increase is primarily due to our acquisition of Schuff. The decrease in Telecommunications is primarily due to a significant decline in both domestic and international terminations year over year.

(in thousands)	Nine Months Ended				Year-over-Year	
	September 30, 2014		September 30, 2013		Variance	Variance %
	Cost of Revenue	% of Net Revenue	Cost of Revenue	% of Net Revenue		
Telecommunications	120,101	94.8%	169,704	95.1%	(49,603)	-29.2%
Manufacturing	162,169	84.4%	—	0.0%	162,169	100.0%
Utilities	336	73.0%	—	0.0%	336	100.0%
Total Cost of Revenue	<u>282,606</u>	<u>88.5%</u>	<u>169,704</u>	<u>95.1%</u>	<u>112,902</u>	<u>66.5%</u>

Cost of revenue: Cost of revenue increased \$112.9 million to \$282.6 million, or 88.5% of net revenue, for the nine months ended September 30, 2014 from \$169.7 million, or 95.1% of net revenue, for the nine months ended September 30, 2013. The increase is primarily due to our acquisition of Schuff. The decrease in Telecommunications is primarily due to the decrease in net revenue in such segment. While there have been significant declines in both net revenue and cost of revenue in Telecommunications, cost of revenue as a percentage of net revenue decreased 30 basis points year over year.

(in thousands)	Nine Months Ended				Year-over-Year	
	September 30, 2014		September 30, 2013		Variance	Variance %
	SG&A	% of Net Revenue	SG&A	% of Net Revenue		
Telecommunications	7,475	5.9%	13,335	7.5%	(5,860)	-43.9%
Life Sciences	1,429	0.0%	—	0.0%	1,429	100.0%
Manufacturing	14,497	7.5%	—	0.0%	14,497	100.0%
Utilities	679	147.6%	—	0.0%	679	100.0%
Corporate	16,402	0.0%	16,414	0.0%	(12)	-0.1%
Total SG&A	<u>40,482</u>	<u>12.7%</u>	<u>29,749</u>	<u>16.7%</u>	<u>10,733</u>	<u>36.1%</u>

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Selling, general and administrative expenses: Selling, general and administrative expenses increased \$10.7 million to \$40.5 million, or 12.7% of net revenue, for the nine months ended September 30, 2014 from \$29.7 million, or 16.7% of net revenue, for the nine months ended September 30, 2013. The decrease in Telecommunications was primarily due to a \$2.9 million decrease in salaries and benefits resulting from headcount reductions, \$1.5 million in lower occupancy, a \$0.7 million lower professional fees, and \$0.7 million decrease in general and administrative expenses. The increase in Manufacturing was due to our acquisition of Schuff. Corporate included \$9.1 million lower salaries and benefits resulting from higher severance and bonus payouts in the prior year offset by \$5.4 million higher professional fees related to our acquisitions, \$2.7 million higher occupancy related to a lease buyout, and a \$1.0 million increase in general and administrative expenses.

Depreciation and amortization expense: Depreciation and amortization expense for the nine months ended September 30, 2014 was \$3.8 million, a portion of which was included in cost of revenue. Depreciation expense was an immaterial amount for the nine months ended September 30, 2013 as the property and equipment of Telecommunications was included in assets held for sale. In accordance with US GAAP, held for sale assets are not depreciated. When Telecommunications was no longer considered to be held for sale, we began to record depreciation based on the revised carrying values.

Interest expense: Interest expense was \$3.1 million for the nine months ended September 30, 2014. Interest expense was immaterial for the nine months ended September 30, 2013. The increase in interest expense in 2014 was due to our new credit facilities.

Loss on early extinguishment of debt: Loss on early extinguishment of debt was \$6.9 million and \$0 for the nine months ended September 30, 2014 and 2013, respectively. The loss was due to the payoff of our prior credit facilities.

Gain from contingent rights valuation: The gain from the change in fair value of the CVRs for the nine months ended September 30, 2013 was \$14.9 million. Estimates of fair value represent the Company's best estimates based on a pricing model and have historically been correlated to and reflective of our common stock trends. Generally, as the fair value of our common stock increased/decreased, the fair value of the CVRs increased/decreased and a loss/gain from CVR valuation was recorded. The sale of substantially all of North America Telecom constituted a change of control under the CVR Agreement and resulted in the expiration of the CVRs and termination of the CVR Agreement in 2013. Accordingly, there was no gain from the change in fair value of the CVRs for the nine months ended September 30, 2014.

Interest income and other expense, net: Interest income and other expense, net was income of \$0.5 million and expense of \$0.2 million for the nine months ended September 30, 2014 and 2013, respectively.

Foreign currency transaction gain (loss): Foreign currency transaction gain (loss) was a gain of \$0.6 million and a loss of \$0.2 million for the nine months ended September 30, 2014 and 2013, respectively. The gains and losses are attributable to the impact of foreign currency exchange rate changes on intercompany debt balances and on receivables and payables denominated in a currency other than the subsidiaries' functional currency.

Loss from equity investees: Loss from equity investees was \$0.3 million and \$0 for the nine months ended September 30, 2014 and September 30, 2013, respectively.

Income tax expense: Income tax expense was \$6.5 million and benefit of \$3.1 million for the nine months ended September 30, 2014 and September 30, 2013, respectively. The increase in tax expense was due primarily to the taxable income at Schuff.

Liquidity and Capital Resources

Important Long-Term Liquidity and Capital Structure Developments:

Credit Facilities

On September 22, 2014, the Company entered into a senior secured credit facility providing for a term loan of \$214 million and a delayed draw term loan of \$36 million relating to its acquisition of GMSL, pursuant to a Credit Agreement (the “Credit Agreement”). The Company used a portion of these proceeds to finance the acquisition of GMSL and pay off its May Credit Facility and September Credit Facility. In addition, the credit facilities and other financing arrangements of GMSL remained in place following the acquisition. For additional information on these facilities and other arrangements, refer to Note 9—“Long-Term Obligations” to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

Escrow Deposits

The Company has maintained interests in certain escrow deposits associated with the sales of BLACKIRON Data and North America Telecom during 2013 which have various conditions for their release. In connection with the sale of BLACKIRON Data, CAD\$20.0 million (or approximately USD\$19.5 million giving effect to the currency exchange rate on the day of sale) was retained from the purchase price and placed into escrow until July 17, 2014 for purposes of satisfying potential indemnification claims pursuant to the purchase agreement. In July 2014, we received escrow proceeds of \$19.5 million, a majority of which was used to pay down then-existing credit facilities. In connection with the sale of North America Telecom, several different escrow deposits were established, all with varying release conditions and dates which in total amounted to \$18.25 million. Pursuant to the terms of the purchase agreement, \$6.45 million of the purchase price was placed in escrow to be released 14 months after the closing date, subject to any deductions required to satisfy indemnification obligations of HC2 under the purchase agreement. In addition, \$4.0 million of the purchase price was placed in escrow to cover any payments required in connection with the post-closing working capital and cash adjustments, of which \$3.2 million was disbursed to the Company and \$0.8 million was disbursed to the purchaser upon completion of such adjustments in February 2014. Furthermore, \$4.8 million of the purchase price was placed in escrow to cover certain tax liabilities, which will be released after a positive ruling with respect to the underlying matter is received or 30 days after expiration of the applicable statute of limitations relating to the underlying matter. Lastly, an additional \$3.0 million was placed in escrow to be paid upon closing of the sale of PTI. On July 31, 2014, having received the necessary regulatory approvals for PTI, we completed the divestiture of the remainder of our North America Telecom business. On July 31, 2014, the escrow proceeds of \$3.0 million were released and a portion of such proceeds was used to pay down then-existing credit facilities. The \$6.45 million escrow deposit is recorded in prepaid expenses and other current assets, while the \$4.8 million escrow deposit is recorded in other assets in the condensed consolidated balance sheets. In October 2014, we received the escrow proceeds of \$6.45 million.

Changes in Cash Flows

Our principal liquidity requirements arise from cash used in operating activities, purchases of network and steel manufacturing equipment, including switches, related transmission equipment and capacity, development of back-office systems and income taxes. We have financed our growth and operations to date through public offerings and private placements of debt and equity securities, credit facilities, vendor financing, capital lease financing and other financing arrangements.

Net cash provided by operating activities was \$11.8 million for the nine months ended September 30, 2014 as compared to net cash used in operating activities of \$14.7 million for the nine months ended September 30, 2013. For the nine months ended September 30, 2014, net income, net of non-cash operating activity, used \$7.6 million of cash. Other major drivers included an decrease in prepaid expenses and other current assets of \$25.5 million and a decrease in accounts receivable of \$6.0 million, partially offset by a decrease in billings in

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excess of costs and recognized earnings on uncompleted contracts of \$7.7 million and a decrease in accrued expenses, other current liabilities and other liabilities, net of \$5.2 million. For the nine months ended September 30, 2013, net income, net of non-cash operating activity, used \$2.0 million of cash. Other major drivers included a decrease in accrued expenses, other current liabilities and other liabilities, net of \$7.6 million, an increase in accounts receivable of \$5.2 million, a decrease in accrued income taxes of \$3.5 million, a decrease in accounts payable of \$2.2 million, an increase in prepaid expenses and other current assets of \$2.1 million and a decrease in accrued interest of \$1.7 million, partially offset by an increase in accrued interconnection costs of \$6.7 million and a decrease in other assets of \$2.9 million.

Net cash used in investing activities was \$173.1 million for the nine months ended September 30, 2014 as compared to net cash provided by investing activities of \$258.7 million for the nine months ended September 30, 2013. Net cash used in investing activities for the nine months ended September 30, 2014 included \$85.0 million for the Schuff acquisition, \$7.0 million for Schuff's purchase of its common stock, \$127.6 million for the GMSL acquisition, \$15.5 million for the ANG acquisition, \$14.2 million for the Novatel investment, purchase of \$4.2 million in marketable securities and \$4.1 million of capital expenditures, partially offset by \$62.6 cash acquired in the GMSL acquisition and \$15.5 million contribution by the noncontrolling interest. Net cash provided by investing activities during the nine months ended September 30, 2013 included \$270.7 million of net proceeds from the sale of our BLACKIRON Data and North America Telecom segments and a decrease in restricted cash of \$0.4 million, partially offset by \$12.0 million of capital expenditures and \$0.4 million used in the acquisition of businesses.

Net cash provided by financing activities was \$266.3 million for the nine months ended September 30, 2014 as compared to net cash used in financing activities of \$250.0 million for the nine months ended September 30, 2013. Net cash provided by financing activities for the nine months ended September 30, 2014 included \$492.1 million of proceeds from credit facilities, \$45.8 million of proceeds from the issuance of Preferred Stock and common stock and \$24.3 million of proceeds from the exercise of warrants and stock options, partially offset by \$294.2 million used to make principal payments on our credit facilities. Net cash used in financing activities during the nine months ended September 30, 2013 included \$127.7 million used in the redemption of the 13% Senior Secured Notes, 10% Senior Secured Notes and 10% Senior Secured Exchange Notes, \$119.8 million used to pay a special cash dividend to our shareholders, \$1.3 million used to pay fees on the redemption of the 13% Senior Secured Notes, 10% Senior Secured Notes and 10% Senior Secured Exchange Notes, \$1.2 million used to pay dividend equivalents to our shareholders, \$0.8 million used to satisfy the tax obligations for shares issued under share-based compensation arrangements and \$0.3 million used to reduce the principal amounts outstanding on capital leases, partially offset by \$1.1 million in proceeds from the sale of common stock.

Short- and Long-Term Liquidity Considerations and Risks; Contractual Obligations

As of September 30, 2014, we had \$111.7 million of cash and cash equivalents. We believe that our existing cash and cash equivalents will be sufficient to fund our fixed obligations (such as operating leases), and other cash needs for our operations for at least the next twelve months. As of September 30, 2014, we had \$312.8 million of indebtedness.

HC2 is a holding company and its liquidity needs are primarily for dividend payments on its Preferred Stock, interest payments on any long-term debt, professional fees (including advisory services, legal and accounting fees), salaries and benefits, office rent, insurance costs and certain support services. HC2's current source of liquidity is its cash, cash equivalents and investments, and distributions from its subsidiaries.

The ability of HC2's subsidiaries to generate sufficient net income and cash flows to make upstream cash distributions is subject to numerous factors, including restrictions contained in such subsidiary's financing agreements, availability of sufficient funds in such subsidiary and the approval of such payment by such subsidiary's board of directors, which must consider various factors, including general economic and business conditions, tax considerations, strategic plans, financial results and condition, expansion plans, any contractual,

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legal or regulatory restrictions on the payment of dividends, and such other factors such subsidiary's board of directors considers relevant. In addition, one or more subsidiaries may issue, repurchase, retire or refinance, as applicable, their debt or equity securities for a variety of purposes, including in order to grow their business, pursue acquisition activities or to manage their liquidity needs. Any such issuance may limit such subsidiary's ability to make upstream cash distributions. HC2's liquidity may also be impacted by the capital needs of its current and future subsidiaries. Such entities may require additional capital to maintain or grow their businesses, or make payments on their indebtedness.

We expect our cash, cash equivalents and investments to continue to be a source of liquidity except to the extent they may be used to fund investments in operating businesses or assets. Depending on a variety of factors, including general state of capital markets, operating needs or acquisition size and terms, HC2 and its subsidiaries may raise additional capital through the issuance of equity, debt, or both. There is no assurance, however, that such capital will be available at that time, in the amounts necessary or on terms satisfactory to HC2. We expect to service any such new additional debt through raising dividends received from our subsidiaries. We may also seek to repurchase, retire or refinance, as applicable, all or a portion of, our indebtedness or our common stock through open market purchases, tender offers, negotiated transactions or otherwise.

The obligations set forth in the table below reflect the contractual payments of principal and interest that existed as of September 30, 2014 (in thousands):

<u>Contractual Obligations</u>	<u>Total</u>	<u>Less than 1 year</u>	<u>Payments Due By Period</u>		
			<u>1-3 years</u>	<u>3-5 years</u>	<u>More than 5 years</u>
Operating leases	\$ 27,205	\$ 1,235	\$ 8,265	\$ 5,312	\$ 12,393
Capital leases	68,584	\$ 10,738	\$ 8,171	\$24,125	\$ 25,550
Total principal & interest payments	291,381	43,591	238,890	8,900	—
Total contractual obligations	<u>\$387,170</u>	<u>\$ 55,564</u>	<u>\$255,326</u>	<u>\$38,337</u>	<u>\$ 37,943</u>

We have contractual obligations to utilize network facilities from certain carriers with terms greater than one year. We generally do not purchase or commit to purchase quantities in excess of normal usage or amounts that cannot be used within the contract term.

Off-Balance Sheet Arrangements

Schuff

Schuff's off-balance sheet arrangements at September 30, 2014 included letters of credit of \$3.9 million under the Schuff Facility and performance bonds of \$20.8 million.

Schuff's letters of credit are issued for the benefit of its workers' compensation insurance carrier. Schuff's workers' compensation insurance carrier requires standby letters of credit to be issued as collateral on all of its outstanding indemnity cases. The amount of collateral required is determined each year and is provided to the carrier for outstanding indemnity claims not greater than 54 months old. The prior years' levels of required collateral can be adjusted each year based upon the costs incurred and settlements reached on the outstanding indemnity cases.

Schuff's contract arrangements with customers sometimes require Schuff to provide performance bonds to partially secure its obligations under its contracts. Bonding requirements typically arise in connection with public works projects and sometimes with respect to certain private contracts. Schuff's performance bonds are obtained through surety companies and typically cover the entire project price.

New Accounting Pronouncements

For a discussion of our “New Accounting Pronouncements,” refer to Note 2—“Summary of Significant Accounting Policies” to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

Related Party Transactions

HC2 has entered into indemnification agreements with each of its directors and executive officers. These agreements require HC2 to indemnify such individuals, to the fullest extent permitted by Delaware law, for certain liabilities to which they may become subject as a result of their affiliation with the Company.

Special Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q contains or incorporates a number of “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based on current expectations, and are not strictly historical statements. In some cases, you can identify forward-looking statements by terminology such as “if,” “may,” “should,” “believe,” “anticipate,” “future,” “forward,” “potential,” “estimate,” “opportunity,” “goal,” “objective,” “growth,” “outcome,” “could,” “expect,” “intend,” “plan,” “strategy,” “provide,” “commitment,” “result,” “seek,” “pursue,” “ongoing,” “include” or in the negative of such terms or comparable terminology. These forward-looking statements inherently involve certain risks and uncertainties and are not guarantees of performance, results, or the creation of shareholder value, although they are based on our current plans or assessments which we believe to be reasonable as of the date hereof.

HC2

Factors or risks that could cause HC2’s actual results to differ materially from the results we anticipate include, but are not limited to:

- the outcome of purchase price adjustments related to divested businesses or the possibility of indemnification claims arising out of such divestitures;
- continuing uncertain global economic conditions in the markets in which our operating segments conduct their businesses;
- the ability of our operating segments to attract and retain customers;
- increased competition in the markets in which our operating segments conduct their businesses;
- our possible inability to generate sufficient liquidity, margins, earnings per share, cash flow and working capital from our operating segments;
- our expectations regarding the timing, extent and effectiveness of our cost reduction initiatives and management’s ability to moderate or control discretionary spending;
- management’s plans, goals, forecasts, expectations, guidance, objectives, strategies and timing for future operations, acquisitions, synergies, asset dispositions, fixed asset and goodwill impairment charges, tax and withholding expense, selling, general and administrative expenses, product plans, performance and results;
- management’s assessment of market factors and competitive developments, including pricing actions and regulatory rulings;
- limitations on our ability to successfully identify any strategic acquisitions or business opportunities and to compete for these opportunities with others who have greater resources;

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- the impact of additional material charges associated with our oversight of acquired or target businesses and the integration of our financial reporting;
- the impact of expending significant resources in considering acquisition targets or business opportunities that are not consummated;
- tax consequences associated with our acquisition, holding and disposition of target companies and assets;
- our dependence on distributions from our subsidiaries to fund our operations and payments on our obligations;
- the impact of covenants in the certificate of designation governing HC2's Preferred Stock, the Credit Agreement governing our credit facility and future financing or refinancing agreements, on our ability to operate our business and finance our pursuit of acquisition opportunities;
- the impact on the holders of HC2's common stock if we issue additional shares of HC2 common stock or preferred stock;
- the impact of decisions by HC2's significant stockholders, whose interest may differ from those of HC2's other stockholders, or their ceasing to remain significant stockholders;
- the effect any interests of our officers, directors, stockholders and their respective affiliates may have in certain transactions in which we are involved;
- our dependence on certain key personnel;
- our ability to effectively increase the size of our organization, if needed, and manage our growth;
- the impact of a determination that we are an investment company or personal holding company;
- the impact of delays or difficulty in satisfying the requirements of Section 404 of the Sarbanes-Oxley Act of 2002 or negative reports concerning our internal controls;
- the impact of the relatively low market liquidity for HC2's common stock or the failure of HC2 to subsequently relist its common stock on a national securities exchange;
- the impact on our business and financial condition of our substantial indebtedness and the significant additional indebtedness and other financing obligations we may incur;
- our possible inability to raise additional capital when needed or refinance our existing debt, on attractive terms, or at all; and
- our possible inability to hire and retain qualified executive management, sales, technical and other personnel.

Marine Services / GMSL

Factors or risks that could cause GMSL's, and thus our Marine Services segment's, actual results to differ materially from the results we anticipate include, but are not limited to:

- the possibility of global recession or market downturn with a reduction in capital spending within the targeted market segments the business operates in;
- project implementation issues and possible subsequent overruns;
- risks associated with operating outside of core competencies when moving into different market segments;
- possible loss or severe damage to marine assets;
- vessel equipment aging or reduced reliability;

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- risks associated with operating two joint ventures in China (China Telecom, Huawei);
- risks related to foreign corrupt practices;
- changes to the local laws and regulatory environment in different geographical regions;
- loss of key senior employees;
- difficulties attracting enough skilled technical personnel;
- foreign exchange rate risk;
- liquidity risk; and
- potential for financial loss arising from the failure by customers to fulfil their obligations as and when these obligations fall due.

Utilities / ANG

Factors or risks that could cause ANG's, and thus our Utilities segment's, actual results to differ materially from the results we anticipate include, but are not limited to:

- possibility that automobile and engine manufacturers will fail to produce a sufficient number of vehicles that use compressed natural gas ("CNG") and the associated impact on demand for ANG's products;
- the modification or repeal of environmental regulations and programs that mandate the use of cleaner burning fuels, such as CNG;
- intense competition in the industry in which the business operates;
- failure to develop sufficient infrastructure to implement the widespread adoption of ANG's products;
- the possibility that safety or environmental hazards associated with natural gas fueling operations and vehicle conversions may occur; and
- the possible adverse impact of increasing governmental regulations on ANG's business.

Manufacturing / Schuff

Factors or risks that could cause Schuff's, and thus our Manufacturing segment's, actual results to differ materially from the results we anticipate include, but are not limited to:

- its ability to realize cost savings from expected performance of contracts, whether as a result of improper estimates, performance, or otherwise;
- uncertain timing and funding of new contract awards, as well as project cancellations;
- cost overruns on fixed-price or similar contracts or failure to receive timely or proper payments on cost-reimbursable contracts, whether as a result of improper estimates, performance, disputes, or otherwise;
- risks associated with labor productivity, including performance of subcontractors that Schuff hires to complete projects;
- its ability to settle or negotiate unapproved change orders and claims;
- changes in the costs or availability of, or delivery schedule for, equipment, components, materials, labor or subcontractors;
- adverse impacts from weather affecting Schuff's performance and timeliness of completion of projects, which could lead to increased costs and affect the quality, costs or availability of, or delivery schedule for, equipment, components, materials, labor or subcontractors;

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- fluctuating revenue resulting from a number of factors, including the cyclical nature of the individual markets in which our customers operate;
- adverse outcomes of pending claims or litigation or the possibility of new claims or litigation, and the potential effect of such claims or litigation on Schuff's business, financial condition, results of operations or cash flow; and
- lack of necessary liquidity to provide bid, performance, advance payment and retention bonds, guarantees, or letters of credit securing Schuff's obligations under bids and contracts or to finance expenditures prior to the receipt of payment for the performance of contracts.

Telecommunications / ICS

Factors or risks that could cause ICS's, and thus our Telecommunications segment's, actual results to differ materially from the results we anticipate include, but are not limited to:

- our expectations regarding increased competition, pricing pressures and usage patterns with respect to ICS's product offerings;
- significant changes in ICS's competitive environment, including as a result of industry consolidation, and the effect of competition in its markets, including pricing policies;
- its compliance with complex laws and regulations in the U.S. and internationally; and
- further changes in the telecommunications industry, including rapid technological, regulatory and pricing changes in its principal markets.

Life Sciences / Genovel

Factors or risks that could cause Genovel's, and thus our Life Sciences segment's, actual results to differ materially from the results we anticipate include, but are not limited to:

- its ability to develop and commercialize new products;
- the timing and anticipated outcome of clinical studies and other procedures required to obtain approval of any developed products;
- the ultimate marketability of products currently being developed, including as a result of rapid technological advancement in the industry in which Genovel operates;
- changes to the regulatory environment for Genovel's products, including any increased expenditures as a result of national health care reform or other increased government regulation of Genovel's industry; and
- its success in achieving timely approval or clearance of its products with domestic and foreign regulatory entities.

Other unknown or unpredictable factors could also affect our business, financial condition and results. Although we believe that the expectations reflected in the forward-looking statements are reasonable, there can be no assurance that any of the estimated or projected results will be realized. You should not place undue reliance on these forward-looking statements, which apply only as of the date hereof. Subsequent events and developments may cause our views to change. While we may elect to update these forward-looking statements at some point in the future, we specifically disclaim any obligation to do so.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Foreign Currency Exchange Rate Risk

Our primary market risk exposures relate to changes in foreign currency exchange rates.

Foreign currency can impact our financial results. During the three months ended September 30, 2014, approximately 10.1% of our net revenue from continuing operations was derived from sales and operations outside the U.S. The reporting currency for our condensed consolidated financial statements is the United States dollar (the “USD”). The local currency of each country is the functional currency for each of our respective entities operating in that country. In the future, we expect to continue to derive a portion of our net revenue and incur a portion of our operating costs from outside the U.S., and therefore changes in exchange rates may continue to have a significant, and potentially adverse, effect on our results of operations. Our risk of loss regarding foreign currency exchange rate risk is caused primarily by fluctuations in the USD/British pound sterling (“GBP”) exchange rate. Due to a percentage of our revenue derived outside of the U.S., changes in the USD relative to the GBP could have an adverse impact on our future results of operations. In addition, prior to the sale of BLACKIRON Data and North America Telecom during the second and third quarters of 2013, respectively, we also experienced risk of loss regarding foreign currency exchange rates due to fluctuations in the USD/Canadian dollar (“CAD”) exchange rates. We have agreements with certain subsidiaries for repayment of a portion of the investments and advances made to these subsidiaries. As we anticipate repayment in the foreseeable future, we recognize the unrealized gains and losses in foreign currency transaction gain (loss) on the condensed consolidated statements of operations. The exposure of our income from operations to fluctuations in foreign currency exchange rates is reduced in part because a majority of the costs that we incur in connection with our foreign operations are also denominated in local currencies.

We are exposed to financial statement gains and losses as a result of translating the operating results and financial position of our international subsidiaries. We translate the local currency statements of operations of our foreign subsidiaries into USD using the average exchange rate during the reporting period. Changes in foreign exchange rates affect the reported profits and losses and cash flows of our international subsidiaries and may distort comparisons from year to year. By way of example, when the USD strengthens compared to the GBP, there could be a negative or positive effect on the reported results for our Telecommunications and Marine Services segments, depending upon whether such businesses are operating profitably or at a loss. It takes more profits in GBP to generate the same amount of profits in USD and a greater loss in GBP to generate the same amount of loss in USD. The opposite is also true. For instance, when the USD weakens against the GBP, there is a positive effect on reported profits and a negative effect on reported losses.

For the nine months September 30, 2014 as compared to the nine months ended September 30, 2013, the USD was weaker on average as compared to the GBP. As a result, the revenue of our subsidiaries whose local currency is GBP decreased 54.1% in their local currencies compared to the nine months ended September 30, 2013 and decreased 50.4% in USD.

Interest Rate Risk

The Company has interest rate risk with respect to its long-term debt and credit facilities discussed in Note 9—“Long-Term Obligations” to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q. As of September 30, 2014, we have a substantial amount of debt with variable rates based generally on LIBOR. Increases in interest rates could therefore significantly increase the associated interest payments that we are required to make on this debt.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures.

Our management evaluated, with the participation of our principal executive officer and principal financial officer, the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and principal financial officer have concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective. Disclosure controls and procedures mean our controls and other procedures that are designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Securities Exchange Act of 1934, as amended, is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control.

No changes in our internal control over financial reporting occurred during the fiscal quarter ended September 30, 2014 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

For a description of certain pending legal proceedings, see Note 7—“Commitments and Contingencies—Litigation” to our consolidated financial statements included in HC2’s Annual Report on Form 10-K for the year ended December 31, 2013, as updated in HC2’s Form 10-Q filings for the quarterly periods ended March 31, 2014 and June 30, 2014 (collectively, the “Previous Reports”).

None of the legal proceedings described in our Previous Reports have experienced any material changes.

On November 6, 2014, a putative stockholder class action complaint challenging the buyout by the Company of the minority interest in Schuff International, Inc. (“Schuff International”) was filed in the Court of Chancery of the State of Delaware, captioned Mark Jacobs v. Philip A. Falcone, Keith M. Hladek, Paul Voigt, Michael R. Hill, Rustin Roach, D. Ronald Yagoda, Phillip O. Elbert, HC2 Holdings, Inc., and Schuff International, Inc., Civil Action No. 10323 (the “Complaint”). The Complaint alleges, among other things, that in connection with the buyout the individual members of the Schuff International board of directors and the Company, as the controlling stockholder of Schuff International, breached their fiduciary duties to members of the plaintiff class. The Complaint seeks a rescission of the buyout or rescissory and compensatory damages, as well as attorney’s fees and other relief. The Company believes that the allegations and claims set forth in the Complaint are without merit and intends to defend them vigorously. See “Risk Factors — Legal proceedings could affect the timing and increase the price we pay in our acquisition of Schuff.

ITEM 1A. RISK FACTORS

Except as set forth below, there have been no material changes to the risk factors included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2013 and in Part II, Item 1A—“Risk Factors” in our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2014:

Risks Related to Our Businesses

We may not be able to fully utilize our net operating loss and other tax carryforwards.

Our ability to utilize our net operating loss (“NOL”) and other tax carryforward amounts to reduce taxable income in future years may be limited for various reasons, including if projected future taxable income is insufficient to recognize the full benefit of such NOL carryforward amounts prior to their expiration. Additionally, our ability to fully utilize these tax assets could also be adversely affected if we were deemed to have an “ownership change” within the meaning of Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (the “Code”). An ownership change is generally defined as a greater than 50% increase in equity ownership by “5% shareholders” (as that term is defined for purposes of Sections 382 and 383 of the Code) in any three year period.

As of September 30, 2014, we had an estimated NOL carryforward in the amount of \$195 million. This amount does not include 2014 activity. In the first quarter of 2014, substantial acquisitions of our common stock were reported by new beneficial owners on Schedule 13D filings made with the SEC. On May 29, 2014, we issued 30,000 shares of Series A Preferred Stock and 1,500,000 shares of common stock in connection with the acquisition of Schuff. During the second quarter of 2014, we completed a Section 382 review. The conclusions of this review indicate that an ownership change had occurred as of May 29, 2014. Our annual Section 382 base limit following the ownership change is estimated to be \$2.16 million per year. We also determined that we had a net unrealized built in gain at the time of the change. Pursuant to Section 382(h) of the Code, we are able to increase our Section 382 annual base limitation by an incremental limitation estimated to be a total of \$7.1million in the first five years following the ownership change. On this basis the annual available NOL for the first five years is estimated to be \$3.58 million, decreasing to \$2.16 million for the subsequent 15 years.

We are subject to risks associated with our international operations.

We operate in international markets. Our international operations are subject to a number of risks, including:

- political conditions and events, including embargoes;
- restrictive actions by U.S. and foreign governments;
- the imposition of withholding or other taxes on foreign income, tariffs or restrictions on foreign trade and investment;
- adverse tax consequences;
- limitations on repatriation of earnings;
- currency exchange controls and import/export quotas;
- nationalization, expropriation, asset seizure, blockades and blacklisting;
- limitations in the availability, amount or terms of insurance coverage;
- loss of contract rights and inability to adequately enforce contracts;
- political instability, war and civil disturbances or other risks that may limit or disrupt markets, such as terrorist attacks, piracy and kidnapping;
- outbreaks of pandemic diseases or fear of such outbreaks;
- fluctuations in currency exchange rates, hard currency shortages and controls on currency exchange that affect demand for our services and our profitability;
- potential noncompliance with a wide variety of laws and regulations, such as the U.S. Foreign Corrupt Practices Act of 1977 (the “FCPA”), and similar non-U.S. laws and regulations, including the U.K. Bribery Act 2010;
- labor strikes;
- changes in general economic and political conditions;
- adverse changes in foreign laws or regulatory requirements, including those with respect to flight operations and environmental protections; and
- different liability standards and legal systems that may be less developed and less predictable than those in the United States.

If we are unable to adequately address these risks, we could lose our ability to operate in certain international markets and our business, financial condition or results of operations could be materially adversely affected.

The U.S. Departments of Justice, Commerce, Treasury and other agencies and authorities have a broad range of civil and criminal penalties they may seek to impose against companies for violations of export controls, the FCPA, and other federal statutes, sanctions and regulations, including those established by the Office of Foreign Assets Control (“OFAC”) and, increasingly, similar or more restrictive foreign laws, rules and regulations. By virtue of these laws and regulations, and under laws and regulations in other jurisdictions, we may be obliged to limit our business activities, we may incur costs for compliance programs and we may be subject to enforcement actions or penalties for noncompliance. In recent years, U.S. and foreign governments have increased their oversight and enforcement activities with respect to these laws and we expect the relevant agencies to continue to increase these activities. A violation of these laws, sanctions or regulations could materially adversely affect our business, financial condition or results of operations.

We have compliance policies in place for our employees with respect to FCPA, OFAC and similar laws, but there can be no assurance that our employees, consultants or agents will not engage in conduct for which we may

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be held responsible. Violations of the FCPA, OFAC and other laws, sanctions or regulations may result in severe criminal or civil penalties, and we may be subject to other liabilities, which could materially adversely affect our business, financial condition or results of operations.

We may be required to expend substantial sums in order to bring Schuff and GMSL, or companies we acquire in the future, into compliance with the various reporting requirements applicable to public companies and/or to prepare required financial statements, and such efforts may harm our operating results or be unsuccessful altogether.

Prior to our acquisition of them, Schuff and GMSL were not subject to many of the requirements applicable to public companies, including Section 404 of the Sarbanes-Oxley Act of 2002, (the “Sarbanes-Oxley Act”), which requires that Schuff and GMSL evaluate and report on their system of internal controls. We will need to evaluate and integrate the system of internal controls for Schuff and GMSL. We did not conduct a formal evaluation of Schuff and GMSL’s internal controls over financial reporting prior to our acquisition of those companies. If our finance and accounting staff or internal controls over financial reporting are inadequate, or if we discover any material weaknesses in internal control over financial reporting in companies we acquire, including Schuff and GMSL, we may be required to hire additional staff and incur substantial legal and accounting costs to address such inadequacies. Moreover, we cannot be certain that our remedial measures will be effective. Any failure to implement required or improved controls, or difficulties encountered in their implementation, could harm our operating results or increase its risk of material weaknesses in internal controls.

We face certain risks associated with the acquisition or disposition of businesses and lack of control over investments in associates.

In pursuing our corporate strategy, we may acquire or dispose of or exit businesses or reorganize existing investments. The success of this strategy is dependent upon our ability to identify appropriate opportunities, negotiate transactions on favorable terms and ultimately complete such transactions. Once we complete acquisitions or reorganizations there can be no assurance that we will realize the anticipated benefits of any transaction, including revenue growth, operational efficiencies or expected synergies. For example, if we fail to recognize some or all of the strategic benefits and synergies expected from a transaction, goodwill and intangible assets may be impaired in future periods. The negotiations associated with the acquisition and disposition of businesses could also disrupt our ongoing business, distract management and employees or increase our expenses.

In addition, we may not be able to integrate acquisitions successfully, including Schuff and GMSL, and we could incur or assume unknown or unanticipated liabilities or contingencies, which may impact our results of operations. If we dispose of or otherwise exit certain businesses, there can be no assurance that we will not incur certain disposition related charges, or that we will be able to reduce overhead related to the divested assets.

In addition to the risks described above, acquisitions are accompanied by a number of inherent risks, including, without limitation, the following:

- the difficulty of integrating acquired products, services or operations;
- difficulties in maintaining uniform standards, controls, procedures and policies;
- the potential impairment of relationships with employees and customers as a result of any integration of new management personnel;
- the effect of any government regulations which relate to the business acquired;
- difficulties in disposing of the excess or idle facilities of an acquired company or business and expenses in maintaining such facilities; and
- potential expenses under the labor, environmental and other laws of various jurisdictions.

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We also own an interest in a number of entities, such as Novatel, where we do not exercise management control and we are therefore unable to direct or manage the business to realize the anticipated benefits that we can achieve through full integration.

Legal proceedings could affect the timing and increase the price we pay in our acquisition of Schuff.

A putative class action complaint (the “Complaint”) has been filed challenging the buyout by the Company of the minority interest in Schuff. The Complaint alleges, among other things, that in connection with the buyout the individual members of the Schuff International board of directors and the Company, as the controlling stockholder of Schuff International, breached their fiduciary duties to members of the plaintiff class. The Complaint seeks a rescission of the buyout or rescissory and compensatory damages, as well as attorney’s fees and other relief. Although the Company believes that the allegations and claims set forth in the Complaint are without merit and although it intends to defend such matters vigorously, the action described in the Complaint could result in the Company having to pay a higher price to purchase all of the equity interests in Schuff or it could delay or prevent the completion of our purchase of all of the outstanding shares of Schuff. In addition, in connection with the short form merger, pursuant to which the Company expects to acquire all of the Schuff shares that it does not already own, Schuff shareholders whose shares are purchased in connection with the short form merger will be entitled to exercise rights under Delaware law that could also affect the cost of our purchasing the remaining Schuff shares. We also understand from Schuff’s transfer agent that it has received a notice from the staff of the Enforcement Division of the Securities and Exchange Commission that it is conducting an informal investigation. In connection with the informal investigation, the staff has requested the transfer agent’s transaction journal for Schuff shares, ownership information regarding Schuff shares, materials concerning the tender offer that HC2 made for Schuff shares and materials concerning communications between the transfer agent and Schuff and between the transfer agent and HC2. Such investigation could have any number of outcomes and could delay or prevent the completion of our purchase of the remaining Schuff shares or increase the cost and expense of doing so.

Risks Related to Global Marine Systems Limited

GMSL may be unable to maintain or replace its vessels as they age.

As of September 30, 2014, the average age of the vessels operated by GMSL was approximately 21 years. The expense of maintaining, repairing and upgrading GMSL’s vessels typically increases with age, and after a period of time the cost necessary to satisfy required marine certification standards may not be economically justifiable. There can be no assurance that GMSL will be able to maintain its fleet by extending the economic life of its existing vessels, or that its financial resources will be sufficient to enable it to make the expenditures necessary for these purposes. In addition, the supply of second-hand replacement vessels is relatively limited and the costs associated with acquiring a newly constructed vessel are high. In the event that GMSL was to lose the use of any of its vessels for a sustained period of time, its financial performance would be adversely affected.

The operation and leasing of seagoing vessels entails the possibility of marine disasters including damage or destruction of the vessels 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 GMSL’s business reputation, which may in turn, lead to loss of business.

The operation of seagoing vessels entails certain inherent risks that may adversely affect GMSL’s business and reputation, including:

- damage or destruction of a vessel due to marine disaster such as a collision or grounding;
- 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 and bad weather;
- environmental accidents as a result of the foregoing; and

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- 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 GMSL's operating costs, as for example, the cost of substituting or replacing a vessel, or lower its revenues by taking vessels out of operation permanently or for periods of time. The involvement of GMSL's vessels in a disaster or delays in delivery or damages or loss of cargo may harm its reputation as a safe and reliable vessel operator and cause it to lose business.

GMSL's operations are subject to complex laws and regulations, including environmental laws and regulations that result in substantial costs and other risks.

GMSL does significant business with clients in the oil and natural gas industry, which is extensively regulated by U.S. federal, state, tribal, and local authorities, and corresponding foreign governmental authorities. Legislation and regulations affecting the oil and natural gas industry are under constant review for amendment or expansion, raising the possibility of changes that may become more stringent and, as a result, may affect, among other things, the pricing or marketing of crude oil and natural gas production. Noncompliance with statutes and regulations and more vigorous enforcement of such statutes and regulations by regulatory agencies may lead to substantial administrative, civil, and criminal penalties, including the assessment of natural resource damages, the imposition of significant investigatory and remedial obligations, and may also result in the suspension or termination of our operations.

Litigation, enforcement actions, fines or penalties could adversely impact GMSL's financial condition or results of operations and damage its reputation.

GMSL's business is subject to various international laws and regulations that could lead to enforcement actions, fines, civil or criminal penalties or the assertion of litigation claims and damages. In addition, improper conduct by GMSL's employees or agents could damage its reputation and lead to litigation or legal proceedings that could result in significant awards or settlements to plaintiffs and civil or criminal penalties, including substantial monetary fines. Such events could lead to an adverse impact on GMSL's financial condition or results of operations, if not mitigated by its insurance coverage.

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

Currency exchange rate fluctuations may negatively affect our operating results.

The exchange rates between the US dollar, the Singapore dollar and the GBP have fluctuated in recent periods and may fluctuate substantially in the future. Accordingly, any material fluctuation of the exchange rate of the GBP against the US dollar and Singapore dollar could have a negative impact on GMSL's results of operations and financial condition.

There are risks inherent in foreign operations and investments, such as adverse changes in currency values and foreign regulations.

The joint ventures in which GMSL has operating activities or interests that are located outside the United States are subject to certain risks related to the indirect ownership and development of, or investment in, foreign subsidiaries, including government expropriation and nationalization, adverse changes in currency values and foreign exchange controls, foreign taxes, U.S. taxes on the repatriation of funds to the United States, and

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other laws and regulations, any of which may have a material adverse effect on GMSL's investments, financial condition, results of operations, or cash flows.

GMSL derives a significant amount of its revenues from sales to customers in non-U.S. or foreign countries, which pose additional risks including economic, political and other uncertainties.

Our non-U.S. or foreign sales are significant in relation to consolidated sales. GMSL believes that export sales will remain a significant percentage of its revenue. In addition, sales of its products to customers operating in foreign countries that experience political/economic instability or armed conflict could result in difficulties in delivering and installing complete seismic energy source systems within those geographic areas and receiving payment from these customers. Furthermore, restrictions under the FCPA or similar legislation in other countries, or trade embargoes or similar restrictions imposed by the United States or other countries, could limit GMSL's ability to do business in certain foreign countries. These factors could materially adversely affect GMSL's results of operations and financial condition.

The loss of any member of GMSL's senior management or key personnel may adversely affect its financial condition or results of operations.

GMSL depends, and will continue to depend in the foreseeable future, on the services of its executive management team and other key personnel. GMSL's senior management consists of a relatively small number of individuals. These individuals possess sales, marketing, engineering and financial skills that are critical to the operation of GMSL's business. The ability to retain officers and key senior employees is important to GMSL's success and future growth. The unexpected loss of the services of one or more of these individuals could have a detrimental effect on its business. GMSL's success laying, repairing and maintaining subsea cables and the success of other activities integral to its operations depends, in part, on its ability to attract and retain experienced engineers and other technically proficient professionals. Competition for many of these professionals is intense. If GMSL cannot retain its technical personnel or attract additional experienced technical personnel and professionals, its ability to compete successfully could be harmed.

Risks Related to American Natural Gas

Automobile and engine manufacturers currently produce few originally manufactured natural gas vehicles and engines for the markets in which ANG participates, which may adversely impact the adoption of CNG as a vehicle fuel.

Limited availability of natural gas vehicles and engine sizes of such vehicles restricts their wide scale introduction and narrows the potential customer base. This, in turn, has a limiting effect on the results of operations. ANG expects upon a successful implementation of ANG's business plan. Due to the limited supply of natural gas vehicles, ANG's ability to promote certain of the services contemplated by ANG's business plan may be restricted, even if there is demand.

ANG's growth depends in part on environmental regulations and programs mandating the use of cleaner burning fuels, and modification or repeal of these regulations may adversely impact ANG's business.

ANG's contemplated business depends in part on environmental regulations and programs in the United States that promote or mandate the use of cleaner burning fuels, including natural gas for vehicles. Industry participants with a vested interest in gasoline and diesel, many of which have substantially greater resources than ANG does, invest significant time and money in an effort to influence environmental regulations in ways that delay or repeal requirements for cleaner vehicle emissions. Further, economic difficulties may result in the delay, amendment or waiver of environmental regulations due to the perception that they impose increased costs on the transportation industry that cannot be absorbed in a challenging economy. Further, the delay, repeal or modification of federal or state regulations or programs that encourage the use of cleaner vehicles could also have a detrimental effect on the United States natural gas vehicle industry, which, in turn, could slow the implementation of ANG's business plan.

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The use of natural gas as a vehicle fuel may not become sufficiently accepted for ANG to implement its business plan based upon the public debate over the development of domestic natural gas resources or otherwise. Whether ANG will be able to implement its business plan will depend on a number of factors, including the level of acceptance and availability of natural gas vehicles and acceptance of ANG's services. A decline in oil, diesel fuel and gasoline prices may result in decreased interest in alternative fuels like CNG. Further, potential customers may not find ANG's services acceptable.

ANG faces intense competition from oil and gas companies, retail fuel providers, refuse companies, industrial gas companies, natural gas utilities, and other organizations that have far greater resources and brand awareness than ANG has.

A significant number of established businesses, including oil and gas companies, refuse collectors, natural gas utilities, industrial gas companies, station owners and other organizations have entered or are planning to enter the natural gas fuels market. Many of these current and potential competitors have substantially greater financial, marketing, research and other resources than ANG has. Natural gas utilities continue to own and operate natural gas fueling stations. Utilities in Michigan, Illinois, New Jersey, North Carolina and Georgia have also recently made efforts to invest in the natural gas vehicle fuel space. ANG expects competition to intensify in the near term in the market for natural gas vehicle fuel as the use of natural gas vehicles and the demand for natural gas vehicle fuel increases. Increased competition will lead to amplified pricing pressure, reduced operating margins and fewer expansion opportunities. ANG's failure to compete successfully would adversely affect ANG's business and financial results, even if ANG is successful in implementing its business plan.

The infrastructure to support gasoline and diesel consumption is vastly more developed than the infrastructure for natural gas vehicle fuels.

Gasoline and diesel fueling stations and service infrastructure are widely available in the US. For natural gas vehicle fuels to achieve more widespread use in the US, they will require a promotional and educational effort and the development and supply of more natural gas vehicles and fueling stations. This will require significant continued effort by us, as well as government and clean air groups, and ANG may face resistance from oil companies and other vehicle fuel companies.

Natural gas fueling operations and vehicle conversions entail inherent safety and environmental risks that may result in substantial liability to us.

Natural gas fueling operations and vehicle conversions entail inherent risks, including equipment defects, malfunctions and failures and natural disasters, which could result in uncontrollable flows of natural gas, fires, explosions and other damages. Additionally, CNG fuel tanks, if damaged or improperly maintained, may rupture and the contents of the tank may rapidly decompress and result in death or injury. These risks may expose us to liability for personal injury, wrongful death, property damage, pollution and other environmental damage. ANG may incur substantial liability and cost if damages are not covered by insurance or are in excess of policy limits.

A successful implementation of ANG's business plan will subject ANG to a variety of governmental regulations that may restrict ANG's business and may result in costs and penalties.

A successful implementation of ANG's business plan will subject us to a variety of federal, state and local laws and regulations relating to the environment, health and safety, labor and employment and taxation, among others. These laws and regulations are complex, change frequently and have tended to become more stringent over time. Failure to comply with these laws and regulations may result in a variety of administrative, civil and criminal enforcement measures, including assessment of monetary penalties and the imposition of remedial requirements. From time to time, as part of the regular overall evaluation of ANG's operations, including newly acquired operations, ANG may be subject to compliance audits by regulatory authorities.

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ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

(a) Exhibits (see Exhibit Index following signature page below)

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on November 10, 2014.

HC2 HOLDINGS, INC.

Date: November 10, 2014

By: /s/ MESFIN DEMISE

Mesfin Demise

**Chief Financial Officer, Corporate Controller and Treasurer
(Principal Financial and Accounting Officer)**

EXHIBIT INDEX

Exhibit Number	Description
2.1	Sale and Purchase Agreement, dated September 22, 2014, by and between Global Marine Holdings, LLC and the Sellers party thereto (incorporated by reference to Exhibit 2.1 to HC2 Holdings, Inc.'s ("HC2") Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).
3.1	Second Amended and Restated Certificate of Incorporation of HC2 (incorporated by reference to Exhibit 3.1 to HC2's Form 8-A, filed on June 20, 2011) (File No. 001-35210).
3.2	Certificate of Ownership of HC2 (incorporated by reference to Exhibit 3.1 to HC2's Current Report on Form 8-K, filed on October 18, 2013) (File No. 001-35210).
3.3	Certificate of Ownership and Merger (incorporated by reference to Exhibit 3.1 to HC2's Current Report on Form 8-K, filed on April 11, 2014) (File No. 001-35210).
3.4	Certificate of Amendment (incorporated by reference to Exhibit 3.1 to HC2's Current Report on Form 8-K, filed on June 18, 2014) (File No. 001-35210).
4.1	Certificate of Designation of Series A Convertible Participating Preferred Stock of HC2 (incorporated by reference to Exhibit 4.1 to HC2's Current Report on Form 8-K, filed on June 4, 2014) (File No. 001-35210).
4.2	Certificate of Designation of Series A-1 Convertible Participating Preferred Stock of HC2 (incorporated by reference to Exhibit 4.1 to HC2's Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).
4.3	Certificate of Amendment to the Certificate of Designation of Series A Convertible Participating Preferred Stock of HC2 (incorporated by reference to Exhibit 4.2 to HC2's Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).
10.1^	Employment Agreement, dated September 9, 2014, by and between HC2 and Andrea Mancuso (filed herewith)
10.2^	Employment Agreement, dated September 11, 2014, by and between HC2 and Mesfin Demise (filed herewith)
10.3	Securities Purchase Agreement, dated as of September 22, 2014, by and among HC2 and affiliates of DG Capital Management, LLC and Luxor Capital Partners, LP (incorporated by reference to Exhibit 10.3 to HC2's Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).
10.4	Amended and Restated Registration Rights Agreement, dated as of September 22, 2014, by and among HC2 and the investors named therein (incorporated by reference to Exhibit 10.4 to HC2's Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).
10.5	Credit Agreement, dated as of September 22, 2014, by and among HC2, as Borrower, certain subsidiaries of HC2, as Subsidiary Guarantors, the lenders party thereto from time to time, Jefferies Finance LLC, as lead arranger, as book manager, as documentation agent for the lenders and as syndication agent for the lenders, and Jefferies Finance LLC, as administrative agent for the lenders and as collateral agent for the secured parties (incorporated by reference to Exhibit 10.1 to HC2's Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).
10.6	Pledge and Security Agreement, dated as of September 22, 2014, by and among HC2, as Borrower, certain subsidiaries of HC2, as Subsidiary Guarantors, and Jefferies Finance LLC, as collateral agent for the secured parties (incorporated by reference to Exhibit 10.2 to HC2's Current Report on Form 8-K, filed on September 26, 2014) (File No. 001-35210).

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<u>Exhibit Number</u>	<u>Description</u>
10.7	Fourth Amendment to Second Amended and Restated Credit and Security Agreement, dated as of September 26, 2014, by and among Schuff, as Borrower, and Wells Fargo Credit, Inc. (filed herewith).
10.8	Secured Loan Agreement, dated as of January 20, 2014, by and among Global Marine Systems (Vessels) Limited, as Borrower, Global Marine Systems Limited, as Guarantor, and DVB Bank SE Nordic Branch, as Lender (filed herewith).
10.9.1	Supplemental Charter Agreement, dated as of March 21, 2012, by and among Global Marine Systems Limited, as Charterer, and International Cables Ship PTE LTD, as Owner (filed herewith).
10.9.2	Bareboat Charter, dated as of September 24, 1992, between International Cables Ship Pte Ltd and Global Marine Systems Limited (as successor-in-interest to Cable & Wireless (Marine) Ltd) (filed herewith).
10.10.1	Deed of Covenant, dated as of March 14, 2006, by and among Global Marine Systems Limited, as Mortgagee, and DYVI Cable Ship, as Mortgagor (filed herewith).
10.10.2	Bareboat Charter, dated as of March 14, 2006, between DYVI Cable Ship AS and Global Marine Systems Limited (filed herewith).
10.10.3	Mortgage, dated as of March 14, 2006, of DYVI Cable Ship AS, as mortgagor, in favor of Global Marine Systems Limited, as mortgagee (filed herewith).
10.11	Consent and Waiver to Credit Agreement, dated as of October 22, 2014, by and among HC2, as Borrower, certain subsidiaries of HC2, as Subsidiary Guarantors, the lenders party thereto from time to time, Jefferies Finance LLC, as lead arranger, as book manager, as documentation agent for the lenders and as syndication agent for the lenders, and Jefferies Finance LLC, as administrative agent for the lenders and as collateral agent for the secured parties (filed herewith).
10.12	Amendment to Credit Agreement, dated as of October 26, 2014, by and among HC2, as Borrower, certain subsidiaries of HC2, as Subsidiary Guarantors, the lenders party thereto from time to time, Jefferies Finance LLC, as lead arranger, as book manager, as documentation agent for the lenders and as syndication agent for the lenders, and Jefferies Finance LLC, as administrative agent for the lenders and as collateral agent for the secured parties (filed herewith).
10.13	Amendment No. 2 to Credit Agreement, dated as of October 31, 2014, by and among HC2, as Borrower, certain subsidiaries of HC2, as Subsidiary Guarantors, the lenders party thereto from time to time, Jefferies Finance LLC, as lead arranger, as book manager, as documentation agent for the lenders and as syndication agent for the lenders, and Jefferies Finance LLC, as administrative agent for the lenders and as collateral agent for the secured parties (filed herewith).
10.14	Consent and Waiver, dated as of October 9, 2014 to Securities Purchase Agreement, dated as of May 29, 2014, by and among HC2 and affiliates of Hudson Bay Capital Management LP, Benefit Street Partners L.L.C. and DG Capital Management, LLC (the "Purchasers") (filed herewith).
10.15	Consent, Waiver and Amendment, dated as of September 22, 2014 to Securities Purchase Agreement, dated as of May 29, 2014, by and among HC2 and affiliates of Hudson Bay Capital Management LP, Benefit Street Partners L.L.C. and DG Capital Management, LLC (the "Purchasers") (filed herewith).
31	Certifications (filed herewith).
32*	Certification (filed herewith).

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<u>Exhibit Number</u>	<u>Description</u>
101	The following materials from the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2014, formatted in extensible business reporting language (XBRL); (i) Unaudited Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2014 and 2013, (ii) Unaudited Condensed Consolidated Statements of Comprehensive Income (Loss) for the three and nine months ended September 30, 2014 and 2013, (iii) Unaudited Condensed Consolidated Balance Sheets at September 30, 2014 and December 31, 2013, (iv) Unaudited Condensed Consolidated Statements of Permanent Equity for the nine months ended September 30, 2014, (v) Unaudited Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2014 and 2013, and (vi) Notes to Unaudited Condensed Consolidated Financial Statements (filed herewith).
*	These certifications are being "furnished" and will not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liability of that section. Such certifications will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, as amended, except to the extent that the registrant specifically incorporates it by reference.
^	Indicates management contract or compensatory plan or arrangement.



September 9, 2014

Andrea Mancuso
460 Herndon Parkway,
Suite 150
Herndon, VA 20170

Dear Andrea:

On behalf of HC2 Holdings, Inc. (the "Company"), it is my pleasure to offer you the regular, full-time position of Acting General Counsel and Corporate Secretary, reporting to Keith Hladek, Chief Operating Officer. This position is based out of the Herndon, Virginia office. The effective date will be Tuesday, September 9, 2014 or the beginning of the pay period immediately following the date in which you execute this letter, whichever is the latter, (the "Effective Date"), subject to the conditions set forth herein.

Your semi-monthly salary will be \$8,750, which is \$210,000 annually, plus an annual discretionary bonus, approved by the Company. In addition, you will receive the following equity awards:

- i. 30,000 shares of Restricted Stock. The Restricted Stock shall vest and the restrictions shall lapse for one-third of the shares on the Grant Date and an additional one-third of the shares on each of the first and second anniversaries of the Effective Date, subject to your continued employment on such date. The Restricted Stock shall be subject to the terms of the underlying award agreements and the Company's equity plan in effect from time to time.
- ii. Stock options to purchase 6,000 shares of the company's common stock, par value \$0.001 per share (the "Option"). The Option shall be exercisable for one-third of the shares subject to the Option on the Grant Date and an additional one-third of the shares covered by the Option shall become exercisable on each of the first and second anniversaries of the Effective Date, subject to your continued employment on such date. The Option shall be subject to the terms of the underlying award agreements and the Company's equity plan in effect from time to time. The exercise price for the Option shall be the closing price of the Company's common stock on the Grant Date.

This offer is subject to written affirmation of the Company's Code of Ethics and other then-prevailing policies and procedures. Your employment with the Company is at-will meaning both you and the Company can end the employment relationship at any time and for any reason. The terms and conditions of this letter supersede any and all prior letters and oral statements from the Company or its subsidiaries.

By accepting this offer of employment and in consideration for the above increased compensation and equity awards, you agree to rescind the PTGi letter from John Filipowicz dated January 16, 2013 (the "January 16, 2013 letter") and acknowledge that it is null and void. You further agree to release PTGi and/or the Company from any claim of severance payment or COBRA benefit (not including any statutorily required COBRA rights) provided in the January 16, 2013 letter.



Until and unless altered, modified, or deleted, your elections as of the date of this letter, under the PTGi International Carrier Service Inc.'s employee benefit plans for health, dental, vision, life insurance, voluntary life insurance, AD&D and short-term and long-term disabilities, as well as the 401(k) Plan, will remain in full force.

For purposes of your Paid-Time-Off ("PTO") accrual, the Company will count your previous tenure with PTGi International Carrier Services, Inc.

Please sign in the space below to confirm that you have read, understood, and agree to all terms and conditions of employment as outlined above. This offer of employment will remain open until Friday, September 12, 2014.

Kind regards,

/s/ Keith Hladek
Keith Hladek
Chief Operating Officer
For and on behalf of the Company

cc: Human Resources

/s/ Andrea Mancuso
Accepted by: Andrea Mancuso

9/11/2014
Date



September 11, 2014

Mesfin Demise
460 Herndon Parkway,
Suite 150
Herndon, VA 20170

Dear Mesfin:

On behalf of HC2 Holdings, Inc. (the "Company"), it is my pleasure to offer you the regular, full-time position of Chief Financial Officer and Compliance Officer, reporting to Keith Hladek, Chief Operating Officer. This position is based out of the Herndon, Virginia office. The effective date will be Thursday, September 11, 2014 (the "Effective Date"), subject to the conditions set forth herein.

Your semi-monthly salary will be \$6,875, which is \$165,000 annually, plus an annual discretionary bonus, approved by the Company. In addition, you will receive the following equity awards:

- i. 15,000 shares of Restricted Stock. The Restricted Stock shall vest and the restrictions shall lapse for one-third of the shares on the Grant Date and an additional one-third of the shares on each of the first and second anniversaries of the Effective Date, subject to your continued employment on such date. The Restricted Stock shall be subject to the terms of the underlying award agreements and the Company's equity plan in effect from time to time.
- ii. Stock options to purchase 3,000 shares of the company's common stock, par value \$0,001 per share (the "Option"). The Option shall be exercisable for one-third of the shares subject to the Option on the Grant Date and an additional one-third of the shares covered by the Option shall become exercisable on each of the first and second anniversaries of the Effective Date, subject to your continued employment on such date. The Option shall be subject to the terms of the underlying award agreements and the Company's equity plan in effect from time to time. The exercise price for the Option shall be the closing price of the Company's common stock on the Grant Date.

This offer is subject to written affirmation of the Company's Code of Ethics and other then-prevailing policies and procedures. Your employment with the Company is at-will meaning both you and the Company can end the employment relationship at any time and for any reason. The terms and conditions of this letter supersede any and all prior letters and oral statements from the Company or its subsidiaries.

Until and unless altered, modified, or deleted, your elections as of the date of this letter, under the PTGi International Carrier Service Inc.'s employee benefit plans for health, dental, vision, life insurance, voluntary life insurance, AD&D and short-term and long-term disabilities, as well as the 401(k) Plan, will remain in full force.



For purposes of your Paid-Time-Off (“PTO”) accrual, the Company will count your previous tenure with PTGi International Carrier Services, Inc.

Please sign in the space below to confirm that you have read, understood, and agree to all terms and conditions of employment as outlined above. This offer of employment will remain open until COB, today, September 11, 2014.

Kind regards,

/s/ Keith Hladek
Keith Hladek
Chief Operating Officer
For and on behalf of the Company

cc: Human Resources

/s/ Mesfin Demise
Accepted by: Mesfin Demise

09/11/14
Date

**FOURTH AMENDMENT TO SECOND AMENDED AND RESTATED
CREDIT AND SECURITY AGREEMENT**

THIS FOURTH AMENDMENT (the "Amendment"), dated September 26, 2014, is entered into by and between **SCHUFF INTERNATIONAL, INC.**, a Delaware corporation, and the other Persons listed in Schedule 1.1 of the Credit Agreement, as hereafter defined (collectively, jointly and severally the "Borrower"), and **WELLS FARGO CREDIT, INC.**, a Minnesota corporation ("Lender").

RECITALS

The Borrower and the Lender are parties to a Second Amended and Restated Credit and Security Agreement dated August 14, 2013 (as amended from time to time, the "Credit Agreement"). Capitalized terms used in these recitals have the meanings given to them in the Credit Agreement unless otherwise specified.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is agreed as follows:

1. Credit Agreement Amendment. The Credit Agreement is hereby amended as follows:

(a) The following definitions contained in Section 1.1 of the Credit Agreement are hereby added or replaced, as applicable.

"Advance" means a Revolving Advance, the Real Estate Term Advance or any Real Estate (2) Term Advance, as the context requires.

"Borrowing Base" means at any time the lesser of:

the Maximum Line; or

the sum of:

(i) 85% of Eligible Quincy Accounts plus the lesser of \$3,000,000.00, plus

(ii) the lesser of (a) \$20,000,000.00, or (b) 20% of Eligible Non-Quincy Accounts, plus

(iii) the lesser of (a) \$433,000.00, which amount shall be automatically reduced by \$225,000.00 on the first day of each month commencing on September 1, 2014, by all amounts which are paid to Lender pursuant to Section 6.2(c) of the Credit Agreement and by all amounts paid to Lender pursuant to Section 6.28 of the Credit Agreement until such time as said amount is equal to \$0.00), or (b) 85% of the Net Orderly Liquidation Value of Eligible Equipment, plus

(iv) the lesser of (a) 85% of the Net Orderly Liquidation Value of the Eligible Inventory, or (b) \$15,000,000.00, plus

(v) the lesser of (a) \$6,812,500.00 (which amount shall automatically be reduced by \$62,500.00 on September 1, 2014, and on the first day of each month thereafter through and until the Real Estate Facility Termination Date, at which point it shall be equal to \$0.00), or (b) 20% of the fair market value of the Real Property, as determined by appraisals which are acceptable to the Lender in its sole discretion (such lesser amount, the "Real Estate Sublimit"), minus

(vii) \$5,000,000.00.

"Floating Rate" means, with respect to all Advances (except the Real Estate Term Advance and the Real Estate (2) Term Advance) an interest rate equal to the sum of (i) Daily Three Month LIBOR, which interest rate shall change whenever Daily Three Month LIBOR changes, plus (ii) three percent (3.00%) and, with respect to the Real Estate Term Advance, and the Real Estate (2) Term Advance, "Floating Rate" means an interest rate equal to the sum of (i) Daily Rate equal to Three Month LIBOR, which interest rate shall change whenever the Daily Three Month LIBOR changes, plus (ii) four percent (4.00%).

"Note" or "Notes" collectively means the Third Replacement Revolving Note, the Real Estate Term Note and the Real Estate (2) Term Note and any note issued in substitution or replacement thereof.

"Real Estate (2) Term Advances" has the meaning specified in Section 2.20(a).

"Real Estate (2) Term Note" means the \$15,000,000.00 Real Estate (2) Term Note in favor of the Lender, as the same may be renewed and amended from time to time, and all replacements thereto.

(b) Section 2.8(a) of the Credit Agreement is hereby deleted and replaced as follows:

(a) **Note.** Except as set forth in subsections (b) and (d), the outstanding principal balance of the Revolving Note and each Revolving Advance and the outstanding principal balance of the Real Estate Term Note and the Real Estate Term Advance and the outstanding principal balance of the Real Estate (2) Term Note and all Real Estate (2) Term Advances shall bear interest at the Floating Rate.

(c) Section 2.9(j) of the Credit Agreement is hereby deleted and replaced as follows:

Real Estate Term Advance Prepayment Fee. If the Real Estate Term Advance or any Real Estate (2) Term Advance is prepaid in whole or in part prior to the Real Estate Facility Maturity Date for any reason, then on the date of any such prepayment, the Borrower shall pay to the Lender as liquidated damages and not as a penalty a prepayment fee in an amount equal to (i) three percent (3.0%) of the amount prepaid, if prepayment occurs on or before April 30, 2016; (ii) two percent (2.0%) of the amount prepaid, if prepayment occurs after April 30, 2016 but on or before April 30, 2018 and (iii) one percent (1.0%) of the amount prepaid if the prepayment occurs after April 30, 2018.

(d) A new Section 2.9(k) is hereby added to the Credit Agreement which provides:

(k) **Real Estate (2) Term Advance Origination Fees.** The Borrower shall pay to the Lender, on the date of each Real Estate (2) Term Advance, a fully earned, non-refundable, origination fee in the amount of 0.25% of the applicable Real Estate (2) Term Advance.

(e) Section 2.20 of the Credit Agreement is hereby deleted and replaced as follows:

Section 2.20 Real Estate (2) Term Advances.

(a) The Lender agrees, subject to the terms and conditions of this Agreement, to make advances to the Borrower from time to time through and until that date which is 6 months from the date of the Fourth Amendment to the Credit Agreement (each a "Real Estate (2) Term Advance"). The Lender shall have no obligation to make a Real Estate (2) Term Advance if, after giving effect to such requested Real Estate (2) Term Advance, the aggregate original principal amount of all of the Real Estate (2) Term Advances made under this agreement would exceed \$15,000,000.00 with each Real Estate (2) Term Advance. Any Real Estate (2) Advances repaid may not be reborrowed.

(b) The Borrower shall comply with the following procedures in requesting Real Estate (2) Term Advances:

(i) The Borrower shall make each request for a Real Estate (2) Term Advance to the Lender no later than the Cut-off Time on the Banking Day on which the Borrower wishes to receive the Real Estate (2) Term Advance. Requests may be made in writing or by telephone, specifying the date of the requested Real Estate (2) Term Advance and the amount thereof.

(ii) Each Real Estate (2) Term Advance shall be a minimum of \$1,000,000.00.

(iii) Each request shall be by an individual authorized pursuant to 2.2(a).

(iv) There may not be more than 4 Real Estate (2) Term Advances.

(v) The proceeds of each Real Estate (2) Term Advance may be used solely to repurchase treasury stock of the Borrower.

(vi) There is not less than \$10,000,000.00 in excess Availability on the date of each request for a Real Estate (2) Term Advance.

(c) Upon fulfillment of the applicable conditions set forth in Article IV, the Lender shall deposit the proceeds of the requested Real Estate (2) Term Advance by crediting the same to the Borrower's demand deposit account specified in Section 2.2(b) unless the Lender and the Borrower shall agree in writing to another manner of disbursement. Upon the Lender's request, the Borrower shall promptly confirm each telephonic request for a Real Estate (2) Term Advance by executing and delivering an appropriate confirmation certificate to the Lender. The Borrower shall be obligated to repay all Real Estate (2) Term Advances notwithstanding the Lender's failure to receive such confirmation and notwithstanding the fact that the Person requesting the same was not in fact authorized to do so. Any request for a Real Estate (2) Term Advance, whether written or telephonic, shall be deemed to be a representation by the Borrower, upon which the Lender may rely, that the Borrower is in compliance with the conditions set forth in Section 4.2 as of the time of the request.

(d) Payment of the Real Estate (2) Term Advance. The outstanding principal balance of the Real Estate Term Advance shall be due and payable as follows:

(i) In equal monthly installments sufficient to fully amortize the Real Estate (2) Term Advances over an assumed term of 8 years (the "Assumed Maturity Date"), beginning on the first day of the first month following the disbursement of the first Real Estate Term Advance, and on the first day of each month thereafter. The monthly installments shall be recalculated after the disbursement of each Real Estate (2) Term Advance so that all Real Estate (2) Term Advances will be fully amortized by the Assumed Maturity Date.

(ii) All prepayments of principal with respect to the Real Estate Term Advance shall be applied to the principal installments thereof in the inverse order of maturity.

(iii) On the Real Estate Facility Termination Date, the entire unpaid principal balance of the Real Estate Term Advance, and all unpaid interest accrued thereon, shall also be fully due and payable.

(f) Section 6.2(c) of the Credit Agreement is hereby deleted and replaced as follows:

(c) **Free Cash Flow.** The Borrower shall, if requested by the Lender in its sole discretion, on the first day of the first month following Lender's receipt of Borrower's audited financial statements of each year, commencing with the 2014 fiscal year, pay 30% of the Free Cash Flow generated in the immediately preceding fiscal year to Lender for application to reduce (in the following order) the outstanding principal balance of (i) the Advances supported by the Real Estate Sublimit component of the Borrowing Base, (ii) the Real Estate Term Advance and (iii) the Real Estate Term (2) Advance.

2. **No Other Changes.** Except as explicitly amended by this Amendment, all of the terms and conditions of the Credit Agreement shall remain in full force and effect and shall apply to any advance or letter of credit thereunder.

3. **Conditions Precedent.** This Amendment shall be effective when the Lender shall have received an executed original hereof, together with each of the following, each in substance and form acceptable to the Lender in its sole discretion:

(a) A Certificate of the Secretary of the Borrower certifying as to (i) the resolutions of the board of directors of the Borrower approving the execution and delivery of this Amendment, (ii) the fact that the articles of incorporation and bylaws or articles of organization and operating agreement, as applicable, of the Borrower, which were certified and delivered to the Lender pursuant to a previous Certificate of Authority of the Borrower's secretary or assistant secretary continue in full force and effect and have not been amended or otherwise modified except as set forth in the Certificate to be delivered, and (iii) certifying that the officers and agents of the Borrower who have been certified to the Lender, pursuant to a previous Certificate of Authority of the Borrower's secretary or assistant secretary, as being authorized to sign and to act on behalf of the Borrower continue to be so authorized or setting forth the sample signatures of each of the officers and agents of the Borrower authorized to execute and deliver this Amendment and all other documents, agreements and certificates on behalf of the Borrower.

(b) The Real Estate (2) Term Note, in the form attached hereto as Exhibit A-1, duly executed by the Borrower.

(c) The Amendments to the Deeds of Trust, in the form attached hereto as Exhibit A-2, duly executed and acknowledged by the

Borrower.

(d) Payment of the fee detailed in Section 9 below.

(e) Such other matters as the Lender may reasonably require.

4. **Representations and Warranties.** The Borrower hereby represents and warrants to the Lender as follows:

(a) The Borrower has all requisite power and authority to execute this Amendment and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Amendment and all such other agreements and instruments has been duly executed and delivered by the Borrower and constitute the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by the Borrower of this Amendment and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to the Borrower, or the articles of incorporation or by-laws of the Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which the Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Article V of the Credit Agreement are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

5. References. All references in the Credit Agreement to “this Agreement” shall be deemed to refer to the Credit Agreement as amended hereby; and any and all references in the Security Documents to the Credit Agreement shall be deemed to refer to the Credit Agreement as amended hereby.

6. No Waiver. The execution of this Amendment and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Credit Agreement or a waiver of any breach, default or event of default under any Security Document or other document held by the Lender, whether or not known to the Lender and whether or not existing on the date of this Amendment.

7. Release. The Borrower hereby absolutely and unconditionally releases and forever discharges the Lender, and any and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns thereof, together with all of the present and former directors, officers, agents and employees of any of the foregoing, from any and all claims, demands or causes of action of any kind, nature or description, whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, which the Borrower has had, now has or has made claim to have against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Amendment, whether such claims, demands and causes of action are matured or unmatured or known or unknown.

8. Costs and Expenses. The Borrower hereby reaffirms its agreement under the Credit Agreement to pay or reimburse the Lender on demand for all costs and expenses incurred by the Lender in connection with the Loan Documents, including without limitation all title insurance premiums and all reasonable fees and disbursements of legal counsel. Without limiting the generality of the foregoing, the Borrower specifically agrees to pay all reasonable fees and disbursements of counsel to the Lender for the services performed by such counsel in connection with the preparation of this Amendment and the documents and instruments incidental hereto. The Borrower hereby agrees that the Lender may, subject to the terms of this Amendment, in its sole discretion and without further authorization by the Borrower, make a loan to the Borrower under the Credit Agreement, or apply the proceeds of any loan, for the purpose of paying any such fees, disbursements, costs and expenses.

9. Amendment Fee. The Borrower shall pay to the Lender, on the date hereof, a fully earned, non-refundable amendment fee in the amount of \$37,500.00.

10. Miscellaneous. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized as of the date first above written.

For Each Person Comprising the Borrower

c/o Schuff International, Inc.
1841 W. Buchanan Street
Phoenix, Arizona 85007
Telecopier: (602) 452-4465
Attention: Michael R. Hill
e-mail: MIKE.HILL@SCHUFF.COM

SCHUFF INTERNATIONAL, INC., a
Delaware corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

SCHUFF STEEL COMPANY, a
Delaware corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

SCHUFF STEEL – ATLANTIC, LLC., a Florida limited liability company

By: Schuff Steel Company, a Delaware corporation
Its Managing Member

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

QUINCY JOIST COMPANY, a Delaware
corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

SCHUFF STEEL – GULF COAST, INC., a
Delaware corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

ON-TIME STEEL MANAGEMENT
HOLDING, INC., a Delaware corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

SCHUFF HOLDING CO., a Delaware corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: President

ADDISON STRUCTURAL SERVICES, INC., a Florida
corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: President

SCHUFF STEEL MANAGEMENT COMPANY-
SOUTHEAST L.L.C., a Delaware limited liability company

By: /s/ Michael R. Hill

Name: Michael R. Hill, Manager

SCHUFF STEEL MANAGEMENT COMPANY-
SOUTHWEST, INC., a Delaware corporation

By: /s/ Michael R. Hill

Michael R. Hill

Its: Vice President and CFO

SCHUFF STEEL MANAGEMENT COMPANY-
COLORADO, L.L.C., a Delaware limited liability company

By: /s/ Michael R. Hill

Michael R. Hill, Manager

SCHUFF PREMIER SERVICES LLC, a
Delaware limited liability company

By: /s/ Michael R. Hill

Name: Michael R. Hill, Manager

WELLS FARGO CREDIT, INC.

By /s/ Amber M. Wildermuth

Its Authorized Signatory

EXHIBIT A-1

REAL ESTATE (2) TERM NOTE

\$15,000,000.00

_____, 2014

For value received, the undersigned, SCHUFF INTERNATIONAL, INC., a Delaware corporation, SCHUFF STEEL COMPANY, a Delaware corporation, SCHUFF STEEL – ATLANTIC, LLC., a Florida limited liability company, QUINCY JOIST COMPANY, a Delaware corporation, SCHUFF STEEL – GULF COAST, INC., a Delaware corporation, ON-TIME STEEL MANAGEMENT HOLDING, INC., a Delaware corporation, SCHUFF HOLDING CO., a Delaware corporation, ADDISON STRUCTURAL SERVICES, INC., a Florida corporation, SCHUFF STEEL MANAGEMENT COMPANY-SOUTHEAST L.L.C., a Delaware limited liability company, SCHUFF STEEL MANAGEMENT COMPANY-SOUTHWEST, INC., a Delaware corporation, SCHUFF STEEL MANAGEMENT COMPANY-COLORADO, L.L.C., a Delaware limited liability company, SCHUFF PREMIER SERVICES LLC, a Delaware limited liability company (collectively, jointly and severally the “Borrower”), hereby promises to pay to the order of WELLS FARGO CREDIT, INC., a Minnesota corporation (the “Lender”), on or before the Termination Date set forth in the Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time, that was entered into by the Lender and the Borrower (the “Credit Agreement”), at Lender’s office located at Phoenix, Arizona or at any other place designated at any time by the holder hereof, in lawful money of the United States of America and in immediately available funds, the principal sum of Fifteen Million Dollars (\$15,000,000.00) or the aggregate unpaid principal amount of all Real Estate (2) Term Advances made by the Lender to the Borrower under the Credit Agreement together with interest on the principal amount hereunder remaining unpaid from time to time, computed on the basis of the actual number of days elapsed and a 360-day year, from the date the Real Estate (2) Term Advances are made to the Borrower until this Real Estate (2) Term Note is fully paid at the rate from time to time in effect under the Credit Agreement.

This Real Estate (2) Term Note is the Real Estate (2) Term Note referred to in the Credit Agreement, and is subject to the terms of, the Credit Agreement, which provides, among other things, for acceleration hereof. Principal and interest due hereunder shall be payable as provided in the Credit Agreement, and this Real Estate (2) Term Note may be prepaid only in accordance with the terms of the Credit Agreement. This Real Estate (2) Term Note is secured, among other things, pursuant to the Credit Agreement and the Security Documents as therein defined, and may now or hereafter be secured by one or more other security agreements, mortgages, deeds of trust, assignments or other instruments or agreements. This Real Estate (2) Term Note is secured, among other things, pursuant to the Credit Agreement and the Security Documents as therein defined, and may now or hereafter be secured by one or more other security agreements, mortgages, deeds of trust, assignments or other instruments or agreements.

The Borrower hereby agrees to pay all costs of collection, including reasonable attorneys’ fees and legal expenses in the event this Real Estate (2) Term Note is not paid when due, whether or not legal proceedings are commenced.

SCHUFF INTERNATIONAL, INC., a
Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

SCHUFF STEEL COMPANY, a
Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

SCHUFF STEEL – ATLANTIC, LLC., a Florida limited
liability company

By: Schuff Steel Company, a Delaware
corporation
Its Managing Member

By: _____
Michael R. Hill
Its: Vice President and CFO

QUINCY JOIST COMPANY, a Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

SCHUFF STEEL – GULF COAST, INC., a Delaware
corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

ON-TIME STEEL MANAGEMENT
HOLDING, INC., a Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

SCHUFF HOLDING CO., a Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

ADDISON STRUCTURAL SERVICES, INC., a Florida
corporation

By _____
Name: Michael R. Hill
Title: Vice President and CFO

SCHUFF STEEL MANAGEMENT COMPANY-
SOUTHEAST L.L.C., a Delaware limited liability company

By _____
Name: Michael R. Hill, Manager

SCHUFF STEEL MANAGEMENT COMPANY-
SOUTHWEST, INC., a Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

SCHUFF STEEL MANAGEMENT COMPANY-
COLORADO, L.L.C., a Delaware limited liability company

By: _____
Michael R. Hill, Manager

SCHUFF PREMIER SERVICES LLC, a Delaware limited
liability company

By: _____
Name: Michael R. Hill, Manager

EXHIBIT A-2

Amendments to the Deeds of Trust

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**FIFTH AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL COMPANY**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing on certain real property located in Coconino County, Arizona which was recorded in the records of Coconino County, Arizona (the “Official Records”) at Instrument No. 3431845, as amended (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1 of the Deed of Trust is deleted and replaced as follows:

2.1 Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, and (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by Trustor, and the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter Trustor and such other persons individually and collectively called “Borrower”),

payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein.

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF STEEL COMPANY, a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**SECOND AMENDMENT TO DEED OF TRUST AND
ASSIGNMENT OF RENTS AND LEASES**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL COMPANY**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Maricopa County, Arizona which was recorded in the records of Maricopa County, Arizona (the “Official Records”) at Instrument No. 20120282390, as amended (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

(a) Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by Trustor, and the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter Trustor and such other persons individually and collectively called “Borrower”), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof

and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein.

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF STEEL COMPANY, a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

WELLS FARGO CREDIT, INC., a Minnesota corporation

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**FOURTH AMENDMENT TO DEED OF TRUST
AND ASSIGNMENT OF RENTS AND LEASES**

DATE: _____, 2014

PARTIES: **SCHUFF INTERNATIONAL, INC.**, a Delaware corporation
SCHUFF STEEL COMPANY, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (collectively, jointly and severally the "Trustor")

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 ("Beneficiary")

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Pinal County, Arizona which was recorded in the records of Pinal County, Arizona (the "Official Records") at Instrument No. 2009-013327, as amended (the "Deed of Trust").

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

2.1 Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the

original principal amount of \$15,000,000.00, each made by Trustor, and the other persons or entities listed on Schedule "B" attached hereto and by this reference made a part hereof (hereinafter Trustor and such other persons individually and collectively called "Borrower"), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein; and

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF INTERNATIONAL, INC., a Delaware corporation

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, the _____ of Schuff International, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**SECOND AMENDMENT TO DEED OF TRUST AND
ASSIGNMENT OF RENTS AND LEASES**

DATE: _____, 2014

PARTIES: **SCHUFF HOLDING CO.**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Maricopa County, Arizona which was recorded in the records of Maricopa County, Arizona (the “Official Records”) at Instrument No. 20120282395, as amended (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

(a) Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by Trustor, and the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter Trustor and such other persons individually and collectively called “Borrower”), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and

Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein.

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF HOLDING CO., a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Holding Co., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**THIRD AMENDMENT TO DEED OF TRUST
AND ASSIGNMENT OF RENTS AND LEASES**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL COMPANY**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in San Joaquin County, California which was recorded in the records of San Joaquin County, California (the “Official Records”) at Instrument No. 2009-185829 (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is hereby deleted and replaced as follows:

(a) Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by Trustor and the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter Trustor and such other persons individually and collectively called “Borrower”), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security

Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein; and

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF STEEL COMPANY, a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

This document was prepared by and
When recorded return to:
Thomas E. Halter
Gust Rosenfeld P.L.C.
One East Washington, Suite 1600
Phoenix, AZ 85004-2553

**SEVENTH AMENDMENT TO REVOLVING REAL ESTATE MORTGAGE,
ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING
(FL-Addison)**

THIS SEVENTH AMENDMENT TO REVOLVING REAL ESTATE MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Agreement") is made as of the _____ day of _____, 2014, by and between **WELLS FARGO CREDIT, INC.** ("Mortgagee"), whose mailing address is 100 West Washington Street, 15th Floor, MAC #S4101-158, Phoenix, AZ 85003, and **SCHUFF STEEL – ATLANTIC, LLC**, a Florida limited liability company, formerly known as Schuff Steel – Atlantic, Inc., a Florida corporation, formerly known as Addison Steel, Inc. ("Mortgagor"), whose address is 1841 W. Buchanan Street Phoenix, AZ 85007.

R E C I T A L S

Mortgagor has delivered to Mortgagee a Revolving Real Estate Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the "Mortgage") on certain real property located in Orange County, Florida which was recorded in the Public Records of Orange County, Florida as Instrument No. 20030564043 in Official Records Book 07126, Page 0431, as amended from time to time (the "Mortgage").

1. The Mortgage is hereby amended as follows:

(a) The first paragraph of the Mortgage is deleted and replaced as follows:

THE TOTAL PRINCIPAL INDEBTEDNESS SECURED BY THIS MORTGAGE (EXCLUSIVE OF FUTURE ADVANCES AND DISBURSEMENTS TO PAY TAXES, LEVIES OR INSURANCE ON THE PROPERTY OR OTHERWISE TO PROTECT OR PRESERVE THE MORTGAGED PROPERTY) IS \$75,000,000.00. HOWEVER, MORTGAGEE'S RECOVERY UNDER THIS MORTGAGE AGAINST THE PREMISES, LEASES AND RENTS IN RESPECT OF SUCH PRINCIPAL INDEBTEDNESS IS LIMITED TO \$6,000,000.00. ACCORDINGLY, DOCUMENTARY STAMP AND INTANGIBLES TAXES HAVE BEEN PAID BASED UPON \$6,000,000.00.

(b) Section 2.1 is hereby deleted and replaced as follows:

2.1 Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, made by Mortgagor and the other persons or entities listed on Schedule "B" attached hereto and by this reference made a part hereof (hereinafter Mortgagor and such other persons and entities individually and collectively called "Borrower"), each payable to the order of Mortgagee, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Mortgagee (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein and the Third Replacement Revolving Note has a scheduled maturity date of June 30, 2018, and the Real Estate Term Note and the Real Estate (2) Term Note each have a scheduled maturity date of April 30, 2019.

2. Except as specifically modified herein, the Mortgage shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the loan.

3. This Agreement may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

4. This Agreement shall be binding upon, and shall inure to the benefit of Mortgagor and Mortgagee and their respective successors and assigns.

Recorder's Note: The principal indebtedness secured by this Agreement consists of the principal indebtedness currently secured by the Mortgage, of which the maximum amount recoverable is \$6,000,000, upon which appropriate Documentary Stamp Taxes and Intangible Taxes have been paid. Accordingly, no further Documentary Stamp Taxes and Intangible Taxes are due.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first set forth above.

SCHUFF STEEL – ATLANTIC, LLC, a Florida limited liability company

By: _____
Michael R. Hill
Its: Vice President and CFO

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel – Atlantic, LLC, a Florida limited liability company, on behalf of the limited liability company. He/she is personally known to me or has produced _____ as identification.

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of _____
My commission expires: _____

By: _____
Amber N. Wildermuth
Its: Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of _____
My commission expires: _____

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**SEVENTH AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL – GULF COAST, INC.**, a Delaware corporation
(formerly known as Six Industries, Inc.)
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Grantor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

JEFF DAHLEN C/O STEWART TITLE
Natl. Title Service Center
2 North La Salle St., Suite 1400
Chicago, IL 60602 (“Trustee”)

Grantor has granted to Trustee, on behalf of Beneficiary a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing on certain real property located in Harris County, Texas which was recorded in the records of Harris County, Texas (the “Official Records”) at Instrument No. 300237058, as amended (the “Deed of Trust”).

Grantor and Beneficiary have executed this Eighth Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1 of the Deed of Trust is deleted and replaced as follows:

2.1 Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, made by Grantor, and the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter Grantor and such other

persons individually and collectively called "Borrower"), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein.

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed to of Trust on the date first set forth above.

SCHUFF STEEL – GULF COAST, INC., a Delaware corporation

By: _____
Michael R. Hill
Its: Vice President and CFO

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Gulf Coast – Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

TRUSTEE

Jeff Dahlen

State of Illinois

County of Cook

The foregoing instrument was acknowledged before me this day of , 2014, by Jeff Dahlen,

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

Prepared By
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

Cross Reference
Deed to Secure Debt and Security Agreement
recorded in Deed Book 2656, Page 035,
Dougherty County, Georgia Public Records

EIGHTH AMENDMENT TO DEED TO SECURE DEBT AND SECURITY AGREEMENT

DATE: , 2014

PARTIES: **SCHUFF STEEL – ATLANTIC, LLC**, a Florida limited liability company, formerly known as Schuff Steel – Atlantic, Inc., a Florida corporation, formerly known as Addison Steel, Inc.
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Debtor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC #S4101-158
Phoenix, AZ 85003 (“Lender”)

Debtor has granted to Lender a Deed To Secure Debt and Security Agreement (the “Deed to Secure Debt”) on certain real property located in Dougherty County, Georgia, described on Exhibit A which was dated August 13, 2003, and recorded in the records of Dougherty County, Georgia at Book 2656, page 035, as amended.

Debtor and Lender have executed this Eighth Amendment to Deed to Secure Debt (the “Amendment”) to modify the Deed to Secure Debt as follows:

Section 2.1 of the Deed to Secure Debt is hereby deleted and replaced as follows:

2.1 Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00 made by Grantor, and the other persons or entities listed on Schedule “C” attached hereto and by this reference made a part hereof (hereinafter Trustor and such other persons individually and collectively called “Borrower”), payable to the order of Lender, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013,

as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). All of the instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein.

Except as specifically modified herein, the Deed to Secure Debt shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the loan.

This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

This Amendment shall be binding upon, and shall inure to the benefit of Debtor and Lender and their respective successors and assigns.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed to Secure Debt on the date first set forth above.

Signed, sealed and delivered
in the presence of:

DEBTOR:

SCHUFF STEEL—ATLANTIC, LLC,
a Florida limited liability company

Unofficial Witness

By: _____

Name: Michael R. Hill

Title: Vice President and CFO

Notary Public [Affix seal and state
date of expiration of commission]

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel—Atlantic, LLC, a Florida limited liability company, on behalf of the company.

(Seal and Expiration Date)

Notary Public

Signed, sealed and delivered
in the presence of:

LENDER:

WELLS FARGO CREDIT, INC.,
a Minnesota corporation

Unofficial Witness

By: _____
Name: Amber N. Wildermuth
Title: Authorized Signatory

Notary Public [Affix seal and state
date of expiration of commission]

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as the Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One E. Washington, Suite 1600
Phoenix, Arizona 85004-2553

**FOURTH AMENDMENT TO DEED OF TRUST
AND ASSIGNMENT OF RENTS AND LEASES**

DATE: , 2014

PARTIES: **SCHUFF STEEL – GULF COAST, INC.**, a Delaware corporation
(formerly known as Six Industries, Inc.)
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Grantor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

JEFF DAHLEN C/O STEWART TITLE
Natl. Title Service Center
2 North La Salle St., Suite 1400
Chicago, IL 60602 (“Trustee”)

Grantor has granted to Trustee, on behalf of Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Harris County, Texas which was recorded in the records of Harris County, Texas (the “Official Records”) at Instrument No. 20090064528, as amended (the “Deed of Trust”).

The obligations secured by the Deed of Trust have been modified.

Grantor and Beneficiary have executed this Fourth Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

2.1 Payment of the sum of Seventy-Five Million Dollars (\$75,000,000.00) according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by Grantor, and the other persons or entities listed on Schedule “B” attached hereto and by this

reference made a part hereof (hereinafter Grantor and such other persons individually and collectively called "Borrower"), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), provided that the principal balance outstanding at any time shall not exceed the sum set forth about in this Paragraph 2.1, with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively called the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein; and

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as of the date first set forth above.

Grantor

Address

SCHUFF STEEL – GULF COAST, INC., a
Delaware corporation

1841 W. Buchanan Street
Phoenix, AZ 85007

By: _____
Michael R. Hill

Its: Vice President and CFO

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel – Gulf Coast, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

Wells Fargo Credit, Inc.
MAC S4101-076
100 West Washington Street, 7th Floor
Phoenix, AZ 85003

By _____
Amber N. Wildermuth
Its Authorized Signatory

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

, 2014, by Amber N. Wildermuth, as Authorized Signatory

(Seal and Expiration Date)

Notary Public

TRUSTEE

Jeff Dahlen

State of Illinois

County of Cook

The foregoing instrument was acknowledged before me this day of , 2014, by Jeff Dahlen, Trustee.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

Prepared by and After
Recording, Return To:

Thomas E. Halter
Gust Rosenfeld P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

**SIXTH AMENDMENT TO MORTGAGE, ASSIGNMENT OF
RENTS AND SECURITY AGREEMENT**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL COMPANY**
1841 West Buchanan Street
Phoenix, Arizona 85007 (“Debtor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC #S4101-158
Phoenix, AZ 85003 (“Lender”)

Debtor has granted to Lender a Mortgage, Assignment of Rents and Security Agreement (the “Mortgage”) on certain real property located in Franklin County, Kansas, described on Exhibit A which was dated August 22, 2006, and recorded in the records of Franklin County, Kansas (the “Official Records”) at Book 429, Page 301, Instrument No. 4287, as amended.

Debtor and Lender have executed this Amendment to modify the Mortgage as follows:

1. Recital A of the Mortgage is hereby deleted and replaced as follows:

A. Mortgagee has agreed to provide certain credit facilities to Mortgagor pursuant to an Amended and Restated Credit and Security Agreement dated December 18, 2008, as amended from time to time and as amended and restated from time to time (the “**Credit Agreement**”) consisting of a variable interest rate revolving line of credit in the original principal amount of \$60,000,000.00, a variable interest real estate term loan in the original principal amount of \$10,000,000.00 and a variable interest real estate term loan in the original principal amount of \$15,000,000.00 (collectively, the “**Loan**”). The Loan is evidenced by (i) that certain Third Replacement Revolving Note in the original principal amount of \$60,000,000.00, and having a final maturity date of June 30, 2018, (ii) that certain Real Estate Term Note dated August 14, 2013 in the original principal amount of \$10,000,000.00 having a final maturity date of

April 30, 2019, and that certain Real Estate (2) Term Note dated _____ in the original principal amount of \$15,000,000.00 having a final maturity date of April 30, 2019 (which notes, together with notes issued in substitution or exchange therefor and all amendments thereto, are hereinafter referred to collectively as the “**Note**”). The Notes were made by Mortgagee and the persons or entities described in Schedule 1.1 attached hereto (collectively, the “**Borrower**”) in favor of Mortgagee.

2. Except as specifically modified herein, the Mortgage shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment on the date first set forth above.

DEBTOR:

SCHUFF STEEL COMPANY, a Delaware corporation

By: _____
Name: Michael R. Hill
Title: Vice President and CFO

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

LENDER

WELLS FARGO CREDIT, INC., a Minnesota corporation

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

(Rainbow Rd & Southern)

**FIRST AMENDMENT TO DEED OF TRUST AND ASSIGNMENT
OF RENTS AND LEASES**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL COMPANY**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Maricopa County, Arizona which was recorded in the records of Maricopa County, Arizona (the “Official Records”) at Instrument No. 2014 0088581, as amended (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

(a) Payment of the sum of \$75,000,000.00 according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that certain Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter such persons individually and collectively called “Borrower”), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms

and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively, the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein; and

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF STEEL COMPANY, a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

(19th Ave. & Buchanan)

**FIRST AMENDMENT TO DEED OF TRUST AND ASSIGNMENT
OF RENTS AND LEASES**

DATE: _____, 2014

PARTIES: **SCHUFF STEEL COMPANY**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Maricopa County, Arizona which was recorded in the records of Maricopa County, Arizona (the “Official Records”) at Instrument No. 2014 0088582, as amended (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

(a) Payment of the sum of \$75,000,000.00 according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that certain Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter such persons individually and collectively called “Borrower”), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and readvanced to Borrower, from time to time, subject to the terms

and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively, the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein; and

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF STEEL COMPANY, a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Company, a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

When recorded return to:
Thomas E. Halter
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553

(Mesa Condo)

**FIRST AMENDMENT TO DEED OF TRUST AND ASSIGNMENT
OF RENTS AND LEASES**

DATE: , 2014

**PARTIES: SCHUFF STEEL MANAGEMENT COMPANY -
SOUTHWEST, INC.**, a Delaware corporation
1841 W. Buchanan Street
Phoenix, AZ 85007 (“Trustor”)

WELLS FARGO CREDIT, INC.
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, AZ 85003 (“Beneficiary”)

Trustor has granted to Beneficiary a Deed of Trust and Assignment of Rents and Leases on certain real property located in Maricopa County, Arizona which was recorded in the records of Maricopa County, Arizona (the “Official Records”) at Instrument No. 2014 0088580, as amended (the “Deed of Trust”).

Trustor and Beneficiary have executed this Amendment to Deed of Trust to modify the Deed of Trust as follows:

1. Section 2.1(a) of the Deed of Trust is deleted and replaced as follows:

(a) Payment of the sum of \$75,000,000.00 according to the terms of (i) that Third Replacement Revolving Promissory Note in the original principal amount of \$50,000,000.00, (ii) that Real Estate Term Note in the original principal amount of \$10,000,000.00, and (iii) that certain Real Estate (2) Term Note in the original principal amount of \$15,000,000.00, each made by the other persons or entities listed on Schedule “B” attached hereto and by this reference made a part hereof (hereinafter such persons individually and collectively called “Borrower”), payable to the order of Beneficiary, evidencing lines of credit, all or parts of which may be advanced to Borrower, repaid by Borrower and

readvanced to Borrower, from time to time, subject to the terms and conditions thereof and/or of that Second Amended and Restated Credit and Security Agreement dated August 14, 2013, as amended from time to time and as amended and restated from time to time, by and between Borrower and Beneficiary (hereinafter called the "Loan Agreement"), with interest thereon, extension and other fees, late charges, prepayment premiums and attorneys' fees, according to the terms thereof, and all extensions, modifications, renewals or replacements thereof (hereinafter collectively, the "Note"). The instruments detailed above bear interest at a variable rate in accordance with the terms and provisions thereof which are by this reference incorporated herein; and

2. Except as specifically modified herein, the Deed of Trust shall remain in full force and effect unmodified in any way and nothing done pursuant hereto shall impair or adversely affect or be construed as impairing or adversely affecting the liens and security interests or the priority thereof over other liens and security interests, or release or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Loan.

3. This Amendment may be executed in any number of counterparts, which counterparts when combined together shall constitute an original document.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereof have executed this Amendment to Deed of Trust on the date first set forth above.

SCHUFF STEEL MANAGEMENT COMPANY
- **SOUTHWEST, INC.**, a Delaware corporation

By _____
Michael R. Hill
Its Vice President and CFO

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Michael R. Hill, as Vice President and CFO of Schuff Steel Management Company - Southwest, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

By _____
Amber N. Wildermuth
Its Authorized Signatory

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Amber N. Wildermuth, as Authorized Signatory of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

(Legal Description)

\$20,000,000 Secured Loan Agreement

Dated 20 January 2014

- (1) Global Marine Systems (Vessels) Limited (as Borrower)**
- (2) Global Marine Systems Limited (as Guarantor)**
- (3) The Financial Institutions listed in Schedule 1 (as Original Lenders)**
- (4) DVB Bank SE Nordic Branch (as Agent)**
- (5) DVB Bank SE Nordic Branch (as Security Agent)**

Stephenson Harwood LLP
One Raffles Place #12-00
Singapore 048616
Tel +65 6226 1600
Fax+65 6226 1661
www.shlegal.com



STEPHENSON HARWOOD

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Loan Agreement

Dated 20 January 2014

Between:

- (1) **GLOBAL MARINE SYSTEMS (VESSELS) LIMITED**, a company incorporated under the laws of England, with its registered office at New Saxon House, 1 Winsford Way Boreham Interchange, Chelmsford, Essex, CM2 5PD, England and company number 06057657 (the “**Borrower**”); and
- (2) **GLOBAL MARINE SYSTEMS LIMITED**, a company incorporated under the laws of England, with its registered office at New Saxon House, 1 Winsford Way, Boreham Interchange, Chelmsford, Essex, CM2 5PD, England and company number 01708481 (the “**Guarantor**”); and
- (3) **The Financial Institutions** listed in Schedule 1 (*The Original Lenders*), each acting through its Facility Office (together the “**Original Lenders**” and each an “**Original Lender**”); and
- (4) **DVB BANK SE**, of Platz der Republik 6, 60325 Frankfurt/Main, Federal Republic of Germany, acting as agent through **DVB Bank SE Nordic Branch**, registration no. 993 205 699 of Strandgaten 18, N-5013, Bergen, Norway (in that capacity, the “**Agent**”); and
- (5) **DVB BANK SE**, of Platz der Republik 6, 60325 Frankfurt/Main, Federal Republic of Germany, acting as security agent through **DVB Bank SE Nordic Branch**, registration no. 993 205 699 of Strandgaten 18, N-5013, Bergen, Norway (in that capacity, the “**Security Agent**”).

Preliminary

- (A) The Borrower has agreed to purchase the Vessels from the Seller on the terms of the Purchase Options and intends to register the Vessels under the flag of the United Kingdom.
- (B) Each of the Original Lenders has agreed to advance to the Borrower its Commitment (aggregating, with all the other Commitments, up to \$20,000,000) to assist the Borrower to finance/refinance part of the purchase price of the Vessels.

It is agreed as follows:

It is agreed as follows:

Section 1 Interpretation

1 Definitions and Interpretation

1.1 Definitions In this Agreement:

“**Account Holder**” means DVB Bank SE acting through its office at Platz der Republik 6, 60325 Frankfurt am Main, Germany or any other bank or financial institution which at any time, with the Majority Lenders’ prior written consent, holds the Security Account and/or the Retention Account.

“**Accounts**” means the Security Account and the Retention Account.

“**Account Security Pledge**” means the account security pledge referred to in Clause 17.1.4 (*Security Documents*).

“**ACMA Contract**” means the submarine telecommunications cable maintenance and related services contract dated 11 November 2011 on the terms and subject to the conditions of which the Guarantor and FT Marine SAS as contractors have agreed to provide certain services as set out therein to the purchasers set out therein at Annex VIII.

“**Administration**” has the meaning given to it in paragraph 1.1.3 of the ISM Code.

“**Affiliate**” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“**Annex VI**” means Annex VI (Regulations for the Prevention of Air Pollution from Ships) to the International Convention for the Prevention of Pollution from Ships 1973 (as modified in 1978 and 1997) and as the same may be amended from time to time.

“**Approved Shipbroker**” means each of Derrick Offshore, Fearnleys A/S and any other reputable, independent and first class firm of ship brokers selected by the Majority Lenders for the purpose of providing a valuation for a Vessel.

“**Assignment**” means the form of assignment referred to in Clause 17.1.2 (*Security Documents*).

“**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 or registration.

“**Availability Period**” means the period from and including the date of this Agreement to and including 31 January 2014 (or such later date as the Majority Lenders may, in their discretion agree in writing).

“**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 respect of the Loan or 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 Norway, New York, Frankfurt and London.

“Charged Property” means all of the assets of the Security Parties which from time to time are, or are expressed to be, the subject of the Security Documents.

“Code” means the US Internal Revenue Code of 1986.

“Collateral Assignment” means the form of assignment referred to in Clause 17.1.7 (*Security Documents*).

“Collateral Deed of Covenants” means the deed of covenants referred to in Clause 17.1.6 (*Security Documents*).

“Collateral Guarantor Assignment” means the form of assignment referred to in Clause 17.1.9 (*Security Documents*).

“Collateral Mortgage” means the first priority statutory mortgage referred to in Clause 17.1.6 (*Security Documents*) together with the Collateral Deed of Covenants.

“Collateral Security Documents” means the Collateral Mortgage, the Collateral Deed of Covenants, the Collateral Assignment and the Collateral Guarantor Assignment or (where the context permits) any one or more of them and **“Collateral Security Document”** means any one of them.

“Commitment” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading “Commitment” in Schedule 1 (*The Original Lenders*) and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

“Compliance Certificate” means a certificate from the Guarantor substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*) in form and substance satisfactory to the Majority Lenders.

“Confidential Information” means all information relating to any Security Party, the Finance Documents or the Loan of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party 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 Loan from either:

- (a) any Security Party or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Security Party or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 35 (*Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any Security Party 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 (a) or (b) 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 any Security Party 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.

“Confidentiality Undertaking” means a confidentiality undertaking substantially in a recommended form of the Loan Market Association at the relevant time.

“Current Mortgages” means, in respect of Vessel One, the first priority ship mortgage dated 23 January 2007 in favour of DVB Bank N.V. Nordic Branch (now known as DVB Bank SE Nordic Branch) and the second priority ship mortgage dated 23 January 2007 in favour of the Guarantor and each registered in the UK Ship Register at the Maritime and Coastguard Agency and, in respect of Vessel Two, the first priority ship mortgage dated 23 January 2007 in favour of DVB Bank N.V. Nordic Branch (now known as DVB Bank SE Nordic Branch) and the second priority ship mortgage dated 23 January 2007 in favour of the Guarantor and each registered in the UK Ship Register at the Maritime and Coastguard Agency.

“Deed of Covenants” means the deed of covenants referred to in Clause 17.1.1 (*Security Documents*).

“Default” means an Event of Default or any event or circumstance 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.

“Defaulting Lender” means any Lender:

- (a) which has failed to make its participation in the Loan available (or has notified the Agent or the Borrower (which has notified the Agent) that it will not make its participation in the Loan available) by the Drawdown Date in accordance with Clause 5.3 (*Lenders’ participation*); or

- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing, unless, in the case of (a):

- (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within five Business Days of its due date; or
- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

“Delegate” means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

“Delivered Vessels” means, at the relevant time, each Vessel which is owned by the Borrower and which is secured in favour of the Security Agent and **“Delivered Vessel”** means any one of them.

“Disruption Event” means either or both of:

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

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

“DOC” means, in relation to the ISM Company, a valid Document of Compliance issued for the ISM Company by the Administration under paragraph 13.2 of the ISM Code.

“Drawdown Date” means the date on which the Loan is advanced under Clause 5 (*Advance*).

“Drawdown Request” means a notice substantially in the form set out in Schedule 3 (*Drawdown Request*).

“Earnings” means all hires, freights, pool income and other sums payable to or for the account of the Borrower and/or the Guarantor in respect of a Vessel Including (without limitation) all remuneration for salvage and towage services, demurrage and detention moneys, contributions in general average, compensation in respect of any requisition for hire, and damages and other payments (whether awarded by any court or arbitral tribunal or by agreement or otherwise) for breach, termination or variation of any contract for the operation, employment or use of a Vessel.

“Environmental Approval” means any present or future permit, ruling, variance or other Authorisation required under Environmental Laws.

“Environmental Claim” means any claim, proceeding, formal notice or investigation 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, fosses 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 a Vessel or into or upon the air, sea, land or soils (including the seabed) or surface water of Environmentally Sensitive Material within or from a 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 a Vessel and which involves a collision between a 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 Security Party 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 Security Party 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 or regulation 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.

“Encumbrance” means a mortgage, charge, assignment, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“Event of Default” means any event or circumstance specified as such in Clause 23 (*Events of Default*).

“Facility Office” means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement.

“Facility Period” means the period beginning on the date of this Agreement and ending on the date when the whole of the Indebtedness has been paid in full and the Security Parties have ceased to be under any further actual or contingent liability to the Finance Parties under or in connection with the Finance Documents.

“Fair Market Value” means, in respect of a Vessel, at any relevant time, the market value of that Vessel determined by:

- (a) one current valuation by an Approved Shipbroker selected and appointed by the Agent; or
- (b) if requested by the Borrower, the average of two current valuations, one by an Approved Shipbroker selected and appointed by the Agent and the other by an Approved Shipbroker selected by the Borrower and appointed by the Agent; or
- (c) if there is a difference in excess of ten per cent (10%) between the two valuations referred to at (b) above, the average of three current valuations being the valuations referred to at (b) above and a further current valuation by an Approved Shipbroker selected by and appointed by Agent,

such valuations being prepared without physical inspection and on the basis of a charter-free sale for prompt delivery for cash at arm’s length on normal commercial terms as between a willing seller and a willing buyer.

“FATCA” means:

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

“FATCA Application Date” means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2017; or
- (c) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within (a) or (b), 1 January 2017,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

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

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

“FATCA FFI” means a foreign financial institution as defined in section 1471(d)(4) of the Code which, if any Finance 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 between the Agent, the Guarantor and the Borrower setting out any of the fees referred to in Clause 11 (*Fees*).

“Finance Documents” means this Agreement, the Security Documents, any Fee Letter and any other document designated as such by the Agent and the Borrower and **“Finance Document”** means any one of them.

“Finance Parties” means the Agent, the Security Agent and the Lenders and **“Finance Party”** means any one of them.

“Financial Indebtedness” means any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);

- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury 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 Treasury Transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a Security Party which liability would fall within one of the other sections of this definition;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under GAAP;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under GAAP; and
- (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in (a) to (j).

“**GAAP**” means generally accepted accounting principles in the United Kingdom, including IFRS.

“**Guarantee**” means the guarantee and indemnity of the Guarantor contained in Clause 18 (*Guarantee and Indemnity*) and referred to in Clause 17.1.3 (*Security Documents*).

“**Guarantor Assignment**” means the form of assignment referred to in Clause 17.1.8 (*Security Documents*).

“**GST**” means goods and service tax (or, its equivalent) in any applicable jurisdiction.

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**IAPPC**” means a valid international air pollution prevention certificate for a Vessel issued under Annex VI.

“**IFRS**” means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

“**Indebtedness**” means the aggregate from time to time of: the amount of the Loan outstanding; all accrued and unpaid interest on the Loan; and all other sums of any nature (together with all accrued and unpaid interest on any of those sums) payable to any of the Finance Parties under all or any of the Finance Documents.

“**Insolvency Event**” in relation to an entity means that the entity:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in (d) and:
 - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;
- (g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

- (h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in (d));
- (i) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in (a) to (i); or

takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Insurances” means all policies and contracts of insurance (including all entries in protection and indemnity or war risks associations) which are from time to time taken out or entered into in respect of or in connection with a Vessel or her increased value or the Earnings and (where the context permits) all benefits under such contracts and policies, including all claims of any nature and returns of premium.

“Interest Payment Date” means each date for the payment of interest in accordance with Clause 8.2 (*Payment of interest*).

“Interest Period” means 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*).

“ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

“ISM Company” means, at any given time, the company responsible for a Vessel’s compliance with the ISM Code under paragraph 1.1.2 of the ISM Code.

“ISPS Code” means the International Ship and Port Facility Security Code.

“ISSC” means a valid international ship security certificate for a Vessel issued under the ISPS Code.

“Legal Opinion” means any legal opinion delivered to the Agent under Clause 4.1 (*Conditions precedent*) or Clause 4.3 (*Conditions subsequent*).

“Legal Reservations” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and

any other matters which are set out as qualifications or reservations as to matters of law of general application in the Legal Opinions.

“Lender” means:

(a) any Original Lender; and

(b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 24 (*Changes to the Lenders*),

which in each case has not ceased to be a Lender in accordance with the terms of this Agreement.

“LIBOR” means:

(a) the applicable Screen Rate; or

(b) if (i) no Screen Rate is available for the currency of the Loan or (ii) no Screen Rate is available for the relevant Interest Period, the rate supplied to the Agent at its request quoted to leading banks in the Relevant Interbank Market,

as of 11.00 am on the Quotation Day for dollars and for a period equal, LIBOR shall be deemed zero.

“Loan” means the aggregate amount advanced or to be advanced by the Lenders to the Borrower under Clause 2 (*The Loan*) or, where the context permits, the principal amount advanced and for the time being outstanding.

“Loan Administration Form” means the loan administration form substantially in the form set out in Schedule 7 (*Loan Administration Form*).

“Majority Lenders” means a Lender or Lenders whose Commitments aggregate more than 66 2/3% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66 2/3% of the Total Commitments immediately prior to the reduction).

“Mandatory Costs” means, in connection with a Lender, the cost, as determined by that Lender, of complying with regulatory requirements applicable to that Lender in connection with loan transaction contemplated by this Agreement and imposed by any relevant regulatory authority.

“Margin” means three point six five per cent (3.65%) per annum.

“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 any Security Party; or
- (b) the ability of any Security Party to perform its payment obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Encumbrance granted or purporting 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.

“Maximum Loan Amount” means the lesser of (a) twenty million dollars (\$20,000,000) and (b) 50% of the aggregate Fair Market Value of each Vessel evidenced by the valuations received by the Agent under Clause 4.1 (*Conditions precedent*).

“Mortgage” means the first priority statutory mortgage referred to in Clause 17.1.1 (*Security Documents*) together with the Deed of Covenants.

“Mortgagees’ Insurances” means all policies and contracts of mortgagees’ interest insurances, mortgagees’ additional perils (oil pollution) insurance and (if any Delivered Vessel is to be operated fully and exclusively in a jurisdiction which is not an approved flag state of the Agent) political risks and/or mortgagees’ rights insurance from time to time taken out by the Security Agent in accordance with Clause 16.6 (*Mortgagees’ Insurances*).

“New Lender” has the meaning given to that term in Clause 24.1 (*Assignments and transfers by the Lenders*).

“Non-Consenting Lender” has the meaning given to that term in Clause 34.4.4 (*Replacement of Lender*).

“Original Financial Statements” means the audited consolidated financial statements of the Borrower and the Guarantor for the financial year ended 31 December 2012.

“Original Jurisdiction” means, in relation to a Security Party, the jurisdiction under whose laws that Security Party is incorporated as at the date of this Agreement.

“Party” means a party to this Agreement.

“Permitted Encumbrance” means:

- (a) any Encumbrance which has the prior written approval of the Majority Lenders;
- (b) any Encumbrance arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by a Security Party; or

- (c) in respect of a Delivered Vessel:
 - (i) unless a Default is continuing, any ship repairer's or out fitter's possessory lien for an amount not exceeding two hundred fifty thousand dollars (\$250,000);
 - (ii) any lien for master's, officer's or crew's wages outstanding in the ordinary course of trading; and
 - (iii) any lien for salvage,

and subject to the aggregate amount of (i) – (iii) above in respect of any Delivered Vessel not exceeding five hundred thousand dollars (\$500,000).

“Prohibited Person” means any person with whom transactions are currently prohibited or restricted under:

- (a) the United States of America sanctions administered by the United States of America Department of Treasury's Office of Foreign Assets Control (OFAC); or
- (b) any other United States of America government sanction, export or procurement laws including, without limitation, the US Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010; or
- (c) any other sanctions or other such restrictions on business dealings imposed by a member state of the European Union,

including a person on any list of restricted entities, persons or organisations published by the United States of America government, the United Nations or the European Union or any member state of the European Union, including without limitation:

- (a) the United States of America Government's List of Specially Designated Nationals and Blocked Persons, Denied Persons List, Entities List, Debarred Parties List, Excluded Parties List and Terrorism Exclusion List;
- (b) Her Majesty's Treasury's Consolidated List of Financial Sanctions Targets;
- (c) the European Union Restricted Person Lists issued under Council Regulation (EC) No. 881/2002 of 27 May 2002, Council Regulation (EC) No. 2580/2001 of 27 December 2001 and Council Common Position 2005/725/CFSP of 17 October 2005; and
- (d) the United Nations Consolidated List established and maintained by the 1267 Committee;

“Purchase Options” means:

- (i) in respect of Vessel One, the purchase option set out in the bareboat charter dated 23 January 2007 on the terms and subject to the conditions of which the Seller will sell Vessel One to the Borrower;
- (ii) in respect of Vessel Two, the purchase option set out in the bareboat charter dated 23 January 2007 on the terms and subject to the conditions of which the Seller will sell Vessel Two to the Borrower,

and each a **“Purchase Option”**.

“Qualifying Contract” means, in respect of Vessel One, any employment contract that is entered into by the Guarantor during the Facility Period as an alternative to extending the ACMA Contract and which the Agent relies on as one of the conditions to the release of the Minimum Cash Amount deposited in the Security Account pursuant to Clause 17.3 (*Minimum cash deposit*).

“Quotation Day” means, in relation to any period for which an interest rate is to be determined, the date which is two Business Days before the first day of that Interest Period.

“Receiver” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

“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 Documents” means the Finance Documents, the ACMA Contract, any Qualifying Contract (if entered into), the Vessel One Bareboat Charter and the Vessel Two Bareboat Charter.

“Relevant Interbank Market” means the London interbank market.

“Relevant Jurisdiction” means, in relation to a Security Party:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to a Security Document to be executed by it is situated;
- (c) any jurisdiction where it conducts its business; and

the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

“Repayment Date” means the date for payment of any Repayment Instalment in accordance with Clause 6 (*Repayment*).

“Repayment Instalment” means any instalment of the Loan to be repaid by the Borrower under Clause 6 (*Repayment*).

“Repeating Representations” means each of the representations set out in Clause 19.1.1 (*Status*) to Clause 19.1.6 (*Governing law and enforcement*) and Clause 19.1.9 (*No default*) to Clause 19.1.18 (*Pari passu ranking*).

“Representative” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“Requisition Compensation” means all compensation or other money which may from time to time be payable to the Borrower and/or the Guarantor as a result of a Vessel being requisitioned for title or in any other way compulsorily acquired (other than by way of requisition for hire).

“Retention Account” means a bank account to be opened in the name of the Borrower with the Account Holder and designated by the Agent to receive the monthly retentions set out in Clause 17.4 (*Transfers to Retention Account*).

“Screen Rate” means the London Interbank offered rate administered by the British Bankers Association (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR 01 or LIBOR 02 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 the service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

“Secured Parties” means each Finance Party from time to time party to this Agreement and any Receiver or Delegate.

“Security Account” means the bank account to be opened in the name of the Borrower with the Account Holder and designated by the Agent to receive the monthly cash deposits set out in Clause 17.3 (*Minimum cash deposit*).

“Security Documents” means the Mortgage, the Assignment, the Guarantor Assignment, the Guarantee, the Account Security Pledge, the Share Charge, the Collateral Security Documents or (where the context permits) any one or more of them, and any other agreement or document which may at any time be executed by any person as security for the payment of all or any part of the Indebtedness and **“Security Document”** means any one of them.

“Security Parties” means the Borrower and the Guarantor and any other person who may at any time during the Facility Period be liable for, or provide security for, all or any part of the Indebtedness, and **“Security Party”** means any one of them.

“Seller” means Global Cable II AS, a company incorporated under the laws of Norway with its office at c/o RS Platou Finans AS, Haakon VII's Gate 10, N-0116 Oslo, Norway.

“Share Charge” means the charge of the issued share capital of the Borrower referred to in Clause 17.1.5 (*Security Documents*).

“SMC” means a valid safety management certificate issued for a Vessel by or on behalf of the Administration under paragraph 13.7 of the ISM Code.

“Subordinated Indebtedness” means all indebtedness from time to time payable by the Borrower to the Guarantor.

“Subsidiary” means a subsidiary within the meaning of section 1159 of the Companies Act 2006 and **“Subsidiaries”** shall be construed accordingly.

“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).

“Termination Date” means the date falling fifty four (54) months after the Drawdown Date.

“**Total Commitments**” means the aggregate of the Commitments.

“**Total Loss**” means:

- (a) an actual, constructive, arranged, agreed or compromised total loss of a Delivered Vessel; or
- (b) the requisition for title or compulsory acquisition of a Vessel by any government or other competent authority (other than by way of requisition for hire); or
- (c) the capture, seizure, arrest, detention, hijacking, theft, condemnation as prize, confiscation or forfeiture of a Vessel (not falling within (b)), unless that Vessel is released and returned to the possession of the Borrower or the Guarantor within 30 days after the capture, seizure, arrest, detention, hijacking, theft, condemnation as prize, confiscation or forfeiture in question.

“**Transfer Certificate**” means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

“**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 Agent executes the relevant Assignment Agreement or Transfer Certificate.

“**Treasury Transactions**” means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

“**Trust Property**” means:

- (a) all benefits derived by the Security Agent from Clause 17 (*Security Documents and Application of Moneys*); and
- (b) all benefits arising under (including, without limitation, all proceeds of the enforcement of) each of the Security Documents,

with the exception of any benefits arising solely for the benefit of the Security Agent.

“**Unpaid Sum**” means any sum due and payable but unpaid by any Security Party under the Finance Documents.

“**US Tax Obligor**” means:

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

“**Vessel One**” means the vessel “Wave Sentinel” with Official Number 902895 currently registered under the flag of the United Kingdom in the ownership of the Seller and intended to be sold by the Seller to the Borrower on the terms of the relevant Purchase Option, and everything now or in the future belonging to her on board and ashore, which vessel is intended to be registered by the Borrower under the flag of the United Kingdom.

“**Vessel One Bareboat Charter**” means the bareboat charter (on BARECON 2001 format with riders) in respect of Vessel One dated 18 January 2007 between the Borrower and the Guarantor.

“**Vessel Two**” means the vessel “CS Sovereign” with Official Number 721180 currently registered under the flag of United Kingdom in the ownership of the Seller and intended to be sold by the Seller to the Borrower on the terms of the relevant Purchase Option, and everything now or in the future belonging to her on board and ashore, which vessel is intended to be registered by the Borrower under the flag of the United Kingdom.

“**Vessel Two Bareboat Charter**” means the bareboat charter (on BARECON 2001 format with riders) in respect of Vessel Two dated 18 January 2007 between the Borrower and the Guarantor.

“**Vessels**” means Vessel One and Vessel Two and “**Vessel**” means any one of them.

1.2 **Construction** Unless a contrary indication appears, any reference in this Agreement to:

- 1.2.1 any “**Lender**”, the “**Borrower**”, the “**Guarantor**”, the “**Agent**”, any “**Secured Party**”, the “**Security Agent**”, any “**Finance Party**” or any “**Party**” shall be construed so as to include its successors in title, permitted assignees and permitted transferees;
- 1.2.2 a document in “**agreed form**” is a document which is previously agreed in writing by or on behalf of the Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;
- 1.2.3 “**assets**” includes present and future properties, revenues and rights of every description;
- 1.2.4 a “**Finance Document**”, a “**Security Document**”, a “**Relevant Document**” or any other document is a reference to that Finance Document, Security Document, Relevant Document or other document as amended, novated, supplemented, extended (including, without limitation, in the case of the ACMA Contract, the Vessel One Bareboat Charter and the Vessel Two Bareboat Charter, pursuant to any extension option set out therein) or restated from time to time;
- 1.2.5 a “**group of Lenders**” includes all the Lenders;
- 1.2.6 “**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;

- 1.2.7 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);
- 1.2.8 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 of any regulatory, self-regulatory or other authority or organisation;
- 1.2.9 a provision of law is a reference to that provision as amended or re-enacted from time to time; and
- 1.2.10 a time of day (unless otherwise specified) is a reference to London time.
- 1.3 **Headings** Section, Clause and Schedule headings are for ease of reference only.
- 1.4 **Defined terms** 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.
- 1.5 **Default** A Default (other than an 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.
- 1.6 **Currency symbols and definitions** “\$”, “USD” and “dollars” denote the lawful currency of the United States of America and “£”, “GBP” and “Sterling” denote the lawful currency of the United Kingdom.
- 1.7 **Third party rights** 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.
- 1.8 **Offer letter** This Agreement supersedes the terms and conditions contained in any correspondence relating to the subject matter of this Agreement exchanged between any Finance Party and the Borrower or their representatives before the date of this Agreement.

Section 2 The Loan

2 The Loan

2.1 **Amount** Subject to the terms of this Agreement, the Lenders agree to make available to the Borrower a term loan in an aggregate amount not exceeding the Maximum Loan Amount.

2.2 Finance Parties' rights and obligations

- 2.2.1 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.
- 2.2.2 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 Security Party shall be a separate and independent debt.
- 2.2.3 A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

3 Purpose

3.1 **Purpose** The Borrower shall apply the Loan for the purposes referred to in Preliminary (B).

3.2 **Monitoring** No Finance Party is bound to monitor or verify the application of any amount borrowed under this Agreement.

4 Conditions of Utilisation

4.1 Conditions precedent

- 4.1.1 The Lenders will only be obliged to comply with Clause 5.3 (*Lenders' participation*) in relation to the advance of the Loan if on or before the Drawdown Date, the Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent. The Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.
- 4.1.2 Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in Clause 4.1.1, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 Further conditions precedent

- 4.2.1 The Lenders will only be obliged to advance the Loan if on the date of the Drawdown Request and on the proposed Drawdown Date:
- (a) no Default is continuing or would result from the advance of the Loan;

(b) the representations made by the Borrower and the Guarantor under Clause 19 (*Representations*) are true; and

(c) no Market Disruption Event (as defined in Clause 10.1.2 (*Market disruption*)) is continuing.

4.3 **Conditions subsequent** Save for paragraphs 3 and 5 of Part II of Schedule 2 (which shall be the responsibility of the Agent), the Borrower undertakes to deliver or to cause to be delivered to the Agent the additional documents and other evidence listed in Part II of Schedule 2 (*Conditions Subsequent*) on or before the dates specified in that Schedule.

4.4 **No waiver** If the Lenders in their sole discretion agree to advance all or any part of the Loan to the Borrower before all of the documents and evidence required by Clause 4.1 (*Conditions precedent*) have been delivered to or to the order of the Agent, the Borrower undertakes to deliver all outstanding documents and evidence to or to the order of the Agent no later than five Business Days after the Drawdown Date or such other date specified by the Agent (acting on the instructions of all the Lenders).

The advance of all or any part of the Loan under this Clause 4.4 shall not be taken as a waiver of the Lenders' right to require production of all the documents and evidence required by Clause 4.1 (*Initial conditions precedent*).

4.5 **Form and content** All documents and evidence delivered to the Agent under this Clause shall:

4.5.1 be in form and substance acceptable to the Agent; and

4.5.2 if required by the Agent, be certified, notarised, legalised or attested in a manner acceptable to the Agent.

Section 3 Utilisation

5 Advance

5.1 **Delivery of a Drawdown Request** The Borrower may request the Loan to be advanced in one advance by delivery to the Agent of a duly completed Drawdown Request not more than ten and not fewer than two Business Days before the proposed Drawdown Date.

5.2 **Completion of a Drawdown Request** A Drawdown Request is irrevocable and will not be regarded as having been duly completed unless:

5.2.1 it is signed by an authorised signatory of the Borrower; and

5.2.2 the proposed Drawdown Date is a Business Day within the Availability Period.

5.3 Lenders' participation

5.3.1 Subject to Clauses 2 (*The Loan*), 3 (*Purpose*) and 4 (*Conditions of Utilisation*), each Lender shall make its participation in the Loan available by the Drawdown Date through its Facility Office.

5.3.2 The amount of each Lender's participation in the Loan will be equal to the proportion borne by its Commitment to the Total Commitments.

5.4 **Cancellation of Commitment** The Total Commitments shall be cancelled at the end of the Availability Period to the extent that they are unutilised at that time.

Section 4 Repayment, Prepayment and Cancellation

6 Repayment

- 6.1 **Repayment of Loan** The Borrower agrees to repay the Loan to the Agent for the account of the Lenders by eighteen consecutive quarterly instalments each in the sum of one million one hundred eleven thousand one hundred eleven dollars (\$1,111,111) (save for the final instalment, which shall be one million one hundred eleven thousand one hundred thirteen dollars (\$1,111,113)), the first instalment falling due on the date which is three calendar months after the Drawdown Date and subsequent instalments falling due at consecutive intervals of three calendar months thereafter with the final instalment payable on the Termination Date.
- 6.2 **Reduction of Repayment Instalments** If the aggregate amount advanced to the Borrower is less than \$20,000,000, the amount of each Repayment Instalment shall be reduced pro rata to the amount actually advanced.
- 6.3 **Reborrowing** The Borrower may not re-borrow any part of the Loan which is repaid or prepaid.

7 Illegality, Prepayment and Cancellation

- 7.1 **Illegality** If it becomes unlawful in any jurisdiction (other than pursuant to Clause 22.2.2 (*Compliance with laws*)) for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in the Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:
- 7.1.1 that Lender shall promptly notify the Agent upon becoming aware of that event;
- 7.1.2 upon the Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and
- 7.1.3 the Borrower shall repay that Lender's participation in the Loan on the last day of the current Interest Period or, if earlier, the date specified by that Lender in the notice delivered to the Agent and notified by the Agent to the Borrower (being no earlier than the last day of any applicable grace period permitted by law).
- 7.2 **Voluntary prepayment of Loan** The Borrower may prepay the whole or any part of the Loan (but, if in part, being an amount that reduces the Loan by an amount which is an integral multiple of five hundred thousand dollars (\$500,000)) subject as follows:
- 7.2.1 it gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice;
- 7.2.2 it pays to the Agent for the account of the Lenders, in addition to the amount prepaid, a fee of an amount equal to:
- (a) in respect of any prepayment made on or before the first (1st) anniversary of the Drawdown Date, three per cent (3.0%) of the amount prepaid;

- (b) in respect of any prepayment made on or before the second (2nd) anniversary but after the first anniversary of the Drawdown Date, two per cent (2.0%) of the amount prepaid;
- (c) in respect of any prepayment made on or before the third (3rd) anniversary but after the second anniversary of the Drawdown Date, one per cent (1.0%) of the amount prepaid; and
- (d) in respect of any prepayment made after the third (3rd) anniversary of the Drawdown Date, zero point five per cent (0.5%) of the amount prepaid,

which fee shall be paid on the date of the prepayment;

7.2.3 the Loan may only be prepaid on an Interest Payment Date unless the Majority Lenders agree otherwise.

7.3 **Right of cancellation and prepayment in relation to a single Lender**

7.3.1 If:

- (a) any sum payable to any Lender by the Borrower is required to be increased under Clause 12.2.2 (*Tax gross-up*); or
 - (b) any Lender claims indemnification from the Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*); or
- the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Loan.

7.3.2 On receipt of a notice referred to in Clause 7.3.1 in relation to a Lender, the Commitment(s) of that Lender shall immediately be reduced to zero.

7.3.3 On the last day of the Interest Period which ends after the Borrower has given notice under Clause 7.3.1 in relation to a Lender (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in the Loan together with all interest and other amounts accrued under the Finance Documents.

7.3.4 This Clause 7.3 shall not apply to the Commitments and participation in the Loan of the Original Lenders.

7.4 **Mandatory prepayment on sale or Total Loss of Vessel One** If Vessel One is sold by the Borrower or becomes a Total Loss, the Borrower shall, simultaneously with any such sale or on the earlier of the date falling ninety (90) days after any such Total Loss and the date on which the proceeds of any such Total Loss are realised, prepay the whole of the Loan. In the case of a sale, the Borrower shall, simultaneously with that sale, pay to the Agent for the account of the Lenders, in addition to the amount prepaid, a fee in accordance with the amount and timetable in Clause 7.2.2 (*Voluntary prepayment of Loan*).

7.5 **Mandatory prepayment on sale or Total Loss of Vessel Two** If at any time when Vessel Two constitutes a Delivered Vessel, it is sold by the Borrower or becomes a Total Loss, the Borrower shall, simultaneously with any such sale or on the earlier of the date falling ninety (90) days after any such Total Loss and the date on which the proceeds of any such Total Loss are realised, prepay the Loan in an amount which ensures that after such prepayment the aggregate of (i) the then Fair Market Value of Vessel One and (ii) the current balance deposited and blocked in the Security Account equals two hundred per cent of the amount of the Loan outstanding. In the case of a sale, the Borrower shall, simultaneously with that sale, pay to the Agent for the account of the Lenders, in addition to the amount prepaid, a fee in accordance with the amount and timetable in Clause 7.2.2 (*Voluntary prepayment of Loan*).

Any sale or Total Loss proceeds remaining after the Borrower has satisfied its obligations under this Clause 7.5 and Clause 7.6 (*Restrictions*) shall be promptly released to the Borrower subject to no continuing Default. If a Default is continuing, the Agent may, if instructed to do so by the Majority Lenders, apply the surplus sale or Total Loss proceeds towards the Loan.

7.6 **Restrictions** Any notice of prepayment or cancellation given under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant prepayment or cancellation is to be made and the amount of that prepayment or cancellation.

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and subject to Clause 7.2.2 (*Voluntary prepayment of Loan*), Clause 7.4 (*Mandatory prepayment on sale or Total Loss of Vessel One*) and Clause 7.5 (*Mandatory prepayment on sale or Total Loss of Vessel Two*), without premium or penalty.

The Borrower shall not repay, prepay or cancel all or any part of the Loan except at the times and in the manner expressly provided for in this Agreement.

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to the Borrower or the affected Lender, as appropriate.

Any repayment or prepayment under Clauses 7.1 (*Illegality*), 7.2 (*Voluntary prepayment of Loan*), 7.3 (*Right of cancellation and prepayment in relation to a single lender*), 7.4 (*Mandatory prepayment on sale or Total Loss of Vessel One*) and 7.5 (*Mandatory prepayment on sale or Total Loss of Vessel Two*) shall satisfy the obligations under Clause 6.1 (*Repayment of Loan*) in inverse order of maturity.

Section 5 Costs of Utilisation

8 Interest

- 8.1 **Calculation of interest** The rate of interest on the Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:
- 8.1.1 Margin;
 - 8.1.2 LIBOR; and
 - 8.1.3 Mandatory Costs, if applicable.
- 8.2 **Payment of interest** The Borrower shall pay accrued interest on the Loan on the last day of each Interest Period (and, if the Interest Period is longer than three months, on the dates falling at three monthly intervals after the first day of the Interest Period).
- 8.3 **Default interest** If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is two per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted the Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Agent.
- Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.
- 8.4 **Notification of rates of interest** The Agent shall promptly notify the Borrower of the determination of a rate of interest under this Agreement.

9 Interest Periods

- 9.1 **Duration of Interest Periods** Each Interest Period shall be for a duration of three months subject as follows:
- 9.1.1 the Agent (acting on the instructions of all of the Lenders) and the Borrower may from time to time mutually agree an alternative duration for an Interest Period;
 - 9.1.2 an Interest Period shall not extend beyond the Termination Date; and
 - 9.1.3 each Interest Period shall start on the Drawdown Date or (if the Loan is already made) on the last day of its preceding Interest Period and end on the date which numerically corresponds to the Drawdown Date or the last day of the preceding Interest Period in the relevant calendar month except that, if there is no numerically corresponding date in that calendar month, the Interest Period shall end on the last Business Day in that month.
- 9.2 **Interest Periods to meet Repayment Dates** If an Interest Period will expire after the next Repayment Date, there shall be a separate Interest Period for a part of the Loan equal to the Repayment Instalment due on that next Repayment Date and that separate Interest Period shall expire on that next Repayment Date.

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 **Market disruption** If a Market Disruption Event occurs for any Interest Period, then the rate of interest on each Lender's share of the Loan for that Interest Period shall be the percentage rate per annum which is the sum of:

10.1.1 the Margin;

10.1.2 the rate notified to the Agent by that Lender as soon as practicable, and in any event by close of business on the date falling five Business Days after the relevant Quotation Day, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in the Loan from whatever source it may reasonably select (including, without limitation, broker quotes obtained by that Lender in the ordinary course of its business of refinancing rates available in the European Financial Markets); and

10.1.3 Mandatory Costs, if any, of that Lender.

In this Agreement "**Market Disruption Event**" means:

- (a) at or about noon on the Quotation Day for the relevant Interest Period LIBOR is to be determined by reference to a rate to be supplied to the Agent at its request quoted to leading banks in the Relevant Interbank Market and the Agent is unable to obtain such a rate in order to determine LIBOR for dollars and the relevant Interest Period; or
- (b) before close of business in Norway on the next Business Day after the Quotation Day for the relevant Interest Period, the Agent receives notifications from one or more Lenders that the cost to it of funding its participation in the Loan from whatever source it may reasonably select would be in excess of LIBOR.

In connection with this Clause 10.1, the determination by a Lender that the cost to it of funding its participation in the Loan is in excess of LIBOR shall be final, conclusive and binding on the Borrower and any rate notified to the Agent by a Lender under Clause 10.1.2 shall be final, conclusive and binding on the Borrower without any obligation on a Lender to actually refinance all or any part of its participation in the Loan on a back to back basis.

10.2 **Alternative basis of interest or funding**

10.2.1 If a Market Disruption Event occurs and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.

- 10.2.2 Any alternative basis agreed pursuant to Clause 10.2.1 shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
- 10.2.3 If an alternative basis is not agreed pursuant to Clause 10.2.1, the Borrower may prepay on the last day of the current Interest Period the Loan participation of the relevant Lenders together with accrued interest (calculated as specified in Clause 10.1 (*Market Disruption*)), break costs, a fee in accordance with Clause 7.2.2 (*Voluntary prepayment of Loan*) and the remaining Repayment Instalments shall be reduced in inverse order of maturity.

10.3 **Break Costs** The Borrower shall, within ten 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 or Unpaid Sum.

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.

11 Fees

11.1 **Commitment Fee** The Borrower shall pay to the Agent (for the account of the Lenders in proportion to their Commitments) a commitment fee in the amount and in the times agreed in a Fee Letter.

11.2 **Arrangement fee** The Borrower shall pay to the Agent (for distribution to the Lenders) an arrangement fee in the amount and at the times agreed in a Fee Letter.

11.3 **Annual fee** The Borrower shall pay to the Agent (for its own account) an annual fee in the amount and at the times agreed in a Fee Letter.

Section 6 Additional Payment Obligations

12 Tax Gross Up and Indemnities

12.1 Definitions 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 a Security Party to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment by the Borrower under Clause 12.3 (*Tax indemnity*).

Unless a contrary indication appears, in this Clause 12 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross-up The Borrower shall (and shall procure that each other Security Party shall) make all payments to be made by it under any Finance Document without any Tax Deduction, unless a Tax Deduction is required by law, subject as follows:

12.2.1 the Borrower shall promptly upon becoming aware that it or any other Security Party must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower and any such other Security Party;

12.2.2 if a Tax Deduction is required by law to be made by the Borrower or any other Security Party, the amount of the payment due from the Borrower or that other Security Party 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;

12.2.3 if the Borrower or any other Security Party is required to make a Tax Deduction, the Borrower shall (and shall procure that such other Security Party 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;

12.2.4 within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall (and shall procure that such other Security Party shall) deliver to the 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**

12.3.1 The Borrower shall (within ten Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party reasonably 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.

12.3.2 Clause 12.3.1 shall not apply:

(a) with respect to any Tax assessed on a Finance Party:

- (i) 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
- (ii) 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

(b) to the extent a loss, liability or cost:

- (i) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
- (ii) relates to a FATCA Deduction required to be made by a Party.

12.3.3 A Protected Party making, or intending to make a claim under Clause 12.3.1 shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.

12.3.4 A Protected Party shall, on receiving a payment from the Borrower under this Clause 12.3, notify the Agent.

12.4 **Tax Credit** If the Borrower or any other Security Party makes a Tax Payment and the relevant Finance Party reasonably determines that:

12.4.1 a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and

12.4.2 that Finance Party has obtained and utilised that Tax Credit,

that Finance Party shall promptly pay an amount to the Borrower or to that other Security Party 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 made by the Borrower or that other Security Party.

12.5 **Stamp taxes** The Borrower shall pay and, within ten Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

12.6 **GST**

12.6.1 All amounts expressed to be payable under a Finance Document by any Party or any Security Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for GST purposes are deemed to be exclusive of any GST which is chargeable on that supply, and accordingly, subject to Clause 12.6.2, if GST is or becomes chargeable on any supply made by any Finance Party to any Party or any Security Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the GST, that Party or Security 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 GST (and such Finance Party must promptly provide an appropriate GST invoice to the Borrower).

12.6.2 If GST 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):

- (a) (where the Supplier is the person required to account to the relevant tax authority for the GST) 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 GST. The Recipient must (where this Clause 12.6.2(a) 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 GST chargeable on that supply; and
- (b) (where the Recipient is the person required to account to the relevant tax authority for the GST) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the GST 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 GST.

12.6.3 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 thereof as represents GST, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such GST from the relevant tax authority.

12.6.4 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 GST registration and such other information as is reasonably requested in connection with such Finance Party's GST reporting requirements in relation to such supply.

12.7 **FATCA information**

12.7.1 Subject to Clause 12.7.3, each Party shall, within ten Business Days of a reasonable request by another Party:

- (a) confirm to that other Party whether it is:
 - (i) a FATCA Exempt Party; or
 - (ii) not a FATCA Exempt Party; and
- (b) supply to that other Party such forms, documentation and other information relating to its status under FATCA (including its applicable "passthru payment percentage" or other information required under the US Treasury Regulations or other official guidance including intergovernmental agreements) as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA.

12.7.2 If a Party confirms to another Party pursuant to Clause 12.7.1(a)(i) 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.

12.7.3 Clause 12.7.1 shall not oblige any Finance Party to do anything which would or might in its reasonable opinion constitute a breach of:

- (a) any law or regulation;
- (b) any fiduciary duty; or
- (c) any duty of confidentiality.

12.7.4 If a Party fails to confirm its status or to supply forms, documentation or other information requested in accordance with Clause 12.7.1 (including, for the avoidance of doubt, where Clause 12.7.3 applies), then:

- (a) if that Party failed to confirm whether it is (and/or remains) a FATCA Exempt Party then such Party shall be treated for the purposes of the Finance Documents as if it is not a FATCA Exempt Party; and
- (b) if that Party failed to confirm its applicable "passthru payment percentage" then such Party shall be treated for the purposes of the Finance Documents (and payments made thereunder) as if its applicable "passthru payment percentage" is 100%,

until (in each case) such time as the Party in question provides the requested confirmation, forms, documentation or other information.

12.8 FATCA Deduction

12.8.1 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.

12.8.2 Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Borrower, the Agent and the other Finance Parties.

13 Increased Costs

13.1 **Increased costs** Subject to Clause 13.3 (*Exceptions*) the Borrower shall, within ten Business Days of a demand by the Agent, pay to the Agent 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 or any request from or requirement of any central bank or other fiscal, monetary or other authority made after the date of this Agreement (including Basel III (as defined in Clause 13.3) and any other which relates to capital adequacy or liquidity controls or which affects the manner in which that Finance Party allocates capital resources to obligations under this Agreement) or (iii) any change in the risk weight allocated by that Finance Party to the Borrower after the date of this Agreement.

In this Agreement “**Increased Costs**” means:

- (a) a reduction in the rate of return from the Loan 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 any Finance Document or funding or performing its obligations under any Finance Document.

13.2 **Increased cost claims**

13.2.1 A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.

13.2.2 Each Finance Party shall, as soon as practicable after a demand by the 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:

13.3.1 attributable to a Tax Deduction required by law to be made by the Borrower;

13.3.2 attributable to a FATCA Deduction required to be made by a Party;

13.3.3 compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 but was not so compensated solely because any of the exclusions in Clause 12.3 applied);

13.3.4 attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation; or

13.3.5 attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (but excluding any amendment arising out of Basel III) (“**Basel II**”) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates).

In this Clause 13.3, a reference to a “**Tax Deduction**” has the same meaning given to the term in Clause 12.1 (*Definitions*) and “**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 and (c) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”.

14 Other Indemnities

14.1 **Currency indemnity** If any sum due from the Borrower or the Guarantor 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:

14.1.1 making or filing a claim or proof against the Borrower or the Guarantor (as the case may be), or

14.1.2 obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower or the Guarantor (as the case may be) shall as an independent obligation, within ten Business Days of demand, indemnify each Finance Party to whom 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 Finance Party at the time of its receipt of that Sum.

The Borrower and the Guarantor 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

14.2.1 The Borrower shall, within ten Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

(a) the occurrence of any Event of Default;

(b) a failure by the Borrower 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 27 (*Sharing among the Finance Parties*);

(c) funding, or making arrangements to fund, the Loan following delivery by the Borrower of a Drawdown Request but the Loan not being advanced 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 a Finance Party alone); or

(d) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

14.2.2 The Borrower shall promptly 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 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 Encumbrance constituted by the Finance Documents or which relates to the condition or operation of, or any incident occurring in relation to, a Vessel,

unless such cost, loss or liability is caused by the gross negligence or wilful misconduct of that Indemnified Person or is otherwise actually settled in full by any insurance policy.

14.2.3 Subject to any limitations set out in Clause 14.2.2, the indemnity in that Clause shall cover any cost, loss or liability incurred by each Indemnified Person in any jurisdiction:

- (a) arising or asserted under or in connection with any law relating to safety at sea, the ISM Code, any Environmental Law or any sanctions as set out in Clause 22.2.2; or
- (b) in connection with any Environmental Claim.

14.3 **Indemnity to the Agent** The Borrower shall promptly indemnify the Agent against:

14.3.1 any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is a Default; or
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
- (c) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and

14.3.2 any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents.

14.4 **Indemnity to the Security Agent** The Borrower and each Guarantor shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:

14.4.1 any failure by the Borrower to comply with its obligations under Clause 16 (*Costs and Expenses*);

14.4.2 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

14.4.3 the taking, holding, protection or enforcement of the Security Documents;

14.4.4 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;

14.4.5 any default by any Security Party in the performance of any of the obligations expressed to be assumed by it in the Finance Documents; or

14.4.6 acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).

14.5 **Indemnity survival** The indemnities contained in this Agreement shall survive repayment of the Loan.

15 Mitigation by the Lenders

- 15.1 **Mitigation** Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to any of Clause 7.1 (*Illegality*), Clause 12 (*Tax Gross Up and Indemnities*) or Clause 13 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office. The above does not in any way limit the obligations of any Security Party under the Finance Documents.
- 15.2 **Limitation of liability** The Borrower shall promptly 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*). A Finance Party is not obliged to take any steps under Clause 15.1 if, in its opinion (acting reasonably), to do so might be prejudicial to it.
- 15.3 **Recovery** If the Borrower pays to a Finance Party an amount in respect of any claim and that Finance Party subsequently recovers from a third party a sum which is referable to such claim, that Finance Party shall as soon as practicable thereafter repay to the Borrower any sums paid in respect of such claim net of the costs of recovery provided that the full amount of such claim has been received by that Finance Party and any reimbursement to the Borrower shall not change this.

16 Costs and Expenses

- 16.1 **Transaction expenses** The Borrower shall promptly on demand pay the Agent and the Security Agent the amount (in accordance with, where applicable, any agreed quotes) of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with:
- 16.1.1 the negotiation, preparation, printing, execution, syndication and perfection of this Agreement and any other documents referred to in this Agreement;
- 16.1.2 the negotiation, preparation, printing, execution and perfection of any other Finance Documents executed after the date of this Agreement;
- 16.1.3 any other document which may at any time be required by a Finance Party to give effect to any Finance Document or which a Finance Party is entitled to call for or obtain under any Finance Document (including, without limitation, subject to the last paragraph of Clause 17.14 (*Additional security*), any valuation of a Vessel for the purposes of determining the Fair Market Value of that Vessel); and
- 16.1.4 any discharge, release or reassignment of any of the Security Documents.

- 16.2 **Amendment costs** If (a) a Security Party requests an amendment, waiver or consent or (b) an amendment is required under Clause 28.10 (*Change of currency*), the Borrower shall, within ten Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.
- 16.3 **Agent and Security Agent's management time and additional remuneration** Any amount payable to the Agent under Clause 14.3 (*Indemnity to the Agent*) or to the Security Agent under Clause 14.4 (*Indemnity to the Security Agent*) or to either of them under this Clause 16 or Clause 25.10 (*Lenders' indemnity to the Agent*) shall include the reasonable cost of utilising the management time or other resources of the Agent or the Security Agent (as the case may be) and will be calculated on the basis of such reasonable daily or hourly rates as the Agent or the Security Agent may notify to the Borrower and the Lenders, and is in addition to any other fee paid or payable to the Agent or the Security Agent.
- 16.4 **Enforcement and preservation costs** The Borrower shall, within ten Business Days of demand, pay to each Finance Party and each other Secured Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Security Documents or enforcing those rights including (without limitation) any losses, costs and expenses which that Finance Party or other Secured Party may from time to time sustain, incur or become liable for by reason of that Finance Party or other Secured Party being mortgagee of a Vessel and/or a lender to the Borrower, or by reason of that Finance Party or other Secured Party being deemed by any court or authority to be an operator or controller, or in any way concerned in the operation or control, of a Vessel.
- 16.5 **Other costs** The Borrower shall, within ten Business Days of demand, pay to each Finance Party and each other Secured Party the amount of all sums which that Finance Party or other Secured Party may pay or become actually or contingently liable for on account of the Borrower in connection with a Vessel (whether alone or jointly or jointly and severally with any other person) including (without limitation) all sums which that Finance Party or other Secured Party may pay or guarantees which it may give in respect of the Insurances, any expenses incurred by that Finance Party or other Secured Party in connection with the maintenance or repair of a Vessel or in discharging any lien, bond or other claim relating in any way to a Vessel, and any sums which that Finance Party or other Secured Party may pay or guarantees which it may give to procure the release of a Vessel from arrest or detention.
- 16.6 **Mortgagees' Insurance** The Security Agent shall be at liberty to take out Mortgagees' Insurance up to an amount equal to one hundred and twenty per cent of the Loan outstanding and the Borrower shall from time to time within ten Business Days of demand reimburse and indemnify the Security Agent for all costs, premiums and expense paid or incurred by the Security Agent in connection with any Mortgagees' Insurances.

Section 7 Security and Application of Moneys

17 Security Documents and Application of Moneys

17.1 **Security Documents** As security for the payment of the Indebtedness, the Borrower shall execute and deliver to the Security Agent or cause to be executed and delivered to the Security Agent the following documents in such forms and containing such terms and conditions as the Security Agent shall require:

- 17.1.1 a first priority United Kingdom statutory mortgage over Vessel One together with a collateral deed of covenants from the Borrower;
- 17.1.2 a first priority deed of assignment of the Insurances, Earnings and Requisition Compensation of Vessel One and the Vessel One Bareboat Charter from the Borrower;
- 17.1.3 a guarantee and indemnity from the Guarantor as set out in Clause 18;
- 17.1.4 a first priority account security pledge in respect of all amounts from time to time standing to the credit of the Accounts;
- 17.1.5 a first priority charge of all the issued shares of the Borrower;
- 17.1.6 a first priority United Kingdom statutory mortgage over Vessel Two together with a collateral deed of covenants from the Borrower;
- 17.1.7 a first priority deed of assignment of the Insurances, Earnings and Requisition Compensation of Vessel Two and the Vessel Two Bareboat Charter from the Borrower;
- 17.1.8 a first priority deed of assignment of the Insurances, Earnings and Requisition Compensation of Vessel One from the Guarantor; and
- 17.1.9 a first priority deed of assignment of the Insurances, Earnings and Requisition Compensation of Vessel Two from the Guarantor.

17.2 **Security and Retention Accounts** The Borrower shall maintain the Accounts with the Account Holder for the duration of the Facility Period free of Encumbrances and rights of set off other than those created by or under the Finance Documents.

17.3 **Minimum cash deposit** The Borrower shall, during the first twelve months from the Drawdown Date, make a monthly cash deposit of no less than five hundred eighty five thousand dollars (\$585,000) in the Security Account commencing from the date which is one month after the Drawdown Date so that there shall be maintained a minimum cash amount of no less than seven million twenty thousand dollars (\$7,020,000) on the first (1st) anniversary date of the Drawdown Date (the "**Minimum Cash Amount**").

Subject to:

- (a) no continuing Default;
- (b) the aggregate of (i) the then Fair Market Value of each Delivered Vessel and (ii) any additional security provided to the Security Agent under Clause 17.14 (*Additional security*) being equal to or greater than the VTL Coverage Amount;

- (c) the ACMA Contract being extended (or the Guarantor entering into an alternative employment contract with a counterparty acceptable to the Majority Lenders) for a firm period that continues to on or after the Termination Date and on hire or compensation terms which, in the reasonable opinion of the Majority Lenders, will provide the Borrower with sufficient fixed cash flow to service in full its obligations under the Vessel One Bareboat Charter as they fall due;
- (d) the Vessel One Bareboat Charter being extended for a firm period that continues to on or after the Termination Date and on hire terms which, in the reasonable opinion of the Majority Lender, will provide the Borrower with sufficient fixed cashflow to service in full its debts service obligations under this Agreement as they fall due; and
- (e) the Guarantor providing a written confirmation that (i) since the date of the most recent financial statements or accounts delivered to the Agent pursuant to Clause 20.1 (*Financial statements*) there has been no material adverse change in the business, assets or financial condition of the Borrower or the Guarantor and (ii), to the best of the Guarantor's knowledge and belief, if the financial covenants set out at Clause 21.1 (*Financial covenants*) were to be tested on the date of the Guarantor's written confirmation the Guarantor would be in compliance with the same,

the Borrower may request the withdrawal of the Minimum Cash Amount from the Security Account and the Majority Lenders shall provide its consent to such withdrawal to the Account Holder within seven Business Days of receipt by the Security Agent of the Borrower's request. If the credit balance in the Security Account ever exceeds the amount of the Loan then outstanding, the Borrower shall be entitled to transfer to the Retention Account in each calendar month the amount required to be transferred to the Retention Account during that calendar month pursuant to Clause 17.4 (*Transfers to Retention Account*).

17.4 **Transfers to Retention Account** Commencing from the date which is one calendar month after the Drawdown Date, on the day in each calendar month during the Facility Period which numerically corresponds to the Drawdown Date (or, if there is no such day, on the last Business Day of that month), the Borrower shall procure that there is transferred to the Retention Account:

- 17.4.1 one-third of the amount of the Repayment Instalment due on the next Repayment Date (which shall be deemed to be the day for that transfer if that day is a Repayment Date); and
- 17.4.2 one third of the amount of interest due on the next Interest Payment Date (which shall be deemed to be the day for that transfer if that day is an Interest Payment Date).

- 17.5 **Application of Retention Account** The Borrower shall procure that there is transferred from the Retention Account to the Agent:
- 17.5.1 on each Repayment Date, the amount of the Repayment Instalment then due; and
- 17.5.2 on each Interest Payment Date, the amount of interest then due
- and the Borrower irrevocably authorises the Agent to instruct the Account Holder to make those transfers.
- 17.6 **Borrower's obligations not affected** If for any reason the amount standing to the credit of the Retention Account is insufficient to pay any Repayment Instalment or to make any payment of interest when due, the Borrower's obligation to pay that Repayment Instalment or to make that payment of interest shall not be affected.
- 17.7 **Restriction on withdrawal** During the Facility Period no sum may be withdrawn from the Accounts (except in accordance with this Clause 17) without the prior written consent of the Majority Lenders.
- 17.8 **Relocation of Accounts** At any time following the occurrence and during the continuation of an Event of Default, the Security Agent may without the consent of the Borrower instruct the Account Holder to relocate either or both of the Accounts to any other branch of the Account Holder, without prejudice to the continued application of this Clause 17 and the rights of the Finance Parties under the Finance Documents.
- 17.9 **Access to information** The Borrower agrees that the Security Agent (and its nominees) may from time to time during the Facility Period review the records held by the Account Holder (whether in written or electronic form) in relation to the Accounts, and irrevocably waives any right of confidentiality which may exist in relation to those records.
- 17.10 **Statements** Without prejudice to the rights of the Security Agent under Clause 17.9 (*Access to information*), the Borrower shall procure that the Account Holder provides to the Security Agent if requested, no less frequently than each calendar month during the Facility Period, written statements of account showing all entries made to the credit and debit of each of the Accounts during the immediately preceding calendar month.
- 17.11 **Application after acceleration** From and after the giving of notice to the Borrower by the Agent under Clause 23.2 (*Acceleration*), the Borrower shall procure that all sums from time to time standing to the credit of either of the Accounts are promptly transferred to the Security Agent or any Receiver or Delegate for application in accordance with Clause 17.12 (*Application of moneys by Security Agent*) and the Borrower irrevocably authorises the Security Agent to instruct the Account Holder to make those transfers.
- 17.12 **Application of moneys by Security Agent** The Borrower and the Finance Parties irrevocably authorise the Security Agent or any Receiver or Delegate to apply all moneys which it receives and is entitled to receive:
- 17.12.1 pursuant to a sale or other disposition of a Delivered Vessel or any right, title or interest in a Delivered Vessel; or

- 17.12.2 by way of payment of any sum in respect of the Insurances, Earnings or Requisition Compensation; or
- 17.12.3 by way of transfer of any sum from either of the Accounts; or
- 17.12.4 otherwise under or in connection with any Security Document,
- in or towards satisfaction of the Indebtedness in the following order:
- 17.12.5 first, any unpaid fees, costs, expenses and default interest due to the Agent and the Security Agent (and, in the case of the Security Agent, to any Receiver or Delegate) under all or any of the Finance Documents, such application to be apportioned between the Agent and the Security Agent pro rata to the aggregate amount of such items due to each of them;
- 17.12.6 second, any unpaid fees, costs, expenses (including any sums paid by the Lenders under Clause 25.10 (*Lenders' Indemnity to the Agent*)) of the Lenders due under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such items due to each of them;
- 17.12.7 third, any accrued but unpaid default interest due to the Lenders under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such default interest due to each of them;
- 17.12.8 fourth, any other accrued but unpaid interest due to the Lenders under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such interest due to each of them;
- 17.12.9 fifth, any principal of the Loan due and payable but unpaid under this Agreement, such application to be apportioned between the Lenders pro rata to the aggregate amount of such principal due to each of them; and
- 17.12.10 sixth, any other sum due and payable to any Finance Party but unpaid under all or any of the Finance Documents, such application to be apportioned between the Finance Parties pro rata to the aggregate amount of any such sum due to each of them;

Provided that the balance (if any) of the moneys received shall be paid to the Security Parties from whom or from whose assets those sums were received or recovered or to any other person entitled to them including the Borrower.

- 17.13 **Retention on account** Moneys to be applied by the Security Agent or any Receiver or Delegate under Clause 17.12 (*Application of moneys by Security Agent*) shall be applied as soon as practicable after the relevant moneys are received by it, or otherwise become available to it, save that (without prejudice to any other provisions contained in any of the Security Documents) the Security Agent or any Receiver or Delegate may retain any such moneys by crediting them to a suspense account for so long and in such manner as the Security Agent or such Receiver or Delegate may from time to time reasonably determine with a view to preserving the rights of the Finance Parties or any of them to prove for the whole of the Indebtedness (or any relevant part) against the Borrower or any other person liable.

17.14 **Additional security** If at any time the aggregate of (i) the then Fair Market Value of each Delivered Vessel, (ii) the then current balance deposited and blocked in the Security Account and (iii) and the value of any additional security (such value to be the face amount of the deposit (in the case of cash), determined conclusively by appropriate advisers appointed by the Agent (in the case of other charged assets), and reasonably determined by the Agent (in all other cases)) for the time being provided to the Security Agent under this Clause 17.14 is less than 160% of the amount of the Loan then outstanding (the “**VTL Coverage Amount**”), the Borrower shall, within 30 days of the Agent’s request, at the Borrower’s option:

- 17.14.1 pay to the Security Agent or to its nominee a cash deposit in the amount of the shortfall to be secured in favour of the Security Agent as additional security for the payment of the Indebtedness; or
- 17.14.2 give to the Security Agent other additional security in amount and form reasonably acceptable to the Majority Lenders in their discretion; or
- 17.14.3 prepay the Loan in the amount of the shortfall.

Clauses 6.3 (*Reborrowing*), 7.2 (*Voluntary prepayment of Loan*) and 7.6 (*Restrictions*) shall apply, *mutatis mutandis*, to any prepayment made under this Clause 17.14 and the value of any additional security provided shall be determined by the Agent in its reasonable discretion.

If and for so long as the Borrower fails to discharge the obligations arising from the Agent’s request under this Clause 17.14, the Borrower shall, if so demanded by the Agent, compensate the Lenders for the increased risk in relation to the Loan by paying interest on the Loan from the 31st day after the Agent’s request at a rate calculated in accordance with Clause 8.3 (*Default interest*) as if the whole of the outstanding Loan were an overdue amount. Any such interest shall accrue in accordance with Clause 31.3 (*Day count convention*) and be payable by the Borrower in accordance with Clause 8.2 (*Payment of interest*) and shall be without prejudice to any other right or remedy any Finance Party may have under Clause 13 (*Increased Costs*) or Clause 23 (*Events of Default*).

The Agent may determine the Fair Market Value of each Delivered Vessel at any time during the Facility Period. The Borrower shall bear the cost of valuations carried out in determining the Fair Market Value of each Vessel prior to the Drawdown Date and thereafter in determining the Fair Market Value of each Delivered Vessel approximately six (6) months after the Drawdown Date and semi-annually thereafter for the remainder of the Facility Period and at the time of any withdrawal request under Clause 17.3 (*Minimum cash deposit*) or any security release request under Clause 17.15 (*Release of Collateral Security Documents*) of any proposed dividend payment under Clause 22.18 (*Dividends*) or any mandatory prepayment under Clause 7.5 (*Mandatory prepayment on sale or Total Loss of Vessel Two*). The cost of determining the Fair Market Value of each Delivered Vessel at any other time shall be borne by the Lenders (in their proportionate shares based on their participations in the Loan) unless a Default is continuing or the aggregate Fair Market Value determined for each Delivered Vessel is such that the Agent would be entitled to make a request on the Borrower under this Clause, in which case the cost of determining the Fair Market Value of each Delivered Vessel shall be borne by the Borrower.

17.15 **Release of Collateral Security Documents** Subject to:

- (a) no continuing Default;
 - (b) the aggregate of (i) the then Fair Market Value of Vessel One and (ii) the then current balance deposited and blocked in the Security Account being equal to or greater than two hundred per cent of the amount of the Loan then outstanding;
 - (c) the balance deposited and blocked in the Security Account being no less than seven million and twenty thousand dollars (\$7,020,000),
- notwithstanding any other provisions of this Agreement and the other Finance Documents, the Security Agent will, at the cost of and on the request of the Borrower, execute and deliver to the Borrower a release, reassignment and/or discharge of the Collateral Security Documents.

18 Guarantee and Indemnity

18.1 **Guarantee and indemnity** The Guarantor irrevocably and unconditionally:

- 18.1.1 guarantees to each Finance Party punctual performance by each other Security Party of all that Security Party's obligations under the Finance Documents;
- 18.1.2 undertakes with each Finance Party that whenever another Security Party does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- 18.1.3 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 Security Party 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 18 if the amount claimed had been recoverable on the basis of a guarantee.

18.2 **Continuing Guarantee** This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Security Party under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

18.3 **Reinstatement** If any discharge, release or arrangement (whether in respect of the obligations of any Security Party or any security for those obligations or otherwise) is made by a Finance 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 18 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

- 18.4 **Waiver of defences** The obligations of the Guarantor under this Clause 18 will not be affected by an act, omission, matter or thing which, but for this Clause 18, would reduce, release or prejudice any of its obligations under this Clause 18 (without limitation and whether or not known to it or any Finance Party) including:
- 18.4.1 any time, waiver or consent granted to, or composition with, any Security Party or other person;
 - 18.4.2 the release of any other Security Party or any other person under the terms of any composition or arrangement with any creditor of any Security Party;
 - 18.4.3 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 Security Party 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;
 - 18.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Security Party or any other person;
 - 18.4.5 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 increase in any facility or the addition of any new facility under any Finance Document or other document or security;
 - 18.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
 - 18.4.7 any insolvency or similar proceedings.
- 18.5 **Guarantor intent** Without prejudice to the generality of Clause 18.4 (*Waiver of defences*), the Guarantor expressly confirms that it intends that this guarantee 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.
- 18.6 **Immediate recourse** The Guarantor waives any right it may have of first requiring any Finance 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 before claiming from the Guarantor under this Clause 18. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

- 18.7 **Appropriations** The Guarantor agrees that until all amounts which may be or become payable by the Security Parties under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:
- 18.7.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Finance 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
 - 18.7.2 hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Clause 18.

For the avoidance of doubt, this Clause shall not prevent the Borrower from making the transfers from the Security Account to the Retention Account permitted by the last paragraph of Clause 17.3 (*Minimum cash deposit*).

18.8 **Deferral of Guarantor's rights** Until all amounts which may be or become payable by the Security Parties under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, the Guarantor will not exercise any rights which it may have 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 18:

- 18.8.1 to be indemnified by a Security Party;
- 18.8.2 to claim any contribution from any other guarantor of any Security Party's obligations under the Finance Documents;
- 18.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- 18.8.4 to bring legal or other proceedings for an order requiring any Security Party to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee, undertaking or indemnity under Clause 18.1 (*Guarantee and indemnity*);
- 18.8.5 to exercise any right of set-off against any Security Party; and/or
- 18.8.6 to claim or prove as a creditor of any Security Party in competition with any Finance 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 Finance Parties by the Security Parties under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 28 (*Payment mechanics*).

- 18.9 **Additional security** This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.
- 18.10 **Subordination** The Guarantor agrees that any Subordinated Indebtedness shall be fully subordinated to the rights of the Finance Parties under the Finance Documents to the extent that the Guarantor hereby specifically undertakes, without limitation, that it shall not during the Facility Period, without the prior written consent of the Majority Lenders:-
- 18.10.1 demand or accept any repayment of any Subordinated Indebtedness or any interest payable thereon from the Borrower or exercise any rights of set off or counterclaim in respect of the Subordinated Indebtedness;
 - 18.10.2 take any proceedings in the courts of any country against the Borrower or any of its assets (including, without limitation, the Vessels) to protect or enforce any rights which it may have in respect of any Subordinated Indebtedness;
 - 18.10.3 take any proceedings to place the Borrower into liquidation, administration or receivership or take any steps analogous thereto against the Borrower in any jurisdiction or prove in the liquidation or other dissolution of the Borrower in competition with any Finance Party;
 - 18.10.4 exchange any of the Subordinated Indebtedness in whole or in part;
 - 18.10.5 accept any Encumbrances over the whole or any part of the assets of the Borrower;
 - 18.10.6 take or accept any loans whether directly or indirectly from the Borrower or take or accept any gift in cash or kind for or in connection with any Subordinated Indebtedness; and
 - 18.10.7 assign any of its rights in and to the Subordinated Indebtedness or transfer any of its rights and/or obligations in respect of the Subordinated Indebtedness,
- and the Guarantor shall hold in trust for the Finance Parties and forthwith pay or transfer (as appropriate) to the Agent (for further distribution to the Finance Parties) any such payment (including an amount equal to any such set off), or the benefit of such security or claim in fact received by it up to the amount of the Indebtedness.
- 18.11 **Guarantor Tax Deduction** The Guarantor shall make all payments to be made by it under the Finance Documents (including, without limitation, this Clause 18) without any Tax Deduction, unless a Tax Deduction is required by law, in which case the Guarantor agrees to abide by the terms of Clause 12.2 (*Tax gross-up*).
- 18.12 **Guarantor confirmation** The Guarantor acknowledges that it is aware that each Vessel is mortgaged or to be mortgaged to the Security Agent pursuant to the Mortgage and the Collateral Mortgage and that it is aware of the terms of the

Mortgage and the Collateral Mortgage. The Guarantor also acknowledges receipt of execution versions of the other Security Documents and agrees that as and from the Drawdown Date the Mortgage shall constitute the “Financial Instrument” referred to in the Vessel One Bareboat Charter and the Collateral Mortgage shall constitute the “Financial Instrument” referred to in the Vessel Two Bareboat Charter.

- 18.13 **Vessel One Subordination** The Guarantor acknowledges that each of the Security Agent’s rights and powers arising out of or pursuant to the Mortgage shall in all respects and at all times have precedence and priority over the rights and powers of the Guarantor arising out of or pursuant to the Vessel One Bareboat Charter.
- 18.14 **Vessel Two Subordination** The Guarantor acknowledges that each of the Security Agent’s rights and powers arising out of or pursuant to the Collateral Mortgage shall in all respects and at all times have precedence and priority over the rights and powers of the Guarantor arising out of or pursuant to the Vessel Two Bareboat Charter.
- 18.15 **Vessel One Bareboat Charter rights** The Guarantor agrees that the Security Agent or its nominee is entitled to exercise all of the Borrower’s rights and benefits and assume and carry out all of the Borrower’s obligations under or in respect of the Vessel One Bareboat Charter on the terms set out in the Assignment.
- 18.16 **Vessel Two Bareboat Charter rights** The Guarantor agrees that the Security Agent or its nominee is entitled to exercise all of the Borrower’s rights and benefits and assume and carry out all of the Borrower’s obligations under or in respect of the Vessel Two Bareboat Charter on the terms set out in the Collateral Assignment.
- 18.17 **Mortgage covenants** The Guarantor undertakes for the duration of the term of the Vessel One Bareboat Charter to perform all of the Borrower’s obligations contained in clause 5 (*Insurance*) and clause 6 (*Operation and Maintenance*) in the Deed of Covenants jointly and severally with the Borrower and for this purpose the Guarantor agrees that references in those clauses to the “Insurances” shall be deemed to include the Guarantor’s interest in Vessel One’s Insurances.
- 18.18 **Collateral Mortgage covenants** The Guarantor undertakes for the duration of the term of the Vessel Two Bareboat Charter to perform all of the Borrower’s obligations contained in clause 5 (*Insurance*) and clause 6 (*Operation and Maintenance*) in the Collateral Deed of Covenants jointly and severally with the Borrower and for this purpose the Guarantor agrees that references in those clauses to the “Insurances” shall be deemed to include the Guarantor’s interest in Vessel Two’s Insurances.
- 18.19 **Vessel One Insurances** The Guarantor agrees that, for the duration of the term of the Vessel One Bareboat Charter, the rights and powers of the Security Agent in relation to the Guarantor’s interest in Vessel One’s Insurances shall (*mutatis mutandis*) be the same as the rights and powers of the Security Agent under or pursuant to the Deed of Covenants in relation to the Insurances of Vessel One.
- 18.20 **Vessel Two Insurances** The Guarantor agrees that, for the duration of the term of the Vessel Two Bareboat Charter, the rights and powers of the Security Agent in relation to the Guarantor’s interest in Vessel Two’s Insurances shall (*mutatis mutandis*) be the same as the rights and powers of the Security Agent under or pursuant to the Collateral Deed of Covenants in relation to the Insurances of Vessel Two.

- 18.21 **Vessel One – possession** The Guarantor agrees that, should an Event of Default occur and the Security Agent wish to take and enter into possession of Vessel One pursuant to its rights under the Mortgage, the Guarantor will immediately on the demand of the Security Agent surrender possession of Vessel One to or to the order of the Security Agent free of the Vessel One Bareboat Charter.
- 18.22 **Vessel Two – possession** The Guarantor agrees that, should an Event of Default occur and the Security Agent wish to take and enter into possession of Vessel Two pursuant to its rights under the Collateral Mortgage, the Guarantor will immediately on the demand of the Security Agent surrender possession of Vessel Two to or to the order of the Security Agent free of the Vessel Two Bareboat Charter.
- 18.23 **Vessel One sale** The Guarantor agrees that, should an Event of Default occur and the Security Agent wish to sell Vessel One pursuant to its rights under the Mortgage, such sale may be made free of the Vessel One Bareboat Charter and any claim for loss of the same shall be made against the Borrower.
- 18.24 **Vessel Two sale** The Guarantor agrees that, should an Event of Default occur and the Security Agent wish to sell Vessel Two pursuant to its rights under the Collateral Mortgage, such sale may be made free of the Vessel Two Bareboat Charter and any claim for loss of the same shall be made against the Borrower.
- 18.25 **Sub bareboat charters** The Guarantor shall not sub bareboat charter either of the Vessels without the prior written consent of the Majority Lenders. This Clause 18.25 shall only apply to Vessel Two while it constitutes a Delivered Vessel.
- 18.26 **Commercial and technical management** The Guarantor shall undertake the technical and commercial management of the Vessels and will not, without the prior written consent of the Majority Lenders (such consent not to be unreasonably withheld or delayed), appoint anyone else as the commercial and technical managers of the Vessels, nor sub contract or delegate any of the commercial or technical management of the Vessels. This Clause 18.26 shall only apply to Vessel Two while it constitutes a Delivered Vessel.

19 Representations

19.1 Representations The Borrower and the Guarantor each make the representations and warranties set out in this Clause 19 to each Finance Party.

19.1.1 Status Each of the Security Parties:

- (a) is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation; and
- (b) has the power to own its assets and carry on its business as it is being conducted.

19.1.2 Binding obligations Subject to the Legal Reservations:

- (a) the obligations expressed to be assumed by each of the Security Parties in each of the Relevant Documents to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of Clause 19.1.2(a)) each Security Document to which it is a party creates the security interests which that Security Document purports to create and those security interests are valid and effective.

19.1.3 Non-conflict with other obligations The entry into and performance by each of the Security Parties of, and the transactions contemplated by, the Relevant Documents do not conflict with:

- (a) any law or regulation applicable to such Security Party;
- (b) the constitutional documents of such Security Party; or
- (c) any agreement or instrument binding upon such Security Party or any of such Security Party's assets or constitute a default or termination event (however described) under any such agreement or instrument.

19.1.4 Power and authority

- (a) Each of the Security Parties has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Relevant Documents to which it is or will be a party and the transactions contemplated by those Relevant Documents.
- (b) No limit on the powers of any Security Party will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Relevant Documents to which it is a party.

- 19.1.5 **Validity and admissibility in evidence** All Authorisations required or desirable:
- (a) to enable each of the Security Parties lawfully to enter into, exercise its rights and comply with its obligations in the Relevant Documents to which it is a party or to enable each Finance Party to enforce and exercise all its rights under the Relevant Documents; and
 - (b) to make the Relevant Documents to which any Security Party is a party admissible in evidence in its Relevant Jurisdictions, have been obtained or effected and are in full force and effect, with the exception only of the registrations referred to in Part II of Schedule 2 (*Conditions Subsequent*).
- 19.1.6 **Governing law and enforcement**
- (a) The choice of governing law of any Finance Document will be recognised and enforced in the Original Jurisdiction of each relevant Security Party.
 - (b) Any judgment obtained in relation to any Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in the Original Jurisdiction of each relevant Security Party.
- 19.1.7 **Insolvency** No corporate action, legal proceeding or other procedure or step described in Clause 23.1.7 (*Insolvency proceedings*) or creditors' process described in Clause 23.1.8 (*Creditors' process*) has been taken or, to the knowledge of the Borrower or the Guarantor, threatened in relation to a Security Party; and none of the circumstances described in Clause 23.1.6 (*Insolvency*) applies to a Security Party.
- 19.1.8 **No filing or stamp taxes** Under the laws of the Original Jurisdiction of incorporation of each relevant Security Party it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in any of those jurisdictions or that any stamp, registration, notarial or similar tax or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except:
- (a) registration of particulars of the Security Documents at the Companies Registration Office in England and Wales under section 860 of the Companies Act 2006 and payment of associated fees;
 - (b) registration of the Mortgage and the Collateral Mortgage at the Ships Registry where title to the Delivered Vessels are registered in the ownership of the Borrower and payment of associated fees,
- which registrations, filings, taxes and fees will be made and paid promptly after the date of the relevant Finance Document.

19.1.9 **No default**

- (a) No Event of Default and, on the date of this Agreement and the Drawdown Date, no Default is continuing or is reasonably likely to result from the advance of the Loan or the entry into, the performance of, or any transaction contemplated by, any of the Relevant Documents.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on any of the Security Parties or to which its assets are subject which has or is reasonably likely to have a Material Adverse Effect.

19.1.10 **No misleading information** Save as disclosed in writing to the Agent prior to the date of this Agreement:

- (a) all material information provided to a Finance Party by or on behalf of any of the Security Parties on or before the date of this Agreement and not superseded before that date is accurate and not misleading in any material respect and all projections provided to any Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied; and
- (b) all other written information provided by any of the Security Parties (including its advisers) to a Finance Party was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

19.1.11 **Financial statements**

- (a) The Original Financial Statements of the Borrower and the Guarantor were prepared in accordance with GAAP consistently applied unless expressly disclosed to the Agent in writing to the contrary.
- (b) The audited Original Financial Statements of the Borrower and the Guarantor give a true and fair view of, as the case may be, the Borrower's and the Guarantor's financial condition and results of operations during the relevant financial year unless expressly disclosed to the Agent in writing to the contrary prior to the date of this Agreement.
- (c) There has been no material adverse change in the Borrower's and the Guarantor's assets, business or financial condition since the date of the Original Financial Statements of the Borrower and the Guarantor.

- (d) The Borrower's and the Guarantor's most recent financial statements or accounts delivered pursuant to Clause 20.1 (*Financial statements*):
 - (i) have been prepared in accordance with GAAP as applied to the Original Financial Statements; and
 - (ii) give a true and fair view of (if audited) or fairly represent (if unaudited) the Borrower's, or as the case may be, the Guarantor's consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
 - (e) Since the date of the most recent financial statements or accounts delivered pursuant to Clause 20.1 (*Financial statements*) there has been no material adverse change in the business, assets or financial condition of any of the Borrower and the Guarantor.
- 19.1.12 **No proceedings pending or threatened** No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against any of the Security Parties.
- 19.1.13 **No breach of laws** None of the Security Parties has breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.
- 19.1.14 **Environmental laws**
- (a) Each of the Security Parties is in compliance with Clause 22.3 (*Environmental compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
 - (b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any of the Security Parties where that claim has or is reasonably likely, if determined against that Security Party, to have a Material Adverse Effect.
- 19.1.15 **Taxation**
- (a) None of the Security Parties is materially overdue in the filing of any Tax returns or is overdue in the payment of any amount in respect of Tax.
 - (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against any of the Security Parties with respect to Taxes which has, or is likely to have, a Material Adverse Effect.
 - (c) The Borrower and the Guarantor is each resident for Tax purposes only in its Original Jurisdiction.

- 19.1.16 **Anti-corruption law** Each of the Security Parties and each Affiliate of any of them has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.
- 19.1.17 **No Encumbrance** No Encumbrance (other than a Permitted Encumbrance) exists over any of the Charged Property.
- 19.1.18 **Pari passu ranking** The payment obligations of each of the Security Parties 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.
- 19.1.19 **No adverse consequences**
- (a) It is not necessary under the laws of the Original Jurisdiction of any of the Security Parties:
- (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
- (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,
- that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of the Original Jurisdiction of any of the Security Parties.
- (b) No Finance Party is or will be deemed to be resident, domiciled or carrying on business in any of the Original Jurisdiction of any of the Security Parties by reason only of the execution, performance and/or enforcement of any Finance Document.
- 19.1.20 **Disclosure of material facts** Neither the Borrower or the Guarantor is aware of any material facts or circumstances which have not been disclosed to the Agent and which might, if disclosed, have adversely affected the decision of a person considering whether or not to make loan facilities of the nature contemplated by this Agreement available to the Borrower.
- 19.1.21 **Completeness of Relevant Documents** The copies of any Relevant Documents provided or to be provided by the Borrower to the Agent in accordance with Clause 4 (*Conditions of Utilisation*) are, or will be, true and accurate copies of the originals and represent, or will represent, the full agreement between the parties to those Relevant Documents in relation to the subject matter of those Relevant Documents and there are no commissions, rebates, premiums or other payments due or to become due in connection with the subject matter of those Relevant Documents other than in the ordinary course of business or as disclosed to, and approved in writing by, the Agent.

19.1.22 **Money laundering** Any borrowing by the Borrower under this Agreement, and the performance of its obligations under this Agreement and under the other Finance Documents, will be for its own account and will not involve any breach by it of any law or regulatory measure relating to money laundering.

19.2 **Repetition** Each Repeating Representation is deemed to be repeated by the Borrower and the Guarantor by reference to the facts and circumstances then existing on the date of the Drawdown Request, on the Drawdown Date and on the first day of each Interest Period.

20 **Information Undertakings**

The undertakings in this Clause 20 remain in force for the duration of the Facility Period.

20.1 **Financial statements** The Borrower shall supply (or in respect of the Guarantor, procure to supply) to the Agent in sufficient copies for all of the Lenders:

20.1.1 as soon as the same become available, but in any event within one hundred eighty days after the end of each of its financial years:

- (a) its annual audited consolidated financial statements for that financial year;
- (b) the annual audited consolidated financial statements of the Guarantor for that financial year;

20.1.2 as soon as the same become available, but in any event within one hundred twenty days after the end of each of its financial half years during each of its financial years:

- (a) its semi-annual unaudited consolidated accounts for that financial half year;
- (b) the semi-annual unaudited consolidated accounts of the Guarantor for that financial half year,

in each case together with, if not already included in the above financial statements and accounts, details of all off-balance sheet and time-charter hire commitments of, as the case may be, the Borrower and the Guarantor.

20.2 **Compliance Certificate**

20.2.1 The Borrower shall procure the Guarantor supplies to the Agent, with each set of its annual consolidated financial statements delivered pursuant to Clause 20.1.1 (*Financial statements*) and each set of its semi-annual accounts delivered pursuant to Clause 20.1.2 (*Financial statements*), 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 or accounts were drawn up.

20.2.2 Each Compliance Certificate shall be signed by a director of and on behalf of the Guarantor.

20.3 **Requirements as to financial statements and accounts**

Each set of financial statements and accounts delivered by the Borrower under Clause 20.1 (*Financial statements*):

- 20.3.1 shall be certified by a director of the relevant company on behalf of such relevant company as giving a true and fair view of (in the case of annual financial statements), or fairly representing (in other cases), its financial condition as at the date as at which those financial statements were drawn up; and
- 20.3.2 shall be prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements or accounts, it notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods and its auditors deliver to the Agent:
- (a) a description of any change necessary for those financial statements or accounts to reflect the GAAP, accounting practices and reference periods upon which the Original Financial Statements were prepared; and
 - (b) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Agent 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 or accounts 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.

20.4 **Information: miscellaneous** The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- 20.4.1 at the same time as they are dispatched, copies of all documents dispatched by the Borrower to its shareholders generally (or any class of them) or dispatched by the Borrower or any other Security Party to its creditors generally (or any class of them);
- 20.4.2 promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any Security Party, and which, if adversely determined, are reasonably likely to have a Material Adverse Effect;
- 20.4.3 promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Security Parties with the terms of any Security Documents including without limitation cash flow

analyses and details of the operating costs and employment of the Delivered Vessels (including, without limitation, copies of any charters or employment contracts under which any Delivered Vessel is employed); and

20.4.4 promptly on request, such further information regarding the financial condition, assets and operations of any Security Party (including any requested amplification or explanation of any item in the financial statements, accounts, budgets or other material provided by any Security Party under this Agreement and an up to date copy of its shareholders' register (or equivalent in its Original Jurisdiction)) as any Finance Party through the Agent may reasonably request.

20.5 **Notification of default**

20.5.1 The Borrower and the Guarantor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

20.5.2 Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

20.6 **"Know your customer" checks**

20.6.1 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 a 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 Clause 20.6.1(c), any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or 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 any Lender (for itself or, in the case of the event described in Clause 20.6.1(c), on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in Clause 20.6.1(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.

20.6.2 Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent 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 **Financial covenants** The Guarantor shall maintain (and the Borrower shall procure that the Guarantor maintains) the following financial covenants throughout the Facility Period:

21.1.1 minimum Free Cash of 10 million Sterling (£10,000,000) for the period commencing on the Drawdown Date and continuing until the date which is six months after the Drawdown Date, seven million five hundred thousand Sterling (£7,500,000) for the period commencing on the date which is six months and one day after the Drawdown Date and continuing until the date which is twelve months after the Drawdown Date and six million Sterling (£6,000,000) for the period commencing on the date which is twelve months and one day after the Drawdown Date and continuing until the end of the Facility Period;

21.1.2 a positive Working Capital;

21.1.3 a minimum Equity Ratio of forty per cent; and

21.1.4 a Tangible Net Worth of no less than one hundred million Sterling (£100,000,000).

The scheduled reductions in the minimum Free Cash covenant at Clause 21.1.1 are subject to the Borrower being in compliance with its obligations under Clause 17.3 (*Minimum cash deposit*) on the date of each scheduled reduction.

21.2 **Definitions** For the purposes of Clause 21.1 (*Financial covenants*), the following words and expressions shall have the following meanings:

“**Current Assets**” means, at any time, the aggregate at such time of:

- (a) the consolidated cash, deposits, raw materials, work-in-progress, stocks, marketable securities, prepaid expenses and debtors of the Group which are payable on demand or within one year after the date of computation; and
- (b) any other consolidated assets of the Group which would, in accordance with GAAP, be classified as current assets.

“**Current Liabilities**” means, at any time, the aggregate at such time of:

- (a) the consolidated obligations of the Group to pay money on demand or within one year after the date of computation (including, without limitation, dividends and contingent obligations); and
- (b) any other consolidated obligations of the Group which would, in accordance with GAAP, be classified as current liabilities (other than moneys due or to become due from another member of the Group).

“Equity” means, at any time, the aggregate of:

- (a) the amounts paid up or credited as paid up on the issued share capital of the Guarantor (other than any redeemable share capital);
- (b) any credit balance on the Guarantor’s most recent consolidated profit and loss account; and
- (c) any amount standing to the credit of the Guarantor’s consolidated capital and revenue reserves (including any share premium account and capital redemption reserve);

less the aggregate of:

- (a) any debit balance on the Guarantor’s most recent consolidated profit and loss account; and
- (b) any reserves attributable to the interest of minority shareholders in any Subsidiary of the Guarantor,

after making such adjustments as may be appropriate in respect of any variation in the amount of any such paid up share capital or reserves after the date of the most recent consolidated balance sheet of the Guarantor and so that no amount shall be included or deducted more than once.

“Equity Ratio” means, at any time, $\text{Tangible Net Worth} \div \text{Total Tangible Assets}$.

“Free Cash” means, at any time, the aggregate of:

- (a) all of the Group’s cash in hand; and
- (b) all credit balances of the Group in freely transferable and exchangeable currencies on any current, savings or deposit accounts that are free of Encumbrances (other than bankers’ rights of set off) and restrictions on withdrawal and transfer (other than notice periods which are cancellable by the relevant member of the Group),

which shall, for the avoidance of doubt, exclude any balance credited to the Security Account.

“Group” means the Guarantor and its Subsidiaries from time to time viewed as a whole.

“Tangible Net Worth” means, at any time, Equity less the aggregate of:

- (a) (to the extent included) any amount shown in the Guarantor’s most recent consolidated balance sheet in respect of goodwill or other intangible assets;
- (b) (to the extent included) any amounts arising from any upward revaluation of any assets of the Group made at any time after the most recent audited annual consolidated financial statements of the Guarantor; and
- (c) any amount set aside for taxation or bad debts.

“**Total Tangible Assets**” means, at any time, the consolidated assets of the Group which would, in accordance with GAAP, be classified as assets less any goodwill or intangible assets of the Group.

“**Working Capital**” means Current Assets less Current Liabilities.

21.3 **Financial testing**

The financial covenants set out at Clause 21.1 (*Financial Covenants*) shall be calculated and determined on a consolidated basis in accordance with GAAP and tested semi-annually by reference to and as of the date of the latest consolidated financial statements or accounts of the Guarantor delivered to the Agent pursuant to Clause 20.1 (*Financial statements*),

All amounts under Clause 21.1 (*Financial Covenants*) and Clause 21.2 (*Definitions*) shall be denominated in Sterling and all amounts expressed in or calculated by reference to a currency other than Sterling shall be converted into Sterling using prevailing exchanges rates and following a methodology consistent with the most recent audited annual consolidated financial statements of the Guarantor.

22 **General Undertakings**

The undertakings in this Clause 22 remain in force for the duration of the Facility Period.

22.1 **Authorisations** The Borrower shall promptly:

22.1.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

22.1.2 supply certified copies to the Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

(a) enable any Security Party to perform its obligations under the Relevant Documents to which it is a party;

(b) ensure the legality, validity, enforceability or admissibility in evidence of any Relevant Document; and

(c) enable any Security Party to carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

22.2 **Compliance with laws**

22.2.1 The Borrower and the Guarantor shall comply (and shall procure that each other Security Party, in all respects with all laws to which it may be subject, if (except as regards sanctions, to which Clause 22.2.2 applies, and anti-corruption laws to which Clause 22.2.3 applies) failure so to comply has or is reasonably likely to have a Material Adverse Effect.

- 22.2.2 In particular the Borrower and the Guarantor guarantees and undertakes:
- (a) that the Borrower, the Guarantor or any company that directly or indirectly belongs to the Borrower, or the Guarantor is not subject to any UN, US, EU, or any other sanctions regime regarding in particular, but not exclusively, economic sanctions against Iran, including, without limitation, the US Comprehensive Iran Sanctions Accountability and Divestment Act of 2010 (“**Sanction Program**”);
 - (b) that the Borrower will not transport any goods with the Delivered Vessels, that are prohibited to be sold, supplied, transferred, purchased, exported or imported under any Sanction Program;
 - (c) that none of the Delivered Vessels will be sold, chartered, leased or otherwise provided directly or indirectly by the Borrower to any Prohibited Person;
 - (d) that if the Borrower or the Guarantor finds out that a Delivered Vessel, without the Borrower’s or the Guarantor’s knowledge, has been sold, chartered, conferred, leased or otherwise provided directly or indirectly to any Prohibited Person under the premise that the Finance Parties may commit a breach of law by this behaviour, the Borrower or, as the case may be, the Guarantor will inform the Finance Parties immediately; and
 - (e) to provide the Finance Parties upon their request with all relevant documentation related to each Delivered Vessel and any goods transported by any Delivered Vessel:
 - (i) to prove that the Borrower is not in any breach of any Sanction Program; and
 - (ii) which a Finance Party is required to disclose to any regulatory authority pursuant to a Sanction Program.

22.2.3 Each of the Borrower and the Guarantor shall (and shall procure that each other Security Party and each Affiliate of any of them shall) conduct its businesses in compliance with applicable anti-corruption laws and maintain policies and procedures designed to promote and achieve compliance with such laws.

22.3 **Environmental compliance**

The Borrower and the Guarantor shall:

22.3.1 comply with all Environmental Laws;

22.3.2 obtain, maintain and ensure compliance with all requisite Environmental Approvals; and

22.3.3 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.

22.4 **Environmental Claims**

The Borrower and the Guarantor shall promptly upon becoming aware of the same, inform the Agent in writing of:

22.4.1 any Environmental Claim against any of the Security Parties which is current, pending or threatened; and

22.4.2 any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any of the Security Parties,

where the claim, if determined against that Security Party, has or is reasonably likely to have a Material Adverse Effect.

22.5 **Anti-corruption law**

22.5.1 The Borrower and the Guarantor shall not (and shall procure that no other Security Party will) directly or indirectly use the proceeds of the Loan for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.

22.5.2 The Borrower and the Guarantor shall (and shall procure that each other Security Party shall):

(a) conduct its businesses in compliance with applicable anti-corruption laws; and

(b) maintain policies and procedures designed to promote and achieve compliance with such laws.

22.6 **Taxation**

22.6.1 The Borrower and the Guarantor shall (and shall procure that each other Security Party shall) 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:

(a) such payment is being contested in good faith;

(b) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements or accounts delivered to the Agent under Clause 20.1 (*Financial statements*); and

(c) 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.

22.6.2 Neither the Borrower nor the Guarantor may (and no other Security Party may) change its residence for Tax purposes.

- 22.7 **Pari passu ranking** The Borrower and the Guarantor shall 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.
- 22.8 **Negative pledge** Except as permitted under Clause 22.8.3:
- 22.8.1 The Borrower shall not create nor permit to subsist any Encumbrance over any of its assets. The Guarantor shall not create nor permit to subsist any Encumbrance over the ACMA Contract and any Qualifying Contract (if entered into).
- 22.8.2 The Borrower shall not:
- (a) 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 Security Party;
 - (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (d) enter into any other preferential arrangement having 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.
- 22.8.3 Clause 22.8.1 does not apply to any Encumbrance which is a Permitted Encumbrance.
- 22.9 **Disposals**
- 22.9.1 The Borrower shall not, without the prior written consent of the Majority Lenders, 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 otherwise in the ordinary course of business provided, in the case of the disposal of a Vessel, the net sales proceeds are sufficient to enable the Borrower to satisfy its obligations under, as the case may be, Clauses 7.4 (*Mandatory prepayment on sale or Total Loss of Vessel One*), 7.5 (*Mandatory prepayment on sale or Total Loss of Vessel Two*) and 7.6 (*Restrictions*).
- 22.9.2 The restriction on leasing in this Clause 22.9 does not apply to the Vessel One Bareboat Charter or the Vessel Two Bareboat Charter or to any other charter of a Vessel by the Borrower which is not a demise charter and which is entered into on arm's length terms.

- 22.10 **Arm's length basis**
- 22.10.1 Except as permitted under Clause 22.10.2, neither the Borrower nor the Guarantor shall, without the prior written consent of the Majority Lenders, enter into any transaction with the Guarantor, any Affiliate of the Guarantor or any of the directors or employees of the Borrower, the Guarantor or any Affiliate of the Guarantor except on arm's length terms and for full market value.
- 22.10.2 Fees, costs, hires and expenses payable under the Relevant Documents in the amounts set out in the Relevant Documents delivered to the Agent under Clause 4.1 (*Conditions precedent*) and any shareholder loans to the Borrower from the Guarantor shall not be in breach of this Clause 22.10.
- 22.11 **Merger** Neither the Borrower or the Guarantor shall without the prior written consent of the Majority Lenders enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction.
- 22.12 **Change of business** The Borrower shall not, without the prior written consent of the Majority Lenders, make any substantial change to the general nature of its business from that carried on at the date of this Agreement.
- 22.13 **No other business** The Borrower shall not, without the prior written consent of the Majority Lenders, engage in any business other than the ownership and chartering of the Vessels.
- 22.14 **No borrowings** The Borrower shall not, without the prior written consent of the Majority Lenders, incur or allow to remain outstanding any Financial Indebtedness (except for the Loan) and unsecured loans from the Guarantor which are fully subordinated to the Loan.
- 22.15 **No substantial liabilities** Except in the ordinary course of business, the Borrower shall not without the prior written consent of the Majority Lenders incur any liability to any third party which in the opinion of the Majority Lenders is of a substantial nature.
- 22.16 **No loans or credit** The Borrower shall not, without the prior written consent of the Majority Lenders, be a creditor in respect of any Financial Indebtedness unless it is a loan made in the ordinary course of business in connection with the chartering, operation or repair of the Vessels.
- 22.17 **No guarantees or indemnities** The Borrower shall not without the prior written consent of the Majority Lenders incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- 22.18 **No dividends**
- 22.18.1 Except as permitted under Clause 22.18.2, the Borrower shall not:
- (a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

- (b) repay or distribute any dividend or share premium reserve; or
- (c) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

22.18.2 The Borrower may take any of the actions set out at Clause 22.18.1(a) so long as at the relevant time,

- (a) no Default is continuing, or would result from the relevant action; and
- (b) the aggregate of (i) the then Fair Market Value of each Delivered Vessel and (ii) the then current balance deposited and blocked in the Security Account is not less than the VTL Coverage Amount.

22.19 **Inspection of records** The Borrower and the Guarantor will permit the inspection of its financial records and accounts from time to time by the Agent or its nominee on reasonable notice.

22.20 **Subordination** Without prejudice to Clause 22.14, the Borrower shall ensure that all loans made to the Borrower by any of its Affiliates (including, without limitation, the Guarantor) are specifically subordinated to the interests of the Finance Parties under the Finance Documents on terms acceptable to the Majority Lenders and the Borrower agrees not to repay or pay any principal or interest in relation to such loans or other indebtedness.

22.21 **No change in ownership of Borrower** The Borrower and the Guarantor shall each ensure that the Borrower remains one hundred per cent (100%) legally and beneficially owned and controlled by the Guarantor.

22.22 **Change to ACMA Contract** The Borrower shall not without the prior written consent of the Majority Lenders materially amend, vary or supplement or waive any material term of, the Vessel One Bareboat Charter or (only while Vessel Two constitutes a Delivered Vessel) the Vessel Two Bareboat Charter. The Guarantor shall not without the prior written consent of the Majority Lenders materially amend, vary or supplement or waive any material term of, the ACMA Contract or any Qualifying Contract.

The Borrower shall not without the prior written consent of the Majority Lenders novate or supersede the Vessel One Bareboat Charter or (only while Vessel Two constitutes a Delivered Vessel) the Vessel Two Bareboat Charter.

The Guarantor shall not without the prior written consent of the Majority Lenders novate or supersede the ACMA Contract or any Qualifying Contract.

In the context of this Clause 22.22, a material amendment, variation, supplement or waiver shall mean any amendment, variation, supplement or waiver that if entered into or granted would reasonably be expected to prejudice the Agent's credit assessment of the transaction contemplated by this Agreement or the security position of the Security Agent and, for the avoidance of doubt, any reduction of the duration/term of a Relevant Contract, any reduction or waiver of the Earnings and other payments required under a Relevant Contract or any change to the payment terms under a Relevant Contract shall always be deemed to be material.

For the purpose of this Clause 22.22, “**Relevant Contracts**” means the Vessel One Bareboat Charter, the Vessel Two Bareboat Charter, the ACMA Contract and any Qualifying Contract and “**Relevant Contract**” means any one of them.

22.23 Further assurance

- 22.23.1 The Borrower and the Guarantor shall (and shall procure that each other Security Party shall) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
- (a) to perfect any Encumbrance created or intended to be created under or evidenced by the Security Documents (which may include the execution of a mortgage, charge, assignment or other Encumbrance over all or any of the assets which are, or are intended to be, the subject of the Security Documents) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;
 - (b) to confer on the Security Agent or confer on the Finance Parties an Encumbrance over any property and assets of the Borrower (or that other Security Party as the case may be) located in any jurisdiction equivalent or similar to the Encumbrance intended to be conferred by or pursuant to the Security Documents; and/or
 - (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Documents.
- 22.23.2 The Borrower and the Guarantor shall (and shall procure that each other Security Party shall) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Encumbrance conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

23 Events of Default

23.1 **Events of Default** Each of the events or circumstances set out in this Clause 23.1 is an Event of Default.

- 23.1.1 **Non-payment** A Security Party does not pay on the due date any amount payable by it under 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 two Business Days of its due date.

23.1.2 **Other specific obligations**

- (a) Any requirement of Clause 21 (*Financial Covenants*) is not satisfied.
- (b) A Security Party does not comply with any obligation in a Finance Document relating to the Insurances or with Clause 17.14 (*Additional security*) or with Clause 22.21 (*No change in ownership of Borrower*).

23.1.3 **Other obligations**

- (a) A Security Party does not comply with any provision of a Finance Document (other than those referred to in Clause 23.1.1 (*Non-payment*) and Clause 23.1.2 (*Other specific obligations*)).
- (b) No Event of Default under this Clause 23.1.3 will occur if the failure to comply is capable of remedy and is remedied within ten Business Days of the earlier of (i) the Agent giving notice to the Borrower and (ii) the Borrower becoming aware of the failure to comply.

23.1.4 **Misrepresentation** Any representation or statement made or deemed to be repeated by a Security Party in any Finance Document or any other document delivered by or on behalf of a Security Party under or in connection with any Finance Document is or proves to have been materially incorrect or misleading when made or deemed to be made.

23.1.5 **Cross default** Any Financial Indebtedness of (i) the Borrower or any of its Subsidiaries with total assets not less than twenty five per cent of the consolidated total assets of the Borrower calculated by reference to the then latest audited annual consolidated financial statements of the Borrower or (ii) the Guarantor (or any of its Subsidiaries with total assets not less than ten per cent (10%) of the consolidated total assets of the Guarantor calculated by reference to the then latest audited annual consolidated financial statements of the Guarantor):

- (a) is not paid when due nor within any originally applicable grace period; or
- (b) 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); or
- (c) is capable of being declared by a creditor to be due and payable prior to its specified maturity as a result of such an event of default unless such event of default is capable of remedy and is remedied within ten Business Days of the earlier of (i) the Agent giving notice to the Borrower and (ii) the Borrower becoming aware of such event of default.

No Event of Default will occur under this Clause 23.1.5 if the amount of Financial Indebtedness or commitment for Financial Indebtedness falling within (a) to (c) is less than one million dollars (\$1,000,000) individually (or its equivalent in any other currency or currencies) unless, at the relevant time, the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness failing within (a) to (c) is five million dollars (\$5,000,000) or more (or its equivalent in any other currency or currencies).

23.1.6 **Insolvency**

- (a) A Security Party is unable or admits inability to pay its debts as they fall due, is deemed to, or is declared to, be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts, or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of a Security Party is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of a Security Party. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

23.1.7 **Insolvency proceedings** Any corporate action, legal proceedings or other procedure or step is taken for:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, bankruptcy or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of a Security Party;
- (b) a general composition, compromise, assignment or arrangement with any creditor of a Security Party;
- (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, or trustee or other similar officer in respect of a Security Party or any of its material assets; or
- (d) enforcement of any Encumbrance over any material assets of a Security Party,

or any analogous procedure or step is taken in any jurisdiction.

This Clause 23.1.7 shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within seven days of commencement.

- 23.1.8 **Creditors' process** Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of a Security Party having an aggregate value of one million dollars (\$1,000,000) and is not discharged within ten days.
- 23.1.9 **Unlawfulness and invalidity**
- (a) It is or becomes unlawful for a Security Party to perform any of its obligations under the Finance Documents or any Encumbrance created or expressed to be created or evidenced by the Security Documents ceases to be effective.
 - (b) Any obligation or obligations of any Security Party under any Finance Documents are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
 - (c) Any Finance Document ceases to be in full force and effect or any Encumbrance created or expressed to be created or evidenced by the Security Documents ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.
- 23.1.10 **Cessation of business** A Security Party ceases, or threatens to cease, to carry on all or a substantial part of its business.
- 23.1.11 **Expropriation** The authority or ability of a Security Party 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 a Security Party or any of its assets.
- 23.1.12 **Repudiation and rescission of agreements**
- (a) A Security Party rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or evidences an intention to rescind or repudiate a Finance Document.
 - (b) The ACMA Contract, any Qualifying Contract (if entered into), the Vessel One Bareboat Charter or (only while Vessel Two constitutes a Delivered Vessel) the Vessel Two Bareboat Charter is rescinded, repudiated, terminated, cancelled or otherwise ceases to remain in full force and effect at any time prior to its contractual expiry date and is not immediately replaced by a replacement agreement in form and substance satisfactory to the Majority Lenders.
- 23.1.13 **Conditions subsequent** Any of the conditions (other than in paragraphs 3 and 5 of Part II (*Conditions subsequent*) of Schedule 2) referred to in Clause 4.3 (*Conditions subsequent*) is not satisfied within the time periods specified therefor in Part II (*Conditions subsequent*) of Schedule 2 or such later date as the Majority Lenders may in their discretion agree.

- 23.1.14 **Revocation or modification of Authorisation** Any Authorisation of any governmental, judicial or other public body or authority which is now, or which at any time during the Facility Period becomes, necessary to enable any of the Security Parties to comply with any of their obligations under any Relevant Document is not obtained, is revoked, suspended, withdrawn or withheld, or is modified in a manner which the Agent considers is, or may be, prejudicial to the interests of any Finance Party, or ceases to remain in full force and effect.
- 23.1.15 **Reduction of capital** A Security Party reduces its authorised or issued or subscribed capital (unless such a reduction is agreed in writing by the Majority Lenders), such consent not to be unreasonably withheld or delayed.
- 23.1.16 **Classification** The classification society of a Delivered Vessel withdraws or suspends the classification certificate of that Delivered Vessel.
- 23.1.17 **Loss of a Delivered Vessel** A Delivered Vessel suffers a Total Loss or is otherwise destroyed or abandoned except that a Total Loss shall not be an Event of Default if:
- (a) that Delivered Vessel is insured in accordance with the Security Documents and a claim for Total Loss is available under the terms of the relevant insurances; and
 - (b) no insurer has refused to meet or has disputed the claim for Total Loss and it is not apparent to the Agent in its discretion that any such refusal or dispute is likely to occur; and
 - (c) payment of all insurance proceeds in respect of the Total Loss is made in full to the Security Agent within ninety days of the occurrence of the casualty giving rise to the Total Loss in question or such longer period as the Majority Lenders may in their discretion agree.
- 23.1.18 **Challenge to registration** The registration of a Delivered Vessel or the Mortgage or the Collateral Mortgage is contested or becomes void or voidable or liable to cancellation or termination, or the validity or priority of the Mortgage or the Collateral Mortgage is contested.
- This Clause 23.1.18 shall not apply to any release of the Collateral Mortgage permitted by Clause 17.15 (*Release of Collateral Security Documents*).
- 23.1.19 **War and instability** The country of registration of a Delivered Vessel becomes involved in war (whether or not declared) or civil war or is occupied by any other power or otherwise becomes unstable and the Agent in its discretion considers that, as a result, the security conferred by any of the Security Documents is materially prejudiced.
- 23.1.20 **Notice of determination** The Guarantor gives notice to the Security Agent to determine any obligations under the Guarantee.
- 23.1.21 **Litigation** Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced

or threatened in relation to the Relevant Documents or the transactions contemplated in the Relevant Documents or against a Security Party or its assets which have or are reasonably likely to have a Material Adverse Effect.

23.1.22 **Material adverse change** Any event or circumstance occurs which the Majority Lenders reasonably believe has or is reasonably likely to have a Material Adverse Effect.

23.1.23 **Sanctions**

- (a) Any of the Security Parties or any Affiliate of any of them becomes a Prohibited Person or becomes owned or controlled by, or acts directly or indirectly on behalf of, a Prohibited Person or any of such persons becomes the owner or controller of a Prohibited Person.
- (b) Any proceeds of the Loan are made available, directly or indirectly, to or for the benefit of a Prohibited Person or otherwise is, directly or indirectly, applied in a manner or for a purpose prohibited by the sanctions provisions set out in Clause 22.2.2 (*Compliance with laws*).
- (c) There is any breach by any of the Security Parties or any Affiliate of any of them of the sanctions provision in Clause 22.2.2 (*Compliance with laws*).

23.2 **Acceleration** On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders:

- 23.2.1 by notice to the Borrower cancel the Total Commitments, at which time they shall immediately be cancelled;
- 23.2.2 by notice to the Borrower declare that the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents are immediately due and payable, at which time they shall become immediately due and payable;
- 23.2.3 by notice to the Borrower declare that the Loan is payable on demand, at which time it shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or
- 23.2.4 exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

Section 9 Changes to Parties

24 Changes to the Lenders

24.1 Assignments and transfers by the Lenders Subject to this Clause 24, a Lender (the “**Existing Lender**”) may:

24.1.1 assign any of its rights; or

24.1.2 transfer by novation any of its rights and obligations,

under any Finance Document 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**”).

24.2 Conditions of assignment or transfer

24.2.1 An assignment will only be effective on:

- (a) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and
- (b) performance by the 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 Agent shall promptly notify to the Existing Lender and the New Lender.

24.2.2 A transfer will only be effective if the procedure set out in Clause 24.5 (*Procedure for transfer*) is complied with.

24.2.3 If:

- (a) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower 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 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.

24.2.4 Each New Lender confirms, for the avoidance of doubt, that the 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.

24.3 **Assignment or transfer fee** Unless the Agent otherwise agrees and excluding an assignment or transfer (i) to an Affiliate of a Lender or (ii) to a Related Fund, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of three thousand dollars (\$3,000).

24.4 **Limitation of responsibility of Existing Lenders**

24.4.1 Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

- (a) the legality, validity, effectiveness, adequacy or enforceability of the Relevant Documents or any other documents;
- (b) the financial condition of any Security Party;
- (c) the performance and observance by any Security Party of its obligations under the Relevant Documents or any other documents;
or
- (d) the accuracy of any statements (whether written or oral) made in or in connection with any of the Relevant Documents or any other document,

and any representations or warranties implied by law are excluded.

24.4.2 Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

- (a) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Security Party 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 in connection with any of the Relevant Documents; and
- (b) will continue to make its own independent appraisal of the creditworthiness of each Security Party and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

24.4.3 Nothing in any Finance Document obliges an Existing Lender to:

- (a) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 24; or
- (b) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Security Party of its obligations under the Relevant Documents or otherwise.

24.5 **Procedure for transfer**

- 24.5.1 Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with Clause 24.5.3 when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to Clause 24.2.1(b), as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- 24.5.2 The 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.
- 24.5.3 On the Transfer Date:
- (a) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents the Borrower and the Guarantor and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another shall be cancelled (being the **“Discharged Rights and Obligations”**);
 - (b) the Borrower and the Guarantor 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 the Borrower and the Guarantor and the New Lender have assumed and/or acquired the same in place of the Borrower and the Guarantor and the Existing Lender;
 - (c) the Agent, the Security Agent, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves 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 Agent, the Security Agent and the Existing Lender shall each be released from further obligations to each other under this Agreement; and
 - (d) the New Lender shall become a Party as a “Lender”.

24.6 **Procedure for assignment**

24.6.1 Subject to the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with Clause 24.6.3 when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to Clause 24.6.2, 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.

24.6.2 The 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 similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

24.6.3 Subject to Clause 24.9 (*Pro rata interest settlement*), on the Transfer Date:

- (a) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents and in respect of any Encumbrance created or expressed to be created or evidenced by the Security Documents and expressed to be the subject of the assignment in the Assignment Agreement;
- (b) the Existing Lender will be released by the Borrower and the other Finance Parties 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 any Encumbrance created or expressed to be created or evidenced by the Security Documents); and
- (c) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.

24.6.4 Lenders may utilise procedures other than those set out in this Clause 24.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Security Party or unless in accordance with Clause 24.5 (*Procedure for transfer*), to obtain a release by that Security Party from the obligations owed to that Security Party by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 24.2 (*Conditions of assignment or transfer*).

24.7 **Copy of Transfer Certificate or Assignment Agreement to Borrower** The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

24.8 **Security over Lenders’ rights** In addition to the other rights provided to Lenders under this Clause 24, each Lender may without consulting with or obtaining consent

from any Security Party, at any time charge, assign or otherwise create Encumbrances 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:

- 24.8.1 any charge, assignment or other Encumbrance to secure obligations to a federal reserve or central bank; and
- 24.8.2 in the case of any Lender which is a fund, any charge, assignment or other Encumbrance 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 Encumbrance shall:
 - (a) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Encumbrance for the Lender as a party to any of the Finance Documents; or
 - (b) require any payments to be made by a Security Party 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.

24.9 **Pro rata interest settlement**

- 24.9.1 If the 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 24.5 (*Procedure for transfer*) or any assignment pursuant to Clause 24.6 (*Procedure for assignment*) the Transfer Date of which 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 next Interest Payment Date; 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 24.9, have been payable to it on that date, but after deduction of the Accrued Amounts.

In this Clause 24.9 references to "Interest Period" shall be construed to include a reference to any other period for accrual of fees.

24.10 **No assignment or transfer by Security Parties** No Security Party may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

Section 10 The Finance Parties

25 Role of the Agent and the Security Agent

25.1 Appointment of the Agent

- 25.1.1 Each of the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents and each of the Lenders and the Agent appoints the Security Agent to act as its security agent for the purpose of the Security Documents.
- 25.1.2 Each of the Lenders authorises the Agent and each of the Lenders and the Agent authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent or the Security Agent (as the case may be) under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.
- 25.1.3 Except in Clause 25.13 (*Replacement of the Agent*) or where the context otherwise requires, references in this Clause 25 to the “**Agent**” shall mean the Agent and the Security Agent individually and collectively.

25.2 Instructions

- 25.2.1 The Agent shall:
- (a) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (i) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (ii) in all other cases, the Majority Lenders; and
 - (b) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with Clause 25.2.1.
- 25.2.2 The 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 Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent may refrain from acting unless and until it receives those instructions or that clarification.
- 25.2.3 Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties save for the Security Agent.

- 25.2.4 The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders 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 which it may incur in complying with those instructions.
- 25.2.5 In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- 25.2.6 The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This Clause 25.2.6 shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Finance Documents or the enforcement of the Finance Documents.

25.3 **Duties of the Agent**

- 25.3.1 The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- 25.3.2 Subject to Clause 25.3.3, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- 25.3.3 Without prejudice to Clause 24.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), Clause 25.3.1 shall not apply to any Transfer Certificate or any Assignment Agreement.
- 25.3.4 Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- 25.3.5 If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Finance Parties.
- 25.3.6 If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.
- 25.3.7 The 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).

25.4 **No fiduciary duties**

- 25.4.1 Subject to Clause 25.11 (*Trust*) which relates to the Security Agent only, nothing in any Finance Document constitutes the Agent as a trustee or fiduciary of any other person.
- 25.4.2 The Agent shall not be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

- 25.5 **Business with Security Parties** The Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower and any other Security Party or its Affiliate.
- 25.6 **Rights and discretions of the Agent**
- 25.6.1 The Agent may:
- (a) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (b) assume that:
 - (i) any instructions received by it from the Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (ii) 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 (A), may assume the truth and accuracy of that certificate.
- 25.6.2 The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders or security agent for the Finance Parties (as the case may be)) that:
- (a) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 23.1 (*Events of Default*));
 - (b) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
 - (c) any notice or request made by the Borrower (other than a Drawdown Request) is made on behalf of and with the consent and knowledge of all the Security Parties.
- 25.6.3 The Agent may engage and pay for the advice or services of any lawyers, accountants, surveyors or other experts.

- 25.6.4 Without prejudice to the generality of Clause 25.6.3 or Clause 25.6.5, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be desirable.
- 25.6.5 The 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 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.
- 25.6.6 The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:
- (a) be liable for any error of judgment made by any such person; or
 - (b) 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 Agent's gross negligence or wilful misconduct.
- 25.6.7 Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- 25.6.8 Without prejudice to the generality of Clause 25.6.7, the Agent:
- (a) may disclose; and
 - (b) on the written request of the Borrower or the Majority Lenders shall, as soon as reasonably practicable, disclose, the identity of a Defaulting Lender to the Borrower and to the other Finance Parties.
- 25.6.9 Notwithstanding any other provision of any Finance Document to the contrary, the 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.
- 25.6.10 The Agent is not obliged to disclose to any Finance Party any details of the rate notified to the Agent by any Lender or the identity of any such Lender for the purpose of Clause 10.1.2 (*Market Disruption*).
- 25.6.11 Notwithstanding any provision of any Finance Document to the contrary, the 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.

- 25.7 **Responsibility for documentation** The Agent is not responsible or liable for:
- 25.7.1 the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, a Security Party or any other person given in or in connection with any Relevant Document or the transactions contemplated in the Relevant Documents; or
 - 25.7.2 the legality, validity, effectiveness, adequacy or enforceability of any Relevant Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Relevant Document; or
 - 25.7.3 any determination as to whether any information provided or to be provided to any Finance 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.
- 25.8 **No duty to monitor** The Agent shall not be bound to enquire:
- 25.8.1 whether or not any Default has occurred;
 - 25.8.2 as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
 - 25.8.3 whether any other event specified in any Finance Document has occurred.
- 25.9 **Exclusion of liability**
- 25.9.1 Without limiting Clause 25.9.2 (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent) the Agent shall not be liable (including, without limitation, for negligence or any other category of liability whatsoever) for:
 - (a) 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 Finance Document or any Encumbrance created or expressed to be created or evidenced by the Security Documents, unless directly caused by its gross negligence or wilful misconduct;
 - (b) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, any Encumbrance created or expressed to be created or evidenced by the Security Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or any Encumbrance created or expressed to be created or evidenced by the Security Documents;

- (c) any shortfall which arises on the enforcement or realisation of the Trust Property; or
- (d) without prejudice to the generality of Clauses 25.9.1(a), 25.9.1(b) and 25.9.1(c), any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
 - (i) any act, event or circumstance not reasonably within its control; or
 - (ii) 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.

25.9.2 No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Relevant Document and any officer, employee or agent of the Agent may rely on this Clause subject to Clause 1.7 (*Third Party Rights*) and the provisions of the Third Parties Act.

25.9.3 The 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 Agent if the 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 Agent for that purpose.

25.9.4 Nothing in this Agreement shall oblige the Agent to carry out:

- (a) any “know your customer” or other checks in relation to any person;
- (b) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the 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 Agent.

25.9.5 Without prejudice to any provision of any Finance Document excluding or limiting the Agent’s liability, any liability of the Agent arising under or in

connection with any Finance Document or any Encumbrance created or expressed to be created or evidenced by the Security Documents 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 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 Agent at any time which increase the amount of that loss. In no event shall the 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 Agent has been advised of the possibility of such loss or damages.

25.10 **Lenders' indemnity to the Agent**

25.10.1 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 Agent and every Receiver and Delegate, within ten Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by any of them (otherwise than by reason of the relevant Agent's Receiver's or Delegate's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 28.11 (*Disruption to payment systems etc.*) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the relevant Agent, Receiver or Delegate has been reimbursed by a Security Party pursuant to a Finance Document).

25.10.2 Subject to Clause 25.10.3, the Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent pursuant to Clause 25.10.1.

25.10.3 Clause 25.10.2 shall not apply to the extent that the indemnity payment in respect of which the Lender claims reimbursement relates to a liability of the Agent to a Security Party.

25.11 **Trust** The Security Agent agrees and declares, and each of the other Finance Parties acknowledges, that, subject to the terms and conditions of this Clause 25.11, the Security Agent holds the Trust Property on trust for the Finance Parties absolutely. Each of the other Finance Parties agrees that the obligations, rights and benefits vested in the Security Agent shall be performed and exercised in accordance with this Clause 25.11. The Security Agent shall have the benefit of all of the provisions of this Agreement benefiting it in its capacity as security agent for the Finance Parties, and all the powers and discretions conferred on trustees by the Trustee Act 1925 (to the extent not inconsistent with this Agreement). In addition:

25.11.1 the Security Agent and any Delegate may indemnify itself or himself out of the Trust Property against all liabilities, costs, fees, damages, charges, losses and expenses sustained or incurred by it or him in relation to the taking or holding of any of the Trust Property or in connection with the

exercise or purported exercise of the rights, trusts, powers and discretions vested in the Security Agent or any Delegate by or pursuant to the Security Documents or in respect of anything else done or omitted to be done in any way relating to the Security Documents;

- 25.11.2 the other Finance Parties acknowledge that the Security Agent shall be under no obligation to insure any property nor to require any other person to insure any property and shall not be responsible for any loss which may be suffered by any person as a result of the lack or insufficiency of any insurance;
- 25.11.3 the Finance Parties agree that the perpetuity period applicable to the trusts declared by this Agreement shall be the period of 125 years from the date of this Agreement;
- 25.11.4 the Security Agent shall not be liable for any failure, omission, or defect in perfecting the security constituted or created by any Finance Document including, without limitation, any failure to register the same in accordance with the provisions of any of the documents of title of any Security Party to any of the assets thereby charged or effect or procure registration of or otherwise protect the security created by any Security Document under any registration laws in any jurisdiction and may accept without enquiry such title as any Security Party may have to any asset;
- 25.11.5 the Security Agent shall not be under any obligation to hold any title deed, Finance Document or any other documents in connection with the Finance Documents or any other documents in connection with the property charged by any Finance Document or any other such security in its own possession or to take any steps to protect or preserve the same, and may permit any Security Party to retain all such title deeds, Finance Documents and other documents in its possession; and
- 25.11.6 save as otherwise provided in the Finance Documents, all moneys which under the trusts therein contained are received by the Security Agent may be invested in the name of or under the control of the Security Agent in any investment for the time being authorised by English law for the investment by trustees of trust money or in any other investments which may be selected by the Security Agent, and the same may be placed on deposit in the name of or under the control of the Security Agent at such bank or institution (including the Security Agent) and upon such terms as the Security Agent may think fit.

The provisions of Part I of the Trustee Act 2000 shall not apply to the Security Agent or the Trust Property.

25.12 **Resignation of the Agent**

- 25.12.1 The Agent may resign and appoint one of its Affiliates acting through any office as successor by giving notice to the other Finance Parties and the Borrower.

- 25.12.2 Alternatively the Agent may resign by giving thirty days' notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.
- 25.12.3 If the Majority Lenders have not appointed a successor Agent in accordance with Clause 25.12.2 within twenty days after notice of resignation was given, the retiring Agent (after consultation with the Borrower) may appoint a successor Agent.
- 25.12.4 If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under Clause 25.12.3, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 25 and any other term of this Agreement dealing with the rights or obligations of the 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 Agent's normal fee rates and those amendments will bind the Parties.
- 25.12.5 The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- 25.12.6 The Agent's resignation notice shall only take effect upon the appointment of a successor and (in the case of the Security Agent) the transfer of all the Trust Property to that successor.
- 25.12.7 Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 25.12.5) but shall remain entitled to the benefit of Clause 14.3 (*Indemnity to the Agent*) and this Clause 25 (and any agency fees for the account of the retiring 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.
- 25.12.8 The Agent shall resign in accordance with Clause 25.12.2 (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to Clause 25.12.3) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
- (a) the Agent fails to respond to a request under Clause 12.7 (*FATCA information*) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

- (b) the information supplied by the Agent pursuant to Clause 12.7 (*FATCA information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (c) the Agent notifies the Borrower and the Lenders that the 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 Agent were a FATCA Exempt Party, and that Lender, by notice to the Agent, requires it to resign.

25.13 **Replacement of the Agent**

- 25.13.1 After consultation with the Borrower, the Majority Lenders may, by giving 30 days' notice to the Agent replace the Agent by appointing a successor Agent.
- 25.13.2 The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its function as Agent under the Finance Documents.
- 25.13.3 The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 25.13.2 but shall remain entitled to the benefit of Clause 14.3 (*Indemnity to the Agent*) and this Clause 25 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- 25.13.4 Any successor Agent 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.

25.14 **Confidentiality**

- 25.14.1 In acting as agent for the Finance Parties, the 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.
- 25.14.2 If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- 25.14.3 Notwithstanding any other provision of any Finance Document to the contrary, the 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 a breach of a fiduciary duty.

25.15 **Relationship with the Lenders**

25.15.1 Subject to Clause 24.9 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:

- (a) entitled to or liable for any payment due under any Finance Document on that day; and
- (b) 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.

25.15.2 Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or dispatched 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 30.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt 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, department and officer by that Lender for the purposes of Clause 30.2 (*Addresses*) and Clause 30.5.1(b) (*Electronic communication*) and the 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.

25.16 **Credit appraisal by the Lenders** Without affecting the responsibility of any Security Party for information supplied by it or on its behalf in connection with any Relevant Document, each Lender confirms to the 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 Relevant Document including but not limited to:

25.16.1 the financial condition, status and nature of each Security Party;

25.16.2 the legality, validity, effectiveness, adequacy or enforceability of any Relevant Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Relevant Document;

25.16.3 whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Relevant Document, the transactions contemplated by the Relevant Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of under or in connection with any Relevant Document; and

- 25.16.4 the adequacy, accuracy and/or completeness of any other information provided by the Agent, any Party or by any other person under or in connection with any Relevant Document, the transactions contemplated by the Relevant Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Relevant Document; and
- 25.16.5 the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any Encumbrance created or expressed to be created or evidenced by the Security Documents or the existence of any Encumbrance affecting the Charged Property.
- 25.17 **Agent's management time** Any amount payable to the Agent under Clause 14.3 (*Indemnity to the Agent*), Clause 14.4 (*Indemnity to the Security Agent*), Clause 16 (*Costs and expenses*) and Clause 25.10 (*Lenders' indemnity to the Agent*) shall include the reasonable cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 11 (*Fees*).
- 25.18 **Deduction from amounts payable by the Agent** If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.
- 26 Conduct of Business by the Finance Parties**
- No provision of this Agreement will:
- 26.1 interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- 26.2 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
- 26.3 oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.
- 27 Sharing among the Finance Parties**
- 27.1 **Payments to Finance Parties** If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from a Security Party other than in accordance with Clause 28 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:
- 27.1.1 the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;

- 27.1.2 the 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 Agent and distributed in accordance with Clause 28 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- 27.1.3 the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 28.5 (*Partial payments*).
- 27.2 **Redistribution of payments** The Agent shall treat the Sharing Payment as if it had been paid by the relevant Security Party and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with Clause 28.5 (*Partial payments*) towards the obligations of that Security Party to the Sharing Finance Parties.
- 27.3 **Recovering Finance Party’s rights** On a distribution by the Agent under Clause 27.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from a Security Party, as between the relevant Security Party 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 Security Party.
- 27.4 **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:
- 27.4.1 each Sharing Finance Party shall, upon request of the Agent, pay to the 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
- 27.4.2 as between the relevant Security Party and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Security Party.
- 27.5 **Exceptions**
- 27.5.1 This Clause 27 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 Security Party.
- 27.5.2 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:
- (a) it notified that other Finance Party of the legal or arbitration proceedings; and
 - (b) 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.

Section 11 Administration

28 Payment Mechanics

28.1 **Payments to the Agent** On each date on which a Security Party or a Lender is required to make a payment under a Finance Document, that Security Party or that Lender shall make the same available to the Agent for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

Payment shall be made to such account in the principal financial centre of the country of that currency with such bank as the Agent specifies.

28.2 **Distributions by the Agent** Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 28.3 (*Distributions to a Security Party*) and Clause 28.4 (*Clawback and pre-funding*) be made available by the 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 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.

28.3 **Distributions to a Security Party** The Agent may (with the consent of a Security Party or in accordance with Clause 29 (*Set-Off*)) apply any amount received by it for that Security Party in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Security Party under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

28.4 Clawback and pre-funding

28.4.1 Where a sum is to be paid to the Agent under the Finance Documents for another Party, the 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 reasonable satisfaction that it has actually received that sum.

28.4.2 Unless Clause 28.4.3 applies, if the Agent pays an amount to another Party and it proves to be the case that the 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 Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

28.4.3 If the Agent is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the 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 Borrower:

- (a) the Borrower shall on demand refund it to the Agent; and
- (b) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

28.5 **Partial payments**

- 28.5.1 If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by a Security Party under the Finance Documents, the Agent shall apply that payment towards the obligations of that Security Party under the Finance Documents in the following order:
- (a) first, in or towards payment pro rata of any unpaid fees, costs, expenses and default interest of the Agent and the Security Agent under the Finance Documents;
 - (b) secondly, in or towards payment pro rata of any accrued fees, commissions, costs, expenses (including any sums paid by the Lenders under Clause 25.10 (*Lenders' indemnity to the Agent*) due but unpaid under this Agreement;
 - (c) thirdly, in or towards payment pro rata of any accrued interest (including default interest) due to the Lenders but unpaid under this Agreement;
 - (d) fourthly, in or towards payment pro rata of any other principal due but unpaid under this Agreement; and
 - (e) fifthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

28.5.2 The Agent shall, if so directed by the Majority Lenders, vary the order set out in Clauses 28.5.1(b) to 28.5.1(e).

28.5.3 Clauses 28.5.1 and 28.5.2 will override any appropriation made by a Security Party.

28.6 **No set-off by Security Parties** All payments to be made by a Security Party under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

28.7 **Business Days** Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

28.8 Currency of account

- 28.8.1 Subject to Clauses 28.8.2 to 28.8.5, USD is the currency of account and payment for any sum due from a Security Party under any Finance Document.
- 28.8.2 A repayment or payment of all or part of the Loan or an Unpaid Sum shall be made in the currency in which the Loan or Unpaid Sum is denominated on its due date.
- 28.8.3 Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- 28.8.4 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- 28.8.5 Any amount expressed to be payable in a currency other than USD shall be paid in that other currency.

28.9 Control account The Agent shall open and maintain on its books a control account in the name of the Borrower showing the advance of the Loan and the computation and payment of interest and all other sums due under this Agreement. The Borrower's obligations to repay the Loan and to pay interest and all other sums due under this Agreement shall be evidenced by the entries from time to time made in the control account opened and maintained under this Clause 28.9 and those entries will, in the absence of manifest error, be conclusive and binding.

28.10 Change of currency

- 28.10.1 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:
 - (a) 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 Agent (after consultation with the Borrower); and
 - (b) 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 Agent (acting reasonably).
- 28.10.2 If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

- 28.11 **Disruption to payment systems etc.** If either the Agent determines in its discretion that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:
- 28.11.1 the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Loan as the Agent may deem necessary in the circumstances;
 - 28.11.2 the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in Clause 28.11.1 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 any such changes;
 - 28.11.3 the Agent may consult with the Finance Parties in relation to any changes mentioned in Clause 28.11.1 but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
 - 28.11.4 any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 34 (*Amendments, Waivers and Consents*);
 - 28.11.5 the Agent shall not be liable for any damages, costs or losses 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 Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 28.11; and
 - 28.11.6 the Agent shall notify the Finance Parties of all changes agreed pursuant to Clause 28.11.4.

29 Set-Off

- 29.1 **Set-off** A Finance Party may set off any matured obligation due from a Security Party under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Security Party, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, 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.

30 Notices

- 30.1 **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.
- 30.2 **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 is:
- 30.2.1 in the case of the Borrower, New Saxon House, 1 Winsford Way, Boreham Interchange, Chelmsford, Essex, CM2 5PD, England (fax no: +44 1245 702210) marked for the attention of Bill Donaldson;

- 30.2.2 in the case of the Guarantor, New Saxon House, 1 Winsford Way, Boreham Interchange, Chelmsford, Essex, CM2 5PD, England (fax no: +44 1245 702210) marked for the attention of Bill Donaldson;
- 30.2.3 in the case of each Lender, that appearing next to its name in Schedule 1; and
- 30.2.4 in the case of the Agent or the Security Agent, DVB Bank SE Nordic Branch, Strandgaten 18, N-5013, Bergen, Norway (fax no: +47 55 30 9475) marked for the attention of Transaction and Loan Services Department (email address: tls.bergen@dvbbank.com) **with a copy to Jens Taubken** at DVB Group Merchant Bank (Asia) Ltd, 77 Robinson Road #30-02, Singapore 068896 (fax no: (65) 6511 0700) (email address: jens.taubken@dvbbank.com),

or any substitute address, fax number, or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

30.3 **Delivery** Any communication or document made or delivered by one Party to another under or in connection with the Finance Documents will only be effective:

30.3.1 if by way of fax, when received in legible form; or

30.3.2 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 30.2 (*Addresses*), if addressed to that department or officer.

Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or the Security Agent's signature below (or any substitute department or officer as the Agent or the Security Agent shall specify for this purpose).

All notices from or to a Security Party shall be sent through the Agent.

Any communication or document which becomes effective, in accordance with this Clause 30.3, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

30.4 **Notification of address and fax number** Promptly upon changing its address or fax number, the Agent shall notify the other Parties.

30.5 **Electronic communication**

- 30.5.1 Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- 30.5.2 Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or the Security Agent shall specify for this purpose.
- 30.5.3 Any electronic communication which becomes effective, in accordance with Clause 30.5.2, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

30.6 **Use of websites**

- 30.6.1 The Borrower may satisfy its obligations under this Agreement to deliver any information in relation to those Lenders (the "**Website Lenders**") who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (the "**Designated Website**") if:
- (a) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
 - (b) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
 - (c) the information is in a format previously agreed between the Borrower and the Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

- 30.6.2 The 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 Borrower and the Agent.
- 30.6.3 The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:
- (a) the Designated Website cannot be accessed due to technical failure;
 - (b) the password specifications for the Designated Website change;
 - (c) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
 - (d) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
 - (e) the Borrower 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 the Borrower notifies the Agent under Clause 30.6.3(a) or Clause 30.6.3(e), all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- 30.6.4 Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten Business Days.

30.7 **English language** Any notice given under or in connection with any Finance Document must be in English. All other documents provided under or in connection with any Finance Document must be:

30.7.1 in English; or

30.7.2 if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

31 Calculations and Certificates

31.1 **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 the Agent pursuant to Clause 28.9 (*Control account*) are *prima facie* evidence of the matters to which they relate in the absence of manifest error.

31.2 **Certificates and determinations** Any certification or determination by the Agent 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.

31.3 **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.

32 Partial Invalidity

If, at any time, any provision of the Finance Documents 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 nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

33 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured 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 any Finance Party or Secured 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 this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

34 Amendments, Waivers and Consents

34.1 Required consents

- 34.1.1 Subject to Clause 34.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Parties.
- 34.1.2 The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 34.
- 34.1.3 Subject to Clause 34.2 (*Exceptions*), the Security Agent may, if authorised by the Majority Lenders, grant consents under the Security Documents which shall be binding on all the Finance Parties.
- 34.1.4 Without prejudice to the generality of Clauses 25.6.3, 25.6.4 and 25.6.5 (*Rights and discretions of the Agent*), the 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.
- 34.1.5 No amendment or waiver may be made before the date falling ten Business Days after the terms of that amendment or waiver have been notified by the Agent to the Lenders. The Agent shall notify the Lenders reasonably promptly of any amendments or waivers proposed by the Borrower.

34.2 Exceptions

- 34.2.1 An amendment, waiver or (in the case of a Security Document) a consent of, or 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) an extension to the date of payment of any amount under the Finance Documents;
 - (c) a reduction in the Margin or a reduction in 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, an extension of the Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably;
 - (f) a change to the Borrower or a change to the Guarantor;
 - (g) any provision which expressly requires the consent of all the Lenders;
 - (h) Clause 2.2 (*Finance Parties’ rights and obligations*), Clause 24 (*Changes to the Lenders*), this Clause 34, Clause 38 (*Governing Law*) or Clause 39.1 (*Jurisdiction of English courts*);
 - (i) (other than as expressly permitted by the provisions of any Finance Document) the nature or scope of:
 - (i) any Guarantee;
 - (ii) the Charged Property; or
 - (iii) the manner in which the proceeds of enforcement of the Security Documents are distributed; or
 - (j) the release of any Guarantee or of any Encumbrance created or expressed to be created or evidenced by the Security Documents unless permitted under this Agreement (including, without limitation, pursuant to Clause 17.15 (*Release of Collateral Security Documents*)) or any other Finance Document or relating to a sale or disposal of a Delivered Vessel where such sale or disposal will generate net proceeds sufficient to settle in full the Borrower’s obligations under, as the case may be, Clause 7.4 (*Mandatory prepayment on sale or Total Loss of Vessel One*), Clause 7.5 (*Mandatory prepayment of sale or Total Loss of Vessel Two*) and Clause 7.6 (*Restrictions*);

shall not be made, or given, without the prior consent of all the Lenders.

34.2.2 An amendment or waiver which relates to the rights or obligations of the Agent or the Security Agent (each in their capacity as such) may not be effected without the consent of the Agent or, as the case may be, the Security Agent.

34.2.3 If the Agent or a Lender reasonably believes that an amendment or waiver may constitute a “material modification” for the purposes of FATCA that may result (directly or indirectly) in a Party being required to make a FATCA Deduction and the Agent or that Lender (as the case may be) notifies the Borrower and the Agent accordingly, that amendment or waiver may not be effected without the consent of the Agent or that Lender (as the case may be).

34.3 Excluded Commitments

If:

34.3.1 any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within five Business Days of that request being made; or

34.3.2 any Lender which is not a Defaulting Lender fails to respond to such a request within fourteen Business Days of that request being made, (unless, in either case, the Borrower and the Agent agree to a longer time period in relation to any request):

- (a) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
- (b) 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.

34.4 Replacement of Lender

34.4.1 If:

- (a) any Lender becomes a Non-Consenting Lender (as defined in Clause 34.4.4); or
- (b) the Borrower or any other Security Party becomes obliged to repay any amount in accordance with Clause 7.1 (*Illegality*) or to pay additional amounts pursuant to Clause 12.2 (*Tax gross-up*), Clause 12.3 (*Tax Indemnity*) or Clause 13.1 (*Increased costs*) to any Lender,

then the Borrower may, on ten (10) Business Days’ prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to

(and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 24 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a "**Replacement Lender**") selected by the Borrower, which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 24 (*Changes to the Lenders*) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loan and all accrued interest, (to the extent that the Agent has not given a notification under Clause 24.9 (*Pro rata interest settlement*)), Break Costs and other amounts payable in relation thereto under the Finance Documents.

34.4.2 The replacement of a Lender pursuant to this Clause 34.4 shall be subject to the following conditions:

- (a) the Borrower shall have no right to replace the Agent or Security Agent;
- (b) neither the Agent nor the Lender shall have any obligation to the Borrower to find a Replacement Lender;
- (c) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than fourteen days after the date on which that Lender is deemed a Non-Consenting Lender;
- (d) in no event shall the Lender replaced under this Clause 34.4 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
- (e) the Lender shall only be obliged to transfer its rights and obligations pursuant to Clause 34.4.1 once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.

34.4.3 A Lender shall perform the checks described in Clause 34.4.2(e) as soon as reasonably practicable following delivery of a notice referred to in Clause 34.4.1 and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

34.4.4 In the event that:

- (a) the Borrower or the Agent (at the request of the Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;
- (b) the consent, waiver or amendment in question requires the approval of all the Lenders; and
- (c) Lenders whose Commitments aggregate more than $66\frac{2}{3}$ per cent of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than $66\frac{2}{3}$ per cent of the Total Commitments prior to that reduction) have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “**Non-Consenting Lender**”.

34.5 **Disenfranchisement of Defaulting Lenders**

34.5.1 For so long as a Defaulting Lender has any Commitment, in ascertaining:

- (a) the Majority Lenders; or
- (b) whether:
 - (i) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
 - (ii) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents, that Defaulting Lender’s Commitment will be reduced by the amount of its participation in the Loan it has failed to make available and, to the extent that that reduction results in that Defaulting Lender’s Commitment being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of (i) and (ii).

34.5.2 For the purposes of this Clause 34.5, the Agent may assume that the following Lenders are Defaulting Lenders:

- (a) any Lender which has notified the Agent that it has become a Defaulting Lender;
- (b) any Lender in relation to which it is aware that any of the events or circumstances referred to in (a) or (b) of the definition of “Defaulting Lender” has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

34.6 **Replacement of a Defaulting Lender**

34.6.1 The Borrower may, at any time a Lender has become and continues to be a Defaulting Lender, by giving ten Business Days’ prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 24 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity (a “**Replacement Lender**”) selected

by the Borrower which confirms its willingness to assume and does assume all the obligations, or all the relevant obligations, of the transferring Lender in accordance with Clause 24 (*Changes to the Lenders*) for a purchase price in cash payable at the time of transfer which is either:

- (a) in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Loan and all accrued interest, (to the extent that the Agent has not given a notification under Clause 24.9 (*Pro rata interest settlement*) Break Costs and other amounts payable in relation thereto under the Finance Documents; or
- (b) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Borrower and which does not exceed the amount described in (a).

34.6.2 Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 34.6 shall be subject to the following conditions:

- (a) the Borrower shall have no right to replace the Agent or Security Agent;
- (b) neither the Agent nor the Defaulting Lender shall have any obligation to the Borrower to find a Replacement Lender;
- (c) the transfer must take place no later than fourteen days after the notice referred to in Clause 34.6.1;
- (d) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
- (e) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to 34.6.1 once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.

34.6.3 The Defaulting Lender shall perform the checks described in Clause 34.6.2(e) as soon as reasonably practicable following delivery of a notice referred to in Clause 34.6.1 and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

35 Confidentiality

35.1 **Confidential Information** Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 35.2 (*Disclosure of Confidential Information*) and Clause 35.3 (*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.

- 35.2 **Disclosure of Confidential Information** Each of the Borrower and the Guarantor Irrevocably authorises and shall procure that each other Security Party authorises that any Finance Party may disclose:
- 35.2.1 to any of its Affiliates, head offices, branches and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, 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 Clause 35.2.1 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;
- 35.2.2 to any person:
- (a) 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 or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (b) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Security Parties and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (c) appointed by any Finance Party or by a person to whom Clause 35.2.2(a) or 35.2.2(b) applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under Clause 25.15 (*Relationship with the Lenders*));
 - (d) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in Clause 35.2.2(a) or 35.2.2(b);
 - (e) 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;
 - (f) 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;

- (g) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates an Encumbrance (or may do so) pursuant to Clause 24.8 (*Security over Lenders' rights*);
- (h) who is a Party; or
- (i) with the consent of the Borrower;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (i) in relation to Clauses 35.2.2(a), 35.2.2(b) and 35.2.2(c), 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;
- (ii) in relation to Clause 35.2.2(d), 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;
- (iii) in relation to Clauses 35.2.2(e), 35.2.2(f) and 35.2.2(g), 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;

35.2.3 to any person appointed by that Finance Party or by a person to whom Clause 35.2.2(a) or 35.2.2(b) 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 Clause 35.2.3 if the service provider to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking; and

35.2.4 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 Security Parties.

35.3 **Disclosure to numbering service providers**

35.3.1 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 Loan and/or one or more Security Parties the following information:

- (a) names of Security Parties;
- (b) country of domicile of Security Parties;
- (c) place of incorporation of Security Parties;
- (d) date of this Agreement;
- (e) Clause 38 (*Governing law*);
- (f) the name of the Agent;
- (g) date of each amendment and restatement of this Agreement;
- (h) amount of Total Commitments;
- (i) currencies of the Loan;
- (j) type of Loan;
- (k) ranking of the Loan;
- (l) Termination Date;
- (m) changes to any of the information previously supplied pursuant to (a) to (l); and
- (n) such other information agreed between such Finance Party and that Security Party,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

35.3.2 The Parties acknowledge and agree that each identification number assigned to this Agreement, the Loan and/or one or more Security Parties 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.

35.4 **Entire agreement** This Clause 35 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.

35.5 **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.

- 35.6 **Notification of disclosure** Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:
- 35.6.1 of the circumstances of any disclosure of Confidential Information made pursuant to Clause 35.2.2(e) (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that Clause during the ordinary course of its supervisory or regulatory function; and
- 35.6.2 upon becoming aware that Confidential Information has been disclosed in breach of this Clause 35.
- 35.7 **Continuing obligations** The obligations in this Clause 35 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:
- 35.7.1 the date on which all amounts payable by the Security Parties under or in connection with the Finance Documents have been paid in full and the Loan has been cancelled or otherwise ceases to be available; and
- 35.7.2 the date on which such Finance Party otherwise ceases to be a Finance Party.

36 Disclosure of Lender Details by Agent

- 36.1 **Supply of Lender details to Borrower** The Agent shall provide to the Borrower within five Business Days of a request by the Borrower (but no more frequently than once per calendar month) a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.

36.2 Supply of Lender details at Borrower's direction

- 36.2.1 The Agent shall, at the request of the Borrower, disclose the identity of the Lenders and the details of the Lenders' Commitments to any:
- (a) other Party or any other person if that disclosure is made to facilitate, in each case, a refinancing of the Financial Indebtedness arising under the Finance Documents or a material waiver or amendment of any term of any Finance Document; and
 - (b) Security Party.

36.2.2 Subject to Clause 36.2.3, the Borrower shall procure that the recipient of information disclosed pursuant to Clause 36.2.1 shall keep such information confidential and shall not disclose it to anyone and shall ensure that all such information is protected with security measures and a degree of care that would apply to the recipient's own confidential information.

36.2.3 The recipient may disclose such information to any of its officers, directors, employees, professional advisers, auditors and partners as it shall consider appropriate if any such person is informed in writing of its confidential nature, except that there shall be no such requirement to so inform if that person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by duties of confidentiality in relation to the information.

36.3 **Supply of Lender details to other Lenders**

36.3.1 If a Lender (a "**Disclosing Lender**") indicates to the Agent that the Agent may do so, the Agent shall disclose that Lender's name and Commitment to any other Lender that is, or becomes, a Disclosing Lender.

36.3.2 The Agent shall, if so directed by the Requisite Lenders, request each Lender to indicate to it whether it is a Disclosing Lender.

36.4 **Lender enquiry** If any Lender believes that any entity is, or may be, a Lender and:

36.4.1 that entity ceases to have an Investment Grade Rating; or

36.4.2 an Insolvency Event occurs in relation to that entity,

the Agent shall, at the request of that Lender, indicate to that Lender the extent to which that entity has a Commitment.

36.5 **Lender details definitions** In this Clause 36:

"**Investment Grade Rating**" means, in relation to an entity, a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.

"**Requisite Lenders**" means a Lender or Lenders whose Commitments aggregate 15 per cent (or more) of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated 15 per cent (or more) of the Total Commitments immediately prior to that reduction).

37 **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.

Section 12 Governing Law and Enforcement**38 Governing Law**

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

39 Enforcement

39.1 Jurisdiction of English courts The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

This Clause 39.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, any Finance Party may take concurrent proceedings in any number of jurisdictions.

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

Schedule 1

The Original Lenders

<u>Name of Original Lender</u>	<u>Commitment</u>
DVB Bank SE Nordic Branch Strandgaten 18 N-5013 Bergen Norway Attention: Transaction and Loan Services Department Email Address: tls.bergen@dvbbank.com with a copy to: Jens Taubken at DVB Group Merchant Bank (Asia) Ltd, 77 Robinson Road #30-02, Singapore 068896 (Fax No: (65) 6511 0700) (jens.taubken@dvbbank.com)	\$20,000,000

Schedule 2

Part I

Conditions Precedent

1 Security Parties

- (a) **Constitutional documents** Certified true copies by a director or secretary of the relevant Security Party of the constitutional documents of each Security Party together with such other evidence as the Agent may reasonably require that each Security Party is duly incorporated in its country of incorporation and remains in existence with power to enter into, and perform its obligations under, the Relevant Documents to which it is or is to become a party.
- (b) **Board resolutions** A certified true copy by a director or secretary of the relevant Security Party of a resolution of the board of directors of each Security Party:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute those Finance Documents; and
 - (ii) authorising a specified person or persons to execute those Finance Documents (and all documents and notices to be signed and/or dispatched under those documents) on its behalf.
- (c) **Shareholder resolutions** Not required.
- (d) **Officer's certificates** An original certificate of a duly authorised officer of each Security Party:
 - (i) certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect;
 - (ii) setting out the names of the directors, officers and shareholders of that Security Party and the proportion of shares held by each shareholder; and
 - (iii) confirming that borrowing or guaranteeing or securing, as appropriate, the Loan would not cause any borrowing, guarantee, security or similar limit binding on that Security Party to be exceeded.
- (e) **Evidence of registration** Evidence that the names of the directors, officers and shareholders of each Security Party are duly registered in the Companies House.
- (d) **Powers of attorney** If any of the Finance Documents are to be executed on behalf of a Security Party by an attorney-in-fact, the original power of attorney of that Security Party under which such Finance Documents are to be executed.

Security and related documents

- (a) **Vessel documents** Photocopies, certified as true, accurate and complete by a director or the secretary of the Borrower, of:
- (i) the charters setting out the Purchase Options;
 - (ii) the bills of sale transferring title in the Vessels to the Borrower free of all encumbrances, maritime liens or other debts or evidence acceptable to the Agent that such documents will be signed and available on the Drawdown Date but after the advance of the Loan;
 - (iii) the protocols of delivery and acceptance evidencing the unconditional physical delivery of the Vessels by the Seller to the Borrower pursuant to the Purchase Options or evidence acceptable to the Agent that such documents will be signed and available on the Drawdown Date but after the advance of the Loan;
 - (iv) the ACMA Contract (which shall have a firm contract period until December 2016), the Vessel One Bareboat Charter (with evidence that the first two option periods have been exercised by the Guarantor at a rate of hire acceptable to the Majority Lenders) and the Vessel Two Bareboat Charter (with evidence that the first two option periods have been exercised by the Guarantor at a rate of hire acceptable to the Majority Lenders);
 - (v) each Vessel's current Safety Construction, Safety Equipment, Safety Radio and Load Line Certificates;
 - (vi) if relevant, each Vessel's current Certificate of Financial Responsibility issued pursuant to the United States Oil Pollution Act 1990;
 - (vii) each Vessel's current SMC;
 - (viii) the ISM Company's current DOC;
 - (ix) each Vessel's current ISSC;
 - (x) each Vessel's current IAPPC;
 - (xi) each Vessel's current Tonnage Certificate;
 - (xii) each Vessel's current class certificate;
 - (xiii) the last two port state control certificates for each Vessel
- in each case together with all addenda, amendments or supplements.
- (b) **Evidence of Seller's title** Certificates of ownership and encumbrance (or equivalent) issued by the Registrar of Ships (or equivalent official) of each Vessel's current flag confirming that the Vessels are owned by the Seller and free of registered Encumbrances save for the Current Mortgages.

- (c) **Evidence of Borrower's title** Evidence that on the Drawdown Date (i) the Vessels will be capable of being provisionally registered under the flag stated in Preliminary (A) in the ownership of the Borrower and (ii) the Mortgage and the Collateral Mortgage will be capable of being registered against Vessel One and Vessel Two respectively with first priority.
- (d) **Evidence of insurance** Evidence that the Vessels are insured in the manner required by the Security Documents and that letters of undertaking will be issued in the manner required by the Security Documents, together with the written approval of the Insurances by the Agent's internal insurance adviser and (if required by the Majority Lenders) an external insurance adviser appointed by the Agent (as the cost of the Borrower).
- (e) **Confirmation of class** In respect of each Vessel, a Certificate of Confirmation of Class for hull and machinery confirming that that Vessel is classed with the highest class applicable to vessels of her type with Lloyd's Register or such other classification society as may be acceptable to the Majority Lenders free of recommendations affecting class.
- (f) **Instructions to Classification Society and electronic access** Evidence that the Borrower has sent to each Vessel's classification society a letter in the Agent's standard form (or such other form as the Majority Lenders may agree) granting the Agent permission to access class records of that Vessel during the Facility Period.
- The Security Agent being granted direct electronic access to each Vessel's class records or, in lieu of direct electronic access, indirect access via the account manager of the Borrower with the Security Agent receiving the relevant user name and password.
- (e) **Valuation** Determination of the Fair Market Value of each Vessel determined by valuations dated no earlier than fourteen days before the Drawdown Date and not later than seven days before the Drawdown Date unless the Majority Lenders agree otherwise.
- (f) **Security Documents** The Security Documents, together with all other documents required by any of them, including, without limitation, (i) all notices of assignment and/or charge and evidence that those notices will be duly acknowledged by the recipients and (ii) all share certificates, certified copy share registers or registers of members, transfer forms, proxy forms and letters of undertaking, or evidence acceptable to the Agent that all of the aforementioned documents will be signed and available on the Drawdown Date but after the advance of the Loan.
- (g) **Mandates** Such duly signed forms of mandate, and/or other evidence of the opening of the Accounts, as the Security Agent may require.
- (h) **No disputes** The written confirmation of the Borrower that there is no dispute under any of the Relevant Documents as between the parties to any such document.
- (i) **Other Relevant Documents** Copies of each of the Relevant Documents not otherwise comprised in the documents listed in this Part I of Schedule 2.

Legal opinions

A legal opinion of Stephenson Harwood LLP, legal advisers to the Agent as to English law substantially in the form distributed to the Lenders prior to signing this Agreement or confirmation satisfactory to the Agent that such opinion will be given after the Drawdown Date.

Other documents and evidence

- (a) **Other Authorisations** A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Relevant Document or for the validity and enforceability of any Relevant Document.
- (b) **Financial statements** A copy of the Original Financial Statements of the Borrower and the Guarantor.
- (c) **Fees** Evidence that the fees, costs and expenses then due from the Borrower under Clause 11 (*Fees*) and Clause 16 (*Costs and Expenses*) have been paid or will be paid by the Drawdown Date.
- (d) **“Know your customer” documents** Such documentation and other evidence as is reasonably requested by the Agent in order for the Lenders to comply with all necessary “know your customer” or similar identification procedures in relation to the transactions contemplated in the Finance Documents.
- (e) **Loan Administration Form** The Loan Administration Form completed by the Borrower.
- (f) **Purchase Price** To the extent that the aggregate purchase price of the Vessels is more than the Loan to be advanced under this Agreement, evidence that such shortfall shall be advanced to the Seller on or before the Drawdown Date.
- (g) **Capital Structure** Evidence of satisfactory capital and shareholding structure of the Borrower and the Guarantor.
- (h) **Process Agent** Evidence that the process agent referred to in the Account Security Pledge has accepted its appointment.

Part II

Conditions Subsequent

- 1 **Evidence of Borrower's title** Certificate of ownership and encumbrance (or equivalent) issued by the Registrar of Ships (or equivalent official) of the flag stated in Preliminary (A) confirming that (a) each Vessel is permanently registered under that flag in the ownership of the Borrower, (b) the Mortgage and the Collateral Mortgage have been registered with first priority against Vessel One and Vessel Two respectively and (c) there are no further Encumbrances registered against each Vessel, to be provided within ten Business Days of the Drawdown Date.
- 2 **Letters of undertaking** Letters of undertaking in respect of the Insurances as required by the Security Documents together with copies of the relevant policies or cover notes or entry certificates duly endorsed with the interest of the Finance Parties, to be provided within fourteen Business Days of the Drawdown Date.
- 3 **Legal opinions** The legal opinion specified in Part I of this Schedule 2 if it has not already been provided to the Agent, to be provided within seven Business Days of the Drawdown Date or such longer period as the Majority Lenders may agree to allow for the registrations referred to at 6 below to be reflected in such legal opinion.
- 4 **Class acknowledgments** The acknowledgments and consents of the classification society of each Vessel to the letters of instruction to classification society specified in Part I of Schedule 2, to be provided within twenty one days of the Drawdown Date.
- 5 **Companies Act registrations** Evidence that the prescribed particulars of the Security Documents (save for the Guarantee) have been delivered to Companies House in England or Wales within the statutory time limit, to be provided within twenty one days of the Drawdown Date.
- 6 **Acknowledgements of notices** Acknowledgements of all relevant notices of assignment and/or charge given pursuant to the Security Documents.
- 7 **Resignation and authority letter** The signed/undated resignation letter of each director of the Borrower and the signed and dated authority letter of each director of the Borrower as required under the Share Charge.

Schedule 3

Drawdown Request

From: Global Marine Systems (Vessels) Limited
New Saxon House
1 Winsford Way
Boreham Interchange
Chelmsford
Essex CM2 5PD
England

To: DVB Bank SE Nordic Branch
Strandgaten 18
N-5013
Bergen
Norway

Dated:

Dear Sirs

Global Marine Systems (Vessels) Limited – \$20,000,000 Loan Agreement dated [] 2014 (the “Agreement”)

1 We refer to the Agreement. This is the Drawdown Request. Terms defined in the Agreement have the same meaning in this Drawdown Request unless given a different meaning in this Drawdown Request.

2 We wish to borrow the Loan on the following terms:

Proposed Drawdown Date: [] (or, if that is not a Business Day, the next Business Day)

Currency of Loan: USD

Amount: [\$20,000,000]

Interest Period: 3 months

3 We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Drawdown Request.

4 The proceeds of the Loan should be paid as follows:

5 This Drawdown Request is irrevocable.

Yours faithfully

authorised signatory for

Global Marine Systems (Vessels) Limited

Schedule 4

Form of Transfer Certificate

To: DVB Bank SE Nordic Branch
Strandgaten 18
N-5013
Bergen
Norway

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated:

Global Marine Systems (Vessels) Limited – \$20,000,000 Loan Agreement dated [] 2014 (the “Loan Agreement”)

- 1 We refer to the Loan Agreement. This agreement (the “**Agreement**”) shall take effect as a Transfer Certificate for the purposes of the Loan Agreement. Terms defined in the Loan Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
- 2 We refer to Clause 24.5 (*Procedure for transfer*) of the Loan Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with Clause 24.5 (*Procedure for transfer*) all of the Existing Lender’s rights and obligations under the Loan Agreement and the other Finance Documents which relate to that portion of the Existing Lender’s Commitment(s) and participations in the Loan under the Loan Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 30.2 (*Addresses*) are set out in the Schedule.
- 3 The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in Clause 24.4.1(c) (*Limitation of responsibility of Existing Lenders*).
- [4] This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- [5] This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
- [6] This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in any Encumbrance created or expressed to be created or evidenced by the Security Documents in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule

Commitment/rights and obligations to be transferred

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By:

By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Loan Agreement by the Agent and the Transfer Date is confirmed as [].

DVB Bank SE Nordic Branch

By:

Schedule 5 Form of Assignment Agreement

To: DVB Bank SE Nordic Branch as Agent and Global Marine Systems (Vessels) Limited as Borrower, for and on behalf of each Security Party

From: [the Existing Lender] (the “Existing Lender”) and [the New Lender] (the “New Lender”)

Dated:

Global Marine Systems (Vessels) Limited – \$20,000,000 Loan Agreement dated [] 2014 (the “Loan Agreement”)

1 We refer to the Loan Agreement. This is an Assignment Agreement. This agreement (the “Agreement”) shall take effect as an Assignment Agreement for the purpose of the Loan Agreement. Terms defined in the Loan Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2 We refer to Clause 24.6 (*Procedure for assignment*) of the Loan Agreement:

- (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Loan Agreement, the other Finance Documents and in respect of any Encumbrance created or expressed to be created or evidenced by the Security Documents which correspond to that portion of the Existing Lender’s Commitment(s) and participations in the Loan under the Loan Agreement as specified in the Schedule.
- (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender’s Commitment(s) and participations in the Loan under the Loan Agreement specified in the Schedule.
- (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b).

3 The proposed Transfer Date is [].

4 On the Transfer Date the New Lender becomes:

- (a) Party to the relevant Finance Documents as a Lender

5 The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 30.2 (*Addresses*) are set out in the Schedule.

6 The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations set out in Clause 24.4.3 (*Limitation of responsibility of Existing Lenders*).

[7] This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 24.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), to the Borrower (on behalf of each Security Party) of the assignment referred to in this Agreement.

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

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

[10] This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Assignment Agreement may not transfer a proportionate share of the Existing Lender's interest in any Encumbrance created or expressed to be created or evidenced by the Security Documents in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

The Schedule

Commitment/rights and obligations to be transferred by assignment, release and accession

[insert relevant details]

[Facility office address, fax number and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By:

By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Loan Agreement by the Agent and the Transfer Date is confirmed as [].

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Agent receives on behalf of each Finance Party.

DVB Bank SE Nordic Branch

By:

Schedule 6 Form of Compliance Certificate

To: DVB Bank SE Nordic Branch
Strandgaten 18
N-5013
Bergen
Norway

From: Global Marine Systems Limited (as Guarantor)
New Saxon House
1 Winsford Way
Boreham Interchange
Chelmsford
Essex CM2 5PD
England

Dated:

Dear Sirs

Global Marine Systems (Vessels) Limited – \$20,000,000 Loan Agreement dated [] 2014 (the “Agreement”)

1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2 We confirm that as of [date]:

- (a) the Group’s Free Cash was [—];
- (b) the Group has a positive Working Capital;
- (c) the Group’s Equity Ratio was [—]; and
- (d) the Group’s Tangible Net Worth was [—].

[Please see attached computations.]

3 [We confirm that no Default is continuing.]*

For and on behalf of

Global Marine Systems Limited

By:

Title: Director

* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

Schedule 7 Loan Administration Form

To: DVB BANK SE NORDIC BRANCH
Strandgaten 18
N-5013
Bergen
Norway

Attention: Transaction & Loan Services

[Date]

Re: Providing financing to Global Marine Systems (Vessels) Limited (the “Borrower”) in relation to the vessels “Wave Sentinel” and “CS Sovereign” (the “Financing”).

We refer to the Financing and a facility agreement (the “**Facility Agreement**”) dated [—] 2014 and entered into between, inter alios, us, as borrower and DVB BANK SE NORDIC BRANCH as Agent for and on behalf of the Lenders in relation to the Financing.

Terms and expressions not otherwise defined herein shall have the same meaning as defined in the Facility Agreement.

We hereby appoint the following persons to act as our point of contact with regards to any issue arising in connection with the administration to the Facility Agreement or any other documents related to the Financing:

1. [name, title, address, phone, fax, mobile and email]
2. [name, title, address, phone, fax, mobile and email]
3. [name, title, address, phone, fax, mobile and email]

No other persons other than the Directors of the Borrower or the persons listed above (the “**Authorised Persons**”) are hereby authorised to request any information from you regarding the Facility Agreement or any other matter related to the Financing or the Borrower or communicate with you in any way regarding the foregoing under any circumstances.

For the avoidance of doubt, the following are the Directors of the Borrower:

1. Mr Gabriel Martin Ruhan
2. Mr William Allan Donaldson
3. Mr Ian David Douglas

This list of authorised persons may only be amended, modified or varied in writing by an Authorised Person with copy to the other Authorised Persons.

We agree to indemnify you and hold you harmless in relation to any information you provide to any Authorised Person.

This letter shall be governed and construed in accordance with English law.

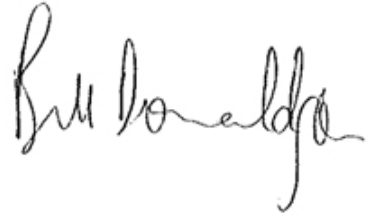
Yours sincerely

Global Marine Systems (Vessels) Limited

Signatures

The Borrower

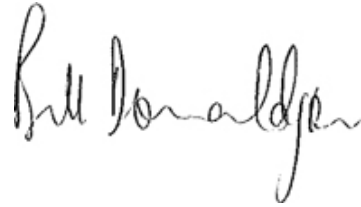
Executed by)
GLOBAL MARINE SYSTEMS (VESSELS) LIMITED)
acting by)
a director,)
in the presence of:)



Witness signature: /s/ DAWN CHAMBERS
Name: DAWN CHAMBERS
Address: 19 WYNDHAM CLOSE
COLCHESTER
ESSEX CO2 8UY

The Guarantor

Executed by)
GLOBAL MARINE SYSTEMS LIMITED)
acting by)
a director,)
in the presence of:)



Witness signature: /s/ DAWN CHAMBERS
Name: DAWN CHAMBERS
Address: 19 WYNDHAM CLOSE
COLCHESTER
ESSEX CO2 8UY

The Agent

DVB BANK SE NORDIC BRANCH)
By:)

The Security Agent

DVB BANK SE NORDIC BRANCH)
By:)

The Original Lenders

DVB BANK SE NORDIC BRANCH

By:

)
)
)

Signatures

The Borrower

Executed by)
GLOBAL MARINE SYSTEMS (VESSELS) LIMITED)
acting by)
a director,)
in the presence of:)

Witness signature: _____
Name:
Address:

The Guarantor

Executed by)
GLOBAL MARINE SYSTEMS LIMITED)
acting by)
a director,)
in the presence of:)

Witness signature: _____
Name:
Address:

The Agent

DVB BANK SE NORDIC BRANCH)
By:)



The Security Agent

DVB BANK SE NORDIC BRANCH)
By:)



DVB BANK SE NORDIC BRANCH

By:

)
)
)

Handwritten signature and initials in black ink, appearing to be 'Jan J. ...' followed by several sets of initials.

Execution Copy
SCA - GMSL (1)

DATED THE 21st DAY OF MARCH 2012
INTERNATIONAL CABLESHIP PTE LTD
GLOBAL MARINE SYSTEMS LIMITED

SUPPLEMENTAL CHARTER AGREEMENT

 **DREW & NAPIER**

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BETWEEN:

- (1) **INTERNATIONAL CABLESHIP PTE LTD** (Registration No. 199105577G), a company incorporated in Singapore and having its registered office at 375 Tanjong Katong Road, Katong Cable Station, 2nd Floor, Singapore 437132 (**Owner**); and
- (2) **GLOBAL MARINE SYSTEMS LIMITED** (Company No. 1708481), a company incorporated under the laws of England and Wales and having a registered office at New Saxon House, 1 Winsford Way, Boreham Interchange, Chelmsford, Essex CM2 5PD, United Kingdom (**Charterer**),

(hereinafter collectively referred to as the **Parties** and each a **Party**).

WHEREAS:

- (A) Pursuant to the joint venture agreement dated 15 November 1991 entered into between the Singapore Telecommunications Limited (**SingTel**) (formerly known as Telecommunication Authority of Singapore), ASEAN Cables Ship Private Limited (**ACPL**) and the Charterer (formerly known as Cable and Wireless (Marine) Limited), as amended or modified from time to time (**Joint Venture Agreement**), the Owner was incorporated as a joint venture holding company in Singapore for the purposes of purchasing two maintenance-cum-laying cables ships and following such purchase, to thereafter charter by demise a cables ship to the Charterer.
- (B) Pursuant to the bareboat charter agreement dated 24 September 1992 entered into between the Owner and the Charterer, as amended or modified from time to time (**Charter Agreement**), the Owner has agreed to provide the Charterer with a vessel, the CS Cable Retriever (**GMSL Vessel**), at an annual Hire Fee (as defined therein) payable in four equal quarterly instalments.
- (C) The Parties have agreed to (i) certain amendments to the Charter Agreement as set out in this Supplemental Charter Agreement and (ii) certain amendments to the Joint Venture Agreement as set out in a supplemental Joint Venture Agreement (**Supplemental Joint Venture Agreement**) to be entered into at or about the same time as this Supplemental Charter Agreement.
- (D) The Parties have agreed to enter into this Supplemental Charter Agreement to amend the Charter Agreement on the terms and subject to the conditions contained in this Supplemental Charter Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Supplemental Charter Agreement, unless the subject or context otherwise requires, the words and phrases used herein shall have the same meaning ascribed to them in the Charter Agreement and the Supplemental Joint Venture Agreement.

2. AMENDMENTS TO THE CHARTER AGREEMENT

2.1 In consideration of the foregoing and the mutual covenants set forth in this Supplemental Charter Agreement, the Parties agree to amend the Charter Agreement in accordance with the terms of this Supplemental Charter Agreement.

2.2 Clause 1 of the Charter Agreement is hereby amended by the insertion of new definitions as follows:-

Business Day means a day (excluding Saturdays, Sundays and public holidays) on which banks generally are open in Singapore for the transaction of normal banking business;

Effective Date means the date of this Supplemental Charter Agreement; and

Master Agreement means the master agreement between SingTel, ACPL, GMSL and the Company dated

2.3 Clause 29(b) of the Charter Agreement is hereby deleted and replaced with a new Clause 29(b) as follows,

29(b) Unless otherwise agreed by the parties, the Charterer shall pay the foregoing Hire Fees for each calendar year (1st January to 31st December), in four equal quarterly instalments, the quarters beginning on the first days of January, April, July, October, payment being due sixty days after the start of the quarter to which the instalment applies. If the Vessel is chartered for only part of the calendar year, then the Charterer shall pay a proportion of the annual Hire Fees equal to the proportion of the year the Vessel is chartered. The Owners shall be entitled to charge interest on all payments not received by the due date at a rate of 3% above the lending rate of the Development Bank of Singapore Limited from the date the payment became due until payment is received.

2.4 Clause 34 of the Charter Agreement is hereby amended by the insertion of Clause 34A as follows:

34A The Owner shall have the option, without prejudice to any other right or remedy available to it at law or in equity against the Charterer under this Charter Agreement, to terminate this Charter Agreement and withdraw the GMSL Vessel from service at anytime during the period of this Charter Agreement if any of the Triggering Events set out in Clause 13A.1 of the Supplemental Joint Venture Agreement in relation to the Charterer occurs and if capable of remedy is not remedied before the Cure Date (as defined in the Supplemental Joint Venture Agreement) and no conduct of the Owner or their representatives shall constitute any waiver of the Owner's rights under this clause.

2.5 Clause 34 of the Charter Agreement is hereby amended by the insertion of Clause 34B as follows:

34B On termination of this Charter Agreement, the following shall apply without prejudice to any other right or remedy available to the Owner at law or in equity against the Charterer under this Charter Agreement:

- (a) all outstanding Hire Fees, together with accrued interest, and all other amounts accrued or outstanding under this Charter Agreement shall become immediately due and payable; and
- (b) the Charterer shall redeliver the GMSL Vessel to the Owner in the prescribed state and condition pursuant to clause 14 of the Charter Agreement.

2.6 Clause 36 of the Charter Agreement is hereby deleted and replaced with a new Clause 36 as follows:

Clause 36—Notices

36(a) Any notice or other communication to be given by one Party to the other under, or in connection with, this Charter Agreement shall be in writing and signed by or on behalf of the Party giving it. It shall be served by sending it by fax to the number set out in Clause 36(b) or delivering it by hand or sending it by pre-paid post, to the address set out in Clause 36(b), and in each case marked for the attention of the relevant Party set out in Clause 36(b) (or as otherwise notified from time to time in accordance with the provisions of this Clause 36). Any notice so served by hand, fax or post shall be deemed to have been duly given:

- (i) in the case of delivery by hand, when delivered;
- (ii) in the case of fax, at the time of transmission;
- (iii) in the case of post, on the second Business Day after the date of posting (if sent by local mail) and on the seventh Business Day after the date of posting (if sent by air mail),

provided that in each case where delivery by hand or by fax occurs after 6pm on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9am on the next following Business Day. References to time in this clause are to local time in the country of the addressee.

36(b) The addresses and fax numbers of the Parties for the purpose of Clause 36(a) are as follows:

The Owner: **INTERNATIONAL CABLESHIP PTE LTD**
375 Tanjong Katong Road
Katong Cable Station 2nd Floor
Singapore 437132

Fax: +65 67385549
For the attention of: Mr. Ang Joon Ping Joshua

The Charterer: **GLOBAL MARINE SYSTEMS LIMITED**
New Saxon House
1 Winsford Way
Boreham Interchange
Chelmsford, Essex CM2 5PD
United Kingdom

Fax: +65 68419157
For the attention of: Mr. Ian Douglas

36(c) A Party may notify the other Party to this Charter Agreement of a change to its name, relevant addressee, address or fax number for the purposes of Clause 36, provided that, such notice shall only be effective on:

- (i) the date specified in the notice as the date on which the change is to take place; or
- (ii) if no date is specified or the date specified is less than five (5) Business Days after the date on which notice is given, the date following five (5) Business Days after notice of any change has been given.

36(d) In proving such service it shall be sufficient to prove that the envelope containing such notice was properly addressed and delivered either to the address shown thereon or into the custody of the postal authorities as a pre-paid recorded delivery, special delivery or registered post letter, or that the facsimile transmission was made after obtaining in person or by telephone appropriate evidence of the capacity of the addressee to receive the same, as the case may be.

2.7 The Charter Agreement is hereby amended by the insertion of a new Clause 37 as follows:

Clause 37—Law & Jurisdiction

37 This Charter Agreement shall be governed by and construed in accordance with the law of Singapore both as to substance and as to procedure. However, any dispute arising hereunder shall be referred to the Courts of either England or the Republic of Singapore at the option of the party commencing legal proceedings. The Parties shall continue to fulfill all their respective obligations under this Charter Agreement pending the final decision of the Court.

2.8 Schedule 1 of the Charter Agreement is hereby deleted and replaced with a new Schedule 1 as set out in Annex A hereto.

2.9 Subject to the terms and conditions in the Master Agreement, the amendments set out in Clause 2 of this Agreement shall take effect from the Effective Date.

3. CONTINUING EFFECT OF THE CHARTER AGREEMENT

3.1 Save only as amended or superseded by this Supplemental Charter Agreement, all the provisions of the Charter Agreement and all other instruments and agreements executed thereunder signed by any party hereto shall continue in full force and effect.

3.2 This Supplemental Charter Agreement shall be construed as one with the Charter Agreement. Accordingly, the terms “Charterparty” and “Charter” referred to in the Charter Agreement and all other instruments and agreements executed thereunder or pursuant thereto shall for all purposes refer to the Charter Agreement incorporating and as amended by this Supplemental Charter Agreement.

4. GENERAL PROVISIONS

In the event of any inconsistency between any of the provisions of this Supplemental Charter Agreement and the provisions of the Charter Agreement, the provisions of this Supplemental Charter Agreement shall prevail.

5. COSTS

Unless otherwise provided in this Supplemental Charter Agreement, each of the Parties shall bear its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Supplemental Charter Agreement.

6. REMEDIES CUMULATIVE

The rights of the parties under this Supplemental Charter Agreement are cumulative and do not exclude or restrict any other rights (except as otherwise provided in this Supplemental Charter Agreement).

7. NO WAIVER

No failure or delay by a party to exercise any right under this Supplemental Charter Agreement or otherwise will operate as a waiver of that right or any other right nor will any single or partial exercise of any such right preclude any other or further exercise of that right or the exercise of any other right.

8. SEVERANCE

If any provision of this Supplemental Charter Agreement is not or ceases to be legal, valid, binding and enforceable under the law of any jurisdiction, neither the legality, validity, binding effect or enforceability of the remaining provisions under that law nor the legality, validity, binding effect or enforceability of that provision under the law of any other jurisdiction shall be affected.

9. AMENDMENTS

This Supplemental Charter Agreement shall not be altered, changed, supplemented, or amended except by written instruments signed by the parties.

10. CONFIDENTIALITY

10.1 Each of the parties shall keep confidential any information received or obtained in connection with this Supplemental Charter Agreement (or any agreement entered into pursuant to this Supplemental Charter Agreement) which relates to:

- (a) the contents of this Supplemental Charter Agreement, and any other agreement entered into pursuant to this Supplemental Charter Agreement; and
- (b) the discussions relating to this Supplemental Charter Agreement, and any other agreement entered into pursuant to this Supplemental Charter Agreement.

10.2 Clause 10.1 does not apply to information:

- (a) which at the time of supply is already in the public domain;
- (b) which subsequently comes into the public domain, other than through breach of the terms of this Clause 10;
- (c) which is already in the lawful possession of the party or its officers, employees, or representatives (as evidenced by written records);

- (d) which subsequently comes into the lawful possession of the party or its officers, employees, or representatives from a third party who is not in breach of any duty of confidence with regard to the information;
- (e) which is required to be disclosed by law, or by any stock exchange or governmental or regulatory authority having jurisdiction over the disclosing party, as long as the disclosing party consults the other party first (where reasonably practicable) on the proposed form, timing, nature and purpose of the disclosure;
- (f) which has been independently developed by the recipient otherwise than in the course of that party's rights under this Supplemental Charter Agreement or the implementation of this Supplemental Charter Agreement;
- (g) which, in order to perform its obligations under or pursuant to this Supplemental Charter Agreement, either party is required to disclose to a third party.

11. FURTHER ASSURANCE

Each party agrees, at its own expense, on the request of the other party, to do everything reasonably necessary to give effect to this Supplemental Charter Agreement and the transactions contemplated by it (including the execution of documents) and to use all reasonable endeavours to cause relevant third parties to do likewise.

12. COUNTERPARTS

This Supplemental Charter Agreement may be executed in one or more counterparts (which may be delivered by way of facsimile, mail or electronic PDF copies), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

13. SUCCESSORS AND PERSONAL REPRESENTATIVES

This Supplemental Charter Agreement is binding on the successors of each party and, where applicable, the personal representatives of a party.

14. ASSIGNMENT

No party may assign any of the rights or obligations of that party under this Supplemental Charter Agreement without the prior written consent of the other party (such consent not to be unreasonably conditioned, withheld or delayed).

15. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT


A person who is not a party to this Supplemental Joint Venture Agreement shall have no right under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce any of its terms.

16. GOVERNING LAW AND JURISDICTION



Clause 37 of the Charter Agreement (as set out above) shall similarly be applicable to this Supplemental Charter Agreement.

The Parties

SIGNED By)
MR. Apichet Chulakasien)
for and on behalf of)
INTERNATIONAL CABLESHIP PTE LTD)
in the presence of:)
Ang Joon Ping Joshua)

Apichet Chulakasien


SIGNED By)
Vernon John Walters)
for and on behalf of)
GLOBAL MARINE SYSTEMS LIMITED)
in the presence of:)
Gillian Guan)

ICPL HIRE FEE (GMSL)

<u>Period</u>	<u>ICPL Hire Fee</u> S\$'000
1 Apr 1997 - 31 Mar 1998	14,884
1 Apr 1998 - 31 Mar 1999	15,479
1 Apr 1999 - 31 Mar 2000	16,098
1 Apr 2000 - 31 Mar 2001	16,742
1 Apr 2001 - 31 Mar 2002	17,412
1 Apr 2002 - 31 Mar 2003	18,108
1 Apr 2003 - 31 Mar 2004	18,832
1 Apr 2004 - 31 Mar 2005	19,489
1 Apr 2005 - 31 Mar 2006	19,489
1 Apr 2006 - 31 Mar 2007	19,489
1 Apr 2007 - 31 Mar 2008	19,489
1 Apr 2008 - 31 Mar 2009	19,489
1 Apr 2009 - 31 Mar 2010	19,489
1 Apr 2010 - 31 Mar 2011	19,489
1 Apr 2011 - 31 Mar 2012	19,489
1 Apr 2011 - 31 Mar 2012	25,000 (see Note 1)
1 Apr 2012 - 31 Dec 2012	14,617
1 Jan 2013 - 31 Dec 2013	5,000
1 Jan 2014 - 31 Dec 2014	5,000
1 Jan 2015 - 31 Dec 2015	5,000
1 Jan 2016 - 31 Dec 2016	5,000
1 Jan 2017 - 31 Dec 2017	5,000
1 Jan 2018 - 31 Dec 2018	10,000
1 Jan 2019 - 31 Dec 2019	10,000
1 Jan 2020 - 31 Dec 2020	10,000
1 Jan 2021 - 31 Dec 2021	10,000
1 Jan 2022 - 31 Dec 2022	10,000
1 Jan 2023 - 31 Mar 2023	2,500

Note 1: In addition to S\$19,489,000 payable in FY2011/12.



1. Shipbroker N/A		THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO) STANDARD BAREBOAT CHARTER CODE NAME: "BARECON 89"		PART I
3. Owners/Place of business INTERNATIONAL CABLESHIP PTE LTD Katong Submarine Cable Station 375 Tanjong Katong Road SINGAPORE 1543		2. Place and date SINGAPORE 24th September 1992		
5. Vessel's name, Call Sign and Flag (Cl. 9(c)) See Clause 28		4. Bareboat charterers (Charterers)/Place of business CABLE & WIRELESS (MARINE) LTD East Saxon House 27 Duke Street Chelmsford, Essex CM1 1HT ENGLAND		
6. Type of Vessel CablesHIP	7. GRT/VRT See Part III	8. When/Where built See Part III		
9. Total DWT (abt.) in metric tons on summer freeboard See Part III	10. Class (Cl. 9) See Part III	11. Date of last special survey by the Vessel's classification society N/A		
12. Further particulars of Vessel (also indicate minimum number of months' validity of class certificates agreed acc. to Cl. 14) See Part III				
13. Port or Place of delivery (Cl. 2) Port of Building	14. Time for delivery (Cl. 3) N/A	15. Cancelling date (Cl. 4) N/A		
	16. Port or Place of redelivery (Cl. 14) Singapore			
17. Running days' notice if other than stated in Cl. 3 N/A	18. Frequency of dry-docking if other than stated in Cl. 9(f) Not less than once in every two years			
19. Trading Limits (Cl. 5) Worldwide within Institute Warranty Limits and Vessel's trading certificates at any time				
20. Charter period See Clause 30	21. Charter hire (Cl. 10) See Clause 29			
22. Rate of interest payable acc. to Cl. 10(f) and, if applicable, acc. to PART IV See Clause 29	23. Currency and method of payment (Cl. 10) See Clause 29			


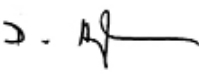
First issued by The Baltic and International Maritime Council (BIMCO), Copenhagen in 1974 as "Barecon 89" and "Barecon 90" Revised and amended 1989

Copyright, published by The Baltic and International Maritime Council (BIMCO), Copenhagen, September 1989

(continued)
JA

24. Place of payment; also state beneficiary and bank account (Cl. 10) See Clause 29	25. Bank guarantee/bond (sum and place) (Cl. 22) (optional) N/A
26. Mortgage(s), if any, (state whether Cl. 11(a) or (b) applies; if 11(b) applies state date of Deed(s) of Covenant and name of Mortgagee(s)/Place of business) (Cl. 11) Clause 11 (b) To be supplied by Owners before Delivery	27. Insurance (marine and war risks) (state value acc. to Cl. 12(f) or, if applicable, acc. to Cl. 13(N)) (also state if Cl. 13 applies) To be agreed
28. Additional insurance cover, if any, for Owners' account limited to (Cl. 12(b)) or, if applicable, (Cl. 13(g)) To be agreed	29. Additional insurance cover, if any, for Charterers' account limited to (Cl. 12(b)) or, if applicable, (Cl. 13(g)) To be agreed
30. Latent defects (only to be filled in if period other than stated in Cl. 2) N/A	31. War cancellation (indicate countries agreed) (Cl. 24) N/A
32. Brokerage commission and to whom payable (Cl. 25) N/A	
33. Law and arbitration (state 26.1., 26.2., or 26.3. of Cl. 26 as agreed; if 26.3. agreed, also state place of arbitration) (Cl. 26) See Clause 36	34. Number of additional clauses covering special provisions, if agreed Clauses 27 to 36 inclusive
35. Newbuilding Vessel (indicate with "yes" or "no" whether Part III applies) (optional) Yes	36. Name and place of Builders (only to be filled in if Part III applies) Kvaerner Masa - yards Inc Helsinki, Finland
37. Vessel's Yard Building No. (only to be filled in if Part III applies) 1322	38. Date of Building Contract (only to be filled in if Part III applies) 24th September 1992
39. Hire/Purchase agreement (indicate with "yes" or "no" whether Part IV applies) (optional) No	40. Bareboat Charter Registry (indicate with "yes" or "no" whether Part V applies) (optional) No
41. Flag and Country of the Bareboat Charter Registry (only to be filled in if Part V applies) N/A	42. Country of the Underlying Registry (only to be filled in if Part V applies) N/A

PREAMBLE - It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter which shall include PART I and PART II. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II to the extent of such conflict but no further. It is further mutually agreed that PART III and/or PART IV and/or PART V shall only apply and shall only form part of this Charter if expressly agreed and stated in the Boxes 35, 39 and 40, if PART III and/or PART IV and/or PART V apply, it is further mutually agreed that in the event of a conflict of conditions, the provisions of PART I and PART II shall prevail over those of PART III and/or PART IV and/or PART V to the extent of such conflict but no further.

Signature (Owners) 	Signature (Charterers) 
---	---

Handwritten initials and marks

PART II
“BARECON 89” Standard Bareboat Charter

1. Definitions

In this Charter, the following terms shall have the meanings hereby assigned to them:

“The Owners” shall mean the person or company registered as Owners of the Vessel.

“The Charterers” shall mean the Bareboat charterers and shall not be construed to mean a time charterer or a voyage charterer.

5. Trading Limits

The Vessel shall be employed in lawful trades within the trading limits indicated in Box 19.

The Charterers undertake not to employ the Vessel or suffer the Vessel to be employed otherwise than in conformity with the terms of the instruments of insurance (including any warranties expressed or implied therein) without first obtaining the consent to such employment of the Insurers and complying with such requirements as to extra premium or otherwise as the insurers may prescribe. If required, the Charterers shall keep the Owners and the Mortgagees advised of the intended employment of the Vessel.

The Charterers also undertake not to employ the Vessel or suffer her employment in any trade or business which is forbidden by the law of any country to which the Vessel may sail or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render her liable to condemnation, destruction, seizure or confiscation.

Notwithstanding any other provisions contained in this Charter it is agreed that nuclear fuels or radioactive products or waste are specifically excluded from the cargo permitted to be loaded or carried under this Charter. This exclusion does not apply to radio-isotopes used or intended to be used for any industrial, commercial, agricultural, medical or scientific purposes provided the Owners’ prior approval has been obtained to loading thereof.

7. Inspection

Inspection.—The Owners shall have the right at any time to inspect or survey the Vessel or instruct a duly authorised surveyor to carry out such survey on their behalf to ascertain the condition of the Vessel and satisfy themselves that the Vessel is being properly repaired and maintained. Inspection or survey in dry-dock shall be made only when the Vessel shall be in dry-dock for the Charterers’ purpose. However, the Owners shall have the right to require the Vessel to be dry-docked for inspection if the Charterers are not docking her at normal classification intervals. The fees for such inspection or survey shall in the event of the Vessel being found to be in the condition provided in Clause 9 of this Charter be payable by the Owners and shall be paid by the Charterers only in the event of the Vessel being found to require repairs or maintenance in order to achieve the condition so provided. All time taken in respect of inspection, survey or repairs shall count as time on hire and shall form part of the Charter period.

The Charterers shall also permit the Owners to inspect the Vessel’s log books whenever requested and shall whenever required by the Owners furnish them with full information regarding any casualties or other accidents or damage to the Vessel. For the purpose of this Clause, the Charterers shall keep the Owners advised of the intended employment of the Vessel.

8. Inventories and Consumable Oil and Stores

A complete inventory of the Vessel’s entire equipment, outfit, appliances and of all consumable stores on board the Vessel shall be made by the Charterers in conjunction with the Owners on delivery and again on redelivery of the Vessel. The Charterers and the Owners, respectively, shall at the time of delivery and redelivery take over and pay for all bunkers, lubricating oil, water and unbroke provisions, paints, oils, ropes and other consumable stores in the said Vessel at the then current market prices at the ports of delivery and redelivery, respectively.

9. Maintenance and Operation

(a) The Vessel shall during the charter period be in the full possession and at the absolute disposal for all lawful purposes of the Charterers and under their complete control in every respect. The Charterers shall maintain the Vessel, her machinery, boilers, appurtenances and spare parts in a good state of repair, in efficient operating condition and in accordance with good commercial maintenance practice and, except as provided for in Clause 13 (I), they shall keep the Vessel with unexpired classification of the class indicated in Box 10 and with other required certificates in force at all times.

The Charterers to take immediate steps to have the necessary repairs done within a reasonable time failing which the Owners shall have the right of withdrawing the Vessel from the service of the Charterers without noting any protest and without prejudice to any claim the Owners may otherwise have against the Charterers under the Charter.

The Charterers are required to establish and maintain financial security or responsibility in respect of oil or other pollution damage as required by any government, including Federal, state or municipal or other division or authority thereof, to enable the Vessel, without penalty or charge, lawfully to enter, remain at, or leave any port, place, territorial or contiguous waters of any country, state or municipality in performance of this Charter without any delay. This obligation shall apply whether or not such requirements have been lawfully imposed by such government or division or authority thereof. The Charterers shall make and maintain all arrangements by bond or otherwise as may be necessary to satisfy such requirements at the Charterers’ sole expense and the Charterers shall indemnify the Owners against all consequences whatsoever (including loss of time) for any failure or inability to do so.

(b) The Charterers shall at their own expense and by their own procurement man, victual, navigate, operate, supply, fuel and repair the Vessel whenever required during the Charter period and they shall pay all charges and expenses of every kind and nature whatsoever incidental to their use and operation of the Vessel under this Charter, including any foreign general municipality and/or state taxes. The Master, officers and crew of the Vessel shall be the servants of the Charterers for all purposes whatsoever, even if for any reason appointed by the Owners.

Charterers shall comply with the regulations regarding officers and crew in force in the country of the Vessel’s flag or any other applicable law.

(d) The Charterers shall make no structural changes in the Vessel or changes in the machinery, boilers, appurtenances or spare parts thereof without in each instance first securing the Owners’ approval thereof. If the Owners so agree, the Charterers shall, if the Owners so require, restore the Vessel to its former condition before the termination of the Charter.

(e) The Charterers shall have the use of all outfit, equipment and appliances on board the Vessel at the time of delivery, provided the same or their substantial equivalent shall be returned to the Owners on redelivery in the same good order and condition as when received, ordinary wear and tear excepted. The Charterers shall from time to time during the Charter period replace such items of equipment as shall be so damaged or worn as to be unfit for use. The Charterers are to procure that all repairs to or replacement of any damaged, worn or lost parts or equipment be effected in such manner (both as regards

workmanship and quality of materials) as not to diminish the value of the Vessel. The Charterers have the right to fit additional equipment at their expense and risk but the Charterers shall remove such equipment at the end of the period if requested by the Owners.

Any equipment including radio equipment on hire on the Vessel at time of delivery shall be kept and maintained by the Charterers and the Charterers shall assume the obligations and liabilities of the Owners under any lease contracts in connection therewith and shall reimburse the Owners for all expenses incurred in connection therewith, also for any new equipment required in order to comply with radio regulations.

(f) The Charterers shall dry-dock the Vessel and clean and paint her underwater parts whenever the same may be necessary, but not less than once in every eighteen calendar months after delivery unless otherwise agreed in Box 18.

PART II
“BARECON 89” Standard Bareboat Charter

11. Mortgage

*) (b) The Vessel chartered under this Charter is financed by a mortgage according to the Deed(s) of Covenant annexed to this Charter and as stated in Box 26. By their counter-signature on the Deed(s) of Covenant, the Charterers undertake to have acquainted themselves with all terms, conditions and provisions of the said Deed(s) of Covenant. The Charterers undertake that they will comply with all such instructions or directions in regard to the employment, insurances, repairs and maintenance of the Vessel, etc., as laid down in the Deed(s) of Covenant or as may be directed from time to time during the currency of the Charter by the Mortgagee(s) in conformity with the Deed(s) of Covenant.

(c) The Owners warrant that they have not effected any mortgage(s) other than stated in Box 26 and that they will not effect any other mortgage(s) without the prior consent of the Charterers.

*) *(Optional, Clauses 11 (a) and 11 (b) are alternatives; indicate alternative agreed in Box 26).*

12. Insurance and Repairs

(a) During the Charter period the Vessel shall be kept insured by the Charterers at their expense against marine, war and Protection and Indemnity risks in such form and with such insurers as the Owners shall in writing approve, which approval shall not be unreasonably withheld. Such marine, war and P. and I. insurances shall be arranged by the Charterers to protect the interests of both the Owners and the Charterers and mortgagees (if any), and the Charterers shall be at liberty to protect under such insurances the interests of any managers they may appoint. All insurance policies shall be in the joint names of the Owners and the Charterers as their interests may appear.

If the Charterers fail to arrange and keep any of the the insurances provided for under the provisions of sub-clause (a) above in the manner described therein, the Owners shall notify the Charterers whereupon the Charterers shall rectify the position within seven running days, failing which Owners shall have the right to withdraw the Vessel from the service of the Charterers without prejudice to any claim the Owners may otherwise have against the Charterers.

The Charterers shall, subject to the approval of the Owners and the Underwriters, effect all insured repairs and shall undertake settlement of all costs in connection with such repairs as well as insured charges, expenses and liabilities (reimbursement to be secured by the Charterers from the Underwriters) to the extent of coverage under the insurances herein provided for.

The Charterers also to remain responsible for and to effect repairs and settlement of costs and expenses incurred thereby in respect of all other repairs not covered by the insurances and/or not exceeding any possible franchise(s) or deductibles provided for in the insurances.

All time used for repairs including any deviation shall count as time on hire and shall form part of the Charter period.

(b) If the conditions of the above insurances permit additional insurance to be placed by the parties, such cover shall be limited to the amount for each party set out in Box 28 and Box 29, respectively. The Owners or the Charterers as the case may be shall immediately furnish the other party with particulars of any additional insurance effected, including copies of any cover notes or policies and the written consent of the insurers of any such required insurance in any case where the consent of such insurers is necessary.

(c) Should the Vessel become an actual, constructive, compromised or agreed total loss under the insurances required under sub-clause (a) of Clause 12, all insurance payments for such loss shall be paid to the Mortgagee. If any, in the manner described in the Deed(s) of Covenant, who shall distribute the moneys between themselves, the Owners and the Charterers according to their respective interests. The Charterers undertake to notify the Owners and the Mortgagee, if any, of any occurrences in consequence of which the Vessel is likely to become a Total Loss as defined in this Clause.

14. Redelivery

The Charterers shall at the expiration of the Charter period redeliver the Vessel at a safe and ice-free port or place as indicated in Box 16. The Charterers shall give the Owners not less than 30 running days' preliminary and not less than 14 days' definite notice of expected date, range of ports of redelivery or port or place of redelivery. Any changes thereafter in Vessel's position shall be notified immediately to the Owners.

Should the Vessel be ordered on a voyage by which the Charter period may be exceeded the Charterers to have the use of the Vessel to enable them to complete the voyage, provided it could be reasonably calculated that the voyage would allow redelivery about the time fixed for the termination of the Charter.

The Vessel shall be redelivered to the Owners in the same or as good structure, state, condition and class as that in which she was delivered, fair wear and tear not affecting class excepted.

The Vessel upon redelivery shall have her survey cycles up to date and class certificates valid for at least the number of months agreed in Box 12.

15. Non-Lien and Indemnity

The Charterers will not suffer, nor permit to be continued, any lien or encumbrance incurred by them or their agents, which might have priority over the title and interest of the Owners in the Vessel.

The Charterers further agree to fasten to the Vessel in a conspicuous place and to keep so fastened during the Charter period a notice reading as follows:-

“This Vessel is the property of (name of Owners). It is under charter to (name of Charterers) and by the terms of the Charter Party neither the Charterers nor the Master have any right, power or authority to create, incur or permit to be imposed on the Vessel any lien whatsoever.”

The Charterers shall indemnify and hold the Owners harmless against any lien of whatsoever nature arising upon the Vessel during the Charter period while she is under the control of the Charterers, and against any claims against the Owners arising out of or in relation to the operation of the Vessel by the Charterers. Should the Vessel be arrested by reason of claims or liens arising out of her operation hereunder by the Charterers, the Charterers shall at their own expense take all reasonable steps to secure that within a reasonable time the Vessel is released and at their own expense put up bail to secure release of the Vessel.

16. Lien

The Owners to have a lien upon all cargoes and sub-freights belonging to the Charterers and any Bill of Lading freight for all claims under this Charter, and the Charterers to have a lien on the Vessel for all moneys paid in advance and not earned.

17. Salvage

All salvage and towage performed by the Vessel shall be for the Charterers' benefit and the cost of repairing damage occasioned thereby shall be borne by the Charterers.

(d) If the Vessel becomes an actual, constructive, compromised or agreed total loss under the insurances arranged by the Charterers in accordance with sub-clause (a) of this Clause, this Charter shall terminate as of the date of such loss.

(e) The Owners shall upon the request of the Charterers, promptly execute such documents as may be required to enable the Charterers to abandon the Vessel to insurers and claim a constructive total loss.

(f) For the purpose of insurance coverage against marine and war risks under the provisions of sub-clause (a) of this Clause, the value of the Vessel is the sum indicated in Box 27.

PART II
“BARECON 89” Standard Bareboat Charter

18. Wreck Removal

In the event of the Vessel becoming a wreck or obstruction to navigation the Charterers shall indemnify the Owners against any sums whatsoever which the Owners shall become liable to pay and shall pay in consequence of the Vessel becoming a wreck or obstruction to navigation.

19. General Average

General Average, if any, shall be adjusted according to the York-Antwerp Rules 1974 or any subsequent modification thereof current at the time of the casualty.

The Charter Hire not to contribute to General Average.

20. Assignment and Sub-Demise

The Charterers shall not assign this Charter nor sub-demise the Vessel except with the prior consent in writing of the Owners and subject to such terms and conditions as the Owners shall approve.

23. Requisition/Acquisition

(a) In the event of the Requisition for Hire of the Vessel by any governmental or other competent authority (hereinafter referred to as “Requisition for Hire”) irrespective of the date during the Charter period when “Requisition for Hire” may occur and irrespective of the length thereof and whether or not it be for an indefinite or a limited period of time, and irrespective of whether it may or will remain in force for the remainder of the Charter period, this Charter shall not be deemed thereby or thereupon to be frustrated or otherwise terminated and the Charterers shall continue to pay the stipulated hire in the manner provided by this Charter until the time when the Charter would have terminated pursuant to any of the provisions hereof always provided however that in the event of “Requisition for Hire” any Requisition Hire or compensation received or receivable by the Owners shall be payable to the Charterers during the remainder of the Charter period or the period of the “Requisition for Hire” whichever be the shorter.

The Hire under this Charter shall be payable to the Owners from the same time as the Requisition Hire is payable to the Charterers.

(b) In the event of the Owners being deprived of their ownership in the Vessel by any Compulsory Acquisition of the Vessel or requisition for title by any governmental or other competent authority (hereinafter referred to as “Compulsory Acquisition”), then, irrespective of the date during the Charter period when “Compulsory Acquisition” may occur, this Charter shall be deemed terminated as of the date of such “Compulsory Acquisition”. In such event Charter Hire to be considered as earned and to be paid up to the date and time of such “Compulsory Acquisition”.

24. War

(a) The Vessel unless the consent of the Owners be first obtained not to be ordered nor continue to or remain in any place or on any voyage nor be used on any service which will bring or put her within a zone which is dangerous as the result of any actual or threatened act of war, war, hostilities, warlike operations, acts of piracy or of hostility or malicious damage against this or any other vessel or its cargo by any person, body or State whatsoever, revolution, civil war, civil commotion or the operation of international law, nor be exposed in any way to any risks or penalties whatsoever consequent upon the imposition of Sanctions, nor carry any goods that may in any way expose her to any risks of seizure, capture, penalties or any other interference of any kind whatsoever by the belligerent or fighting powers or parties or by any Government or Ruler.

(b) The Vessel to have liberty to comply with any orders or directions as to departure, arrival, routes, ports of call, stoppages, destination, delivery or in any other wise whatsoever given by the Government of the nation under whose flag the Vessel sails or any other Government or any person (or body) acting or purporting to act with the authority of such Government or by any committee or person having under the terms of the war risks insurance on the Vessel the right to give any such orders or directions.

PART III
PROVISIONS TO APPLY FOR NEWBUILDING VESSELS ONLY
(Optional, only to apply it expressly agreed and stated in Box 35)

Specifications and Building Contract

(a) The Vessel shall be constructed in accordance with the Building Contract (hereafter called “the Building Contract”) as annexed to this Charter, made between the Builders and the Owners and in accordance with the specifications and plans annexed thereto, such Building Contract, specifications and plans having been counter-signed as approved by the Charterers.

(b) No substantial change shall be made in the Building Contract or in the specifications or plans of the Vessel as approved by the Charterers as aforesaid, without the Charterers’ consent which shall not be unreasonably withheld or delayed.

(c) The Charterers shall have the right at their expense and so long as the contractor does not object to send their representative to the Builders’ Yard to inspect the Vessel during the course of her construction to satisfy themselves that construction is in accordance with such approved specifications and plans as referred to under sub-clause (a) of this Clause.

(d) The Vessel shall be built in accordance with the Building Contract and shall be of the description set out therein provided nevertheless that the Charterers shall be bound to accept the Vessel from the Owners on the date of delivery by the Builders as having been completed and constructed in accordance with the Building Contract and the Charterers undertake that after having so accepted the Vessel they will not thereafter raise any claims against the Owners in respect of the Vessel’s performance or specification or defects if any except that in respect of any repair or replacement of any defects which appear within the first 12 months from delivery the Owners shall use their best endeavours to recover any expenditure incurred in remedying such defects from the Builders, but shall only be liable to the Charterers to the extent the Owners have a valid claim against the Builders under the guarantee clause of the Building Contract (a copy whereof has been supplied to the Charterers) provided that the Charterers shall be bound to accept such sums as the Owners are able to recover under this clause and shall make no claim upon the Owners for any difference between the amounts so recovered and the actual expenditure incurred on repairs or replacements or for any loss of time incurred thereby.

Time and Place of Delivery

(a) Subject to the Vessel having completed her acceptance trials including trials of cable handling equipment in accordance with the Building Contract and specifications to the satisfaction of the Charterers, the Owners shall give and the Charterers shall take delivery of the Vessel afloat when ready for delivery at the Builders’ Yard or some other safe and readily accessible dock, wharf or place as may be agreed between the parties hereto and the Builders. Under the Building Contract the Builders have estimated that the Vessel will be ready for delivery to the Owners as therein provided but the delivery date for the purpose of this Charter shall be the date when the Vessel is in fact ready for delivery by the Builders after completion of trials whether that be before or after as indicated in the Building Contract. Notwithstanding the foregoing, the Charterers shall not be obliged to take delivery of the Vessel until she has been classed and documented as provided in this Charter and free for transfer to the flag she has to fly. Subject as aforesaid the Charterers shall not be entitled to refuse acceptance of delivery of the Vessel and upon and after such acceptance the Charterers shall not be entitled to make any claim against the Owners in respect of any conditions, representations or warranties, whether express or implied, as to the seaworthiness of the Vessel or in respect of delay in delivery or otherwise howsoever.

(b) If for any reason other than a default by the Owners under the Building Contract, the Builders become entitled under that Contract not to deliver the Vessel to the Owners, the Owners shall upon giving to the Charterers written notice of Builders becoming so entitled, be excused from giving delivery of the Vessel to the Charterers and upon

- i) if the Charterers do not wish to take delivery of the Vessel they shall inform the Owners within seven (7) days by notice in writing and upon receipt by the Owners of such notice this Charter shall cease to have effect; or
- ii) if the Charterers wish to take delivery of the Vessel they may by notice in writing within seven (7) days require the Owners to use best endeavours to negotiate with the Builders as to the terms on which delivery should be taken and upon receipt of such notice the Owners shall commence and in good faith attempt to conclude such negotiations and/or take delivery of the Vessel from the Builders and deliver her to the Charterers: If the Owners are unable to negotiate terms acceptable to both Owners and Charterers, then either of them may, by notice in writing to the other, terminate this Charter with immediate effect.

The Owners shall refrain from exercising their rights of rejection until this process has been completed.
- iii) Notwithstanding anything else in this Clause, in no circumstances shall the Charterers be entitled to reject the Vessel unless the Owners are able to reject the Vessel from the Builders;
- iv) if this Charter terminates under sub-clause (b) or (c) of this Clause, the Owners shall thereafter not be liable to the Charterers for any claim under or arising out of this Charter or its termination.

Guarantee Works

If not otherwise agreed, the Owners authorize the Charterers to arrange for the guarantee works to be performed in accordance with the building contract terms, and hire to continue during the period of guarantee works. The Charterers have to advise the Owners about the performance to the extent the Owners may request.

Name of Vessel

Survey on Redelivery

The Owners and the Charterers shall appoint surveyors for the purpose of determining and agreeing in writing the condition of the Vessel at the time of re-delivery.

Without prejudice to Clause 14 (Part II), the Charterers shall bear all survey expenses and all other costs, if any, including the cost of docking and undocking, if required, as well as all repair costs incurred.

The Charterers shall also bear all loss of time spent in connection with any docking and undocking as well as repairs, which shall be paid at the rate of Hire per day or pro rata.

receipt of such notice by the Charterers this Charter shall cease to have effect.

(c) If for any reason the Owners become entitled under the Building Contract to reject the Vessel the Owners shall, before exercising such right of rejection, consult the Charterers and thereupon

Cablesnip in Building

Yard Number 1322

ADDITIONAL CLAUSES TO DEMISE CHARTERPARTY

Dated 24th September 1992

Between International Cablesnip Pte Ltd

and

Cable & Wireless (Marine) Ltd

Clause 27—Inventories and Consumable Oil and Stores.

A complete inventory of the Vessel's entire equipment, outfit and appliances shall be supplied by the Owners, which shall be verified by the Charterers at their expense, upon delivery of the Vessel. Upon redelivery, Charterers and Owners shall together make an inventory of the Vessel's equipment, outfit and appliances. Charterers shall make good any deficiencies at their expense.

Charterers and Owners together shall make an inventory of all bunkers, lubricating oil, water, unbroached provisions, paints, oils, ropes and other consumable stores on delivery and again on redelivery of the Vessel.

Clause 28—Name of Vessel

The Charterers shall be entitled to name the Vessel, subject to Owners' consent which shall not be unreasonably withheld. The Vessel shall be painted in the colours, display the funnel insignia and fly the house flag as required by Charterers.

Clause 29—Hire

- (a) Hire Fees shall be as shown in Schedule 1. The Hire Fees in Schedule 1 shall remain fixed and firm unless the parties mutually agree otherwise, and in that case Schedule 1 shall be replaced by a replacement Schedule 1 which shall form an integral part of the Charter Agreement.
- (b) The Charterer shall pay the foregoing Hire Fees for each Financial Year (1st April to 31st March of the following year), in four equal quarterly instalments, the quarters beginning on the first days of April, July, October and January, payment being due sixty days after the start of the quarter to which the instalment applies. If the Vessel is chartered for only part of the Financial Year, then the Charterer shall pay a proportion of the annual Hire Fees equal to the proportion of the year the Vessel is chartered. The Owners shall be entitled to charge interest on all payments not received by the due date at a rate of 3% above the lending rate of the Development Bank of Singapore Limited from the date the payment became due until payment is received.
- (c) Charterers shall take delivery of the Vessel from the Builders' Yard as provided in Part III hereof, and shall take the Vessel, with due despatch, to Manila. Hire Fees shall not be payable by the Charterers until the Vessel arrives at Manila. All costs of transit from the Builders' Yard to Manila shall be paid in the first instance by Charterers, but Owners shall reimburse Charterers the cost of fuel, canal dues and an appropriate proportion of the costs of insurance. This reimbursement shall be offset by the Charterers against the first (and second if necessary) instalment of Hire Fees.
- (d) All payments to the Owners shall be made in accordance with the Owners' instructions.

Clause 30—Charter Period

The Charter Period shall commence upon delivery of the Vessel to the Charterers at the Builders' Yard and shall continue for a period ending, unless Charterers exercise their option to extend as set out below, on the twenty-fifth anniversary of the date upon which Hire Fees became payable under Clause 29(c) of this Charterparty. The Charterers shall have the option to extend this charter on a year to year basis, at an annual charter fee to be mutually agreed by Charterers and Owners.

Clause 31—Loss of Vessel

Should the Vessel become an actual, constructive, agreed or arranged total loss, hire shall cease to be payable from the time of such loss provided that (a) when the time of loss is unknown, Hire shall cease to be payable at noon on the day the Vessel is last heard of, or (b) in the case of constructive total loss, Hire shall cease to be payable at noon on the day when notice of abandonment is given. Any Hire paid in advance shall be adjusted accordingly.

Clause 32—Employment

The Vessel shall be employed between safe ports or berths always afloat. The Charterers shall procure that the Vessel shall be operated in conformity with IMO rules and regulations for the time being in force or any equivalent or applicable laws and regulations including those of the Vessel's flag or places where the Vessel shall trade hereunder during the period of hire.

Clause 33—Arrest

- (a) Should the Vessel be at any time arrested, seized, detained or subjected to distress by reason of any act or omission of the Owners in relation to any mortgage, charge, encumbrance or lien upon the Vessel created or allowed by the Owners or by reason of any process, claim or lien of whatsoever nature arising out of the use or operation of any other vessel for the time being owned by, chartered to or operated by the Owners, the Owners shall as against the Charterers be responsible for securing the release of the Vessel and the discharge of all liabilities in connection with such process, claim or lien and Hire Fees shall not be paid during such periods. The Owners hereby agree to indemnify the Charterers against any other loss or damage, costs, claims or other expenses suffered or incurred by the Charterers in connection therewith.
- (b) Should the Vessel be at any time arrested, seized, detained or subjected to distress by reason of any act or omission of the Charterers in relation to any mortgage, charge, encumbrance or lien upon the Vessel created or allowed by the Charterers by reason of any process, claim or lien of whatsoever nature arising out of the use or operation of any other vessel for the time being owned by, chartered to or operated by the Charterers, the Charterers shall as against the Owners be responsible for securing the release of the Vessel and the discharge of all liabilities in connection with such process, claim or lien and the Charterers hereby agree to indemnify the Owners against any loss or damage, costs, claims or other expenses suffered or incurred by the Owners in connection therewith. Hire Fees shall continue to be paid during any such periods.

Clause 34—Withdrawal

If during the period of this Charter the Charterer shall fail to maintain insurance as herein provided, or convene any meeting of or make any arrangement or composition with its creditors or enter into any liquidation or receivership, The Owners may without prejudice to any other right or remedy and without notice to the Charterer terminate this Charter and withdraw the Vessel from service. No conduct of the Owners or their representatives shall constitute any waiver of Owners rights under this clause.

Clause 35—Mortgagee's Interest

Nothing herein contained shall prejudice the rights of the Mortgagee to exercise its rights of Mortgage against the Vessel.

Clause 36—Law & Jurisdiction

This Charterparty shall be governed by and construed in accordance with the Laws of the Republic of Singapore, both as to substance and as to procedure, and all disputes hereunder shall be referred to the exclusive jurisdiction of the Courts of the Republic of Singapore.

ICPL HIRE FEE—(CWM)

<u>Financial Year</u>	<u>ICPL Hire Fee</u> <u>SS'000</u>
1997/98	14,884
1998/99	15,479
1999/'00	16,098
2000/01	16,742
2001/02	17,412
2002/03	18,108
2003/04	18,832
2004/05	19,489
2005/06	19,489
2006/07	19,489
2007/08	19,489
2008/09	19,489
2009/10	19,489
2010/11	19,489
2011/12	19,489
2012/13	19,489
2013/14	19,489
2014/15	19,489
2015/16	19,489
2016/17	19,489
2017/18	19,489
2018/19	19,489
2019/20	19,489
2020/21	19,489
2021/22	19,489
2022/23	19,489

DATED 14 MARCH 2006

DEED OF COVENANT

relating to

THE CABLE INNOVATOR

between

DYVI CABLE VESSEL AS

and

GLOBAL MARINE SYSTEMS LIMITED

Bridgehouse Partners LLP

10 Old Bailey

London

EC4M 7NG

PARTIES

- (1) **DYVI CABLE SHIP AS** incorporated and registered in Norway, whose registered office is at Munkedamsv 45, PO Box 1337 – Vika, 0112 Oslo, Norway (the “**Mortgagor**”).
- (2) **GLOBAL MARINE SYSTEMS LIMITED** incorporated and registered in England and Wales with company number 1708481 whose registered office is at New Saxon House, 1 Winsford Way, Boreham Interchange, Chelmsford, Essex CM2 5DP, United Kingdom (the “**Mortgagee**”).

BACKGROUND

- (A) The Mortgagor and the Mortgagee have entered into an agreement dated __ March 2006 (“the Agreement”) in which the Mortgagor has agreed to charter MV Cable Innovator to the Mortgagee and a Seller’s Credit Agreement dated __ March 2006 in which US\$4,750,000 is advanced to the Mortgagor as deferred consideration.
- (B) The Mortgagor has agreed to grant the Mortgagee security by way of second priority mortgage to secure the amount of US\$4,750,000 as security for the Mortgagor’s obligations under and performance of the Agreement.
- (C) To secure the performance by the Mortgagor of its obligations under the Agreement and this Deed including the payment to the Mortgagee of all principal, interest (including without limit, default interest) commissions, charges, costs, expenses, and other amounts which are or may at any time in the future become due and owing to the Mortgagee from the Mortgagor under or in connection with the Agreement and/or this Deed (“the Secured Indebtedness”), the Mortgagor as beneficial owner and as registered owner of 64 sixty-fourth shares in MV Cable Innovator, which is a UK ship registered with number 728488 (“the Vessel”), has granted to the Mortgagee a second priority mortgage on the Vessel in form MSF 4737 (“the Mortgage”) and has executed this Deed which is collateral to the Mortgage.

AGREED TERMS

1. INTERPRETATION

1.1 The definitions in this clause apply in this deed.

Charged Property: the Vessel and the Requisition Compensation.

Days: means calendar days and “**Business Days**” means days (except Saturdays and Sundays) when banks are open for business in London.

Insurers: means the underwriters, insurance companies and mutual insurance associations with whom the Insurances are placed.

Requisition Documentation: means compensation payable because of requisition for title or other compulsory acquisition of the Vessel by any government but does not include requisition which only applies to the use of the Vessel.

Security Document: means any other document executed by the Mortgagor or any third party as security for payment to the Mortgagee of all or part of the Secured Indebtedness.

Security Period: means the time from the date of this Deed until the Secured Indebtedness has been paid in full to the Mortgagee.

Total Loss: means the actual or constructive or compromised or agreed total loss of the Vessel, the capture, seizure, arrest, detention or expropriation of the Vessel by any government or by a person acting or purporting to act on behalf of any government in circumstances where the Vessel is not released within thirty (30) days and the requisition for title or other compulsory acquisition of the Vessel by any government but not requisition which only applies to the use of the Vessel.

Vessel: includes any interest or share in the Vessel, the machinery, engines, equipment, fuel, lubricating oil and stores whether now the property of the Mortgagor or acquired by the Mortgagor in the future and all additions, improvements and replacements made to or in the Vessel.

- 1.2 Words and phrases defined in the Agreement shall bear the same meanings in this Deed unless expressly defined otherwise in this Deed.
- 1.3 In the event of any conflict between this Deed and the Agreement, the terms of the Agreement will prevail.
- 1.4 Any reference to a document is a reference to that document as it has been amended, supplemented or novated from time to time.
- 1.5 Any reference to a statute or statutory instrument or regulation is a reference to that statute, statutory instrument or regulation as it has been amended or re-enacted from time to time.
- 1.6 Any reference to winding-up, dissolution or bankruptcy includes the equivalent proceedings in the country in which the Mortgagor is incorporated or resident or has assets or liabilities and any reference to an administrator, receiver, administrative receiver, trustee or manager includes the equivalent official in such country.

1.7 Except where a contrary intention appears, a reference to a clause is a reference to a clause of this Deed.

1.8 Clause headings do not affect the interpretation of this Deed.

2. PAYMENT BY MORTGAGOR

2.1 The Mortgagor undertakes to pay to the Mortgagee the Secured Indebtedness in accordance with the terms of the Agreement and this Deed.

2.2 The Mortgagor shall make all payments due to the Mortgagee to it in accordance with the Agreement.

2.3 The certificate of an officer of the Mortgagee as to the amount of the Secured Indebtedness at any time shall be conclusive and binding on the Mortgagor, save in the case of manifest error.

2.4 The Mortgagor shall pay on demand to the Mortgagee on an indemnity basis all the Mortgagee's expenses (including legal costs and disbursements) incurred in connection with the protection of and the actual or attempted enforcement of the security created by the Mortgage and this Deed.

2.5 The Mortgagor shall pay interest on demand at LIBOR plus 2 on all amounts (including principal, interest, costs and amounts recoverable from the Mortgagor by way of indemnity) due but not paid by the Mortgagor to the Mortgagee under this Deed from the due date of payment until the date of the actual payment to the Mortgagee whether before or after judgment.

3. MORTGAGES AND CHARGE

3.1 The Mortgagor warrants to the Mortgagee that prior to the execution of the Mortgage and this Deed it has not assigned, transferred, mortgaged or charged the Charged Property or any part of it to any other person other than in accordance with the first priority mortgage.

3.2 As security for the performance of its obligations under the Agreement and this Deed including the payment of the Secured Indebtedness to the Mortgagee the Mortgagor as legal and beneficial owner with full title guarantee, mortgages and charges the Vessel to the Mortgagee on the terms of this Deed.

3.3 The security created by the Mortgage and this Deed shall be held by the Mortgagee as a continuing security for the payment of the Secured Indebtedness and shall not be released or discharged by any intermediate payment or satisfaction of part of the Secured Indebtedness save in accordance with the provisions of the Agreement.

- 3.4 If any additional security is given to the Mortgagee under any other Security Document such security will not limit or affect the security created by the Mortgage and this Deed.
- 3.5 The Mortgage and this Deed shall remain in full force and effect until the Secured Indebtedness shall have been paid in full to the Mortgagee. When the Secured Indebtedness has been paid in full the Mortgagee shall discharge the Mortgage and this Deed and re-assign the Charged Property to the Mortgagor in accordance with the Agreement.
- 3.6 The Mortgagees shall have the right to consolidate their security and the restriction in Section 93 of the Law of Property Act 1925 shall not apply to this Deed.

4. DEFAULT AND ENFORCEMENT

- 4.1 If any one or more of the Events of Default as defined below occurs then the Mortgagee shall have the rights and powers provided in Clause 4.3.
- 4.2 The "Events of Default" are as follows:-
- (a) an administrator, receiver, administrative receiver, liquidator or trustee or manager is appointed by a creditor or a court for all or part of the property of the Mortgagor;
 - (b) the Mortgagor is in material breach of Agreement which has not been remedied within the time specified in the Agreement, or, if no time is specified, a reasonable time or takes any action or fails to take any action which in the reasonable opinion of the Mortgagee imperils the security created by the Mortgage and this Deed; and
 - (c) upon termination of the Agreement, whether by way of cancellation or termination by breach, the Mortgagor has failed to comply with its obligations as to the settlement of claims brought or asserted by the Mortgagee.
- 4.3 On the occurrence of any Event of Default the Secured Indebtedness shall become immediately due and payable and the Mortgagees shall have the right and power:
- (a) to commence legal proceedings against the Mortgagor and/or the Vessel to obtain judgment for the Secured Indebtedness;

- (b) to order the master of the Vessel to proceed immediately at the Mortgagor's risk and expense to a port or anchorage nominated by the Mortgagee;
- (c) to take possession of the Vessel and exercise all the rights and powers of a mortgagee conferred by law or by this Deed;
- (d) to sell the Vessel or any shares therein (whether as mortgagee under its power of sale, as attorney-in-fact for the Mortgagor or otherwise) in such manner and on such terms as the Mortgagee may decide with power to the Mortgagee to postpone the sale without being liable for any resulting loss;
- (e) to insure, maintain, repair, charter, operate, use, employ, manage or lay up the Vessel on such terms as they may consider appropriate without being responsible for any loss or damage to the Vessel (provided such loss or damage has not been caused by the wilful act or default of the Mortgagee);
- (f) to require all documents relating to the Insurances including all policies, cover notes and all claims correspondence to be delivered to the Mortgagee or to a broker or Mortgagee appointed by it;
- (g) to defend, pay or compromise all claims against the Mortgagor in connection with the Charged Property including those which have given or may give rise to any charge or lien on the Vessel whether ranking in priority to or subordinate to the Mortgage;
- (h) to institute, continue, release or compromise all claims by the Mortgagor against the Insurers, any other charterer or any other third party in connection with the Charged Property;
- (i) to combine and consolidate all accounts which the Mortgagor may have with the Mortgagee and to set off any credit balances on such accounts against the Secured Indebtedness; and
- (j) to recover from the Mortgagor on demand all amounts paid and payable and losses incurred by the Mortgagees in connection with the exercise of any of its powers and rights under the Agreement or this Deed.

4.4 Sections 93 and 103 of the Law of Property Act 1925 shall not apply to the Mortgagee's power of sale in this Deed.

4.5 On any sale of the Vessel by the Mortgagee the purchaser shall have no duty to enquire whether the Mortgagee's power of sale has become exercisable and the sale shall be deemed to be within the Mortgagee's powers. The receipt by the Mortgagee for the purchase price shall be a sufficient discharge of the purchaser who shall not be concerned with the application of the proceeds of sale and the purchaser shall have the protection provided by Section 104 and 107 of the Law of Property Act 1925.

- 4.6 The net proceeds of a sale of the Vessel, any amounts received by the Mortgagee for the use of the Vessel by the Mortgagee under any of the Mortgagee's rights or powers set out in this Deed and all other amounts including claims under the Insurances received by the Mortgagee under the terms of this Deed unless otherwise provided in this Deed shall be applied in the following order:
- (a) in payment of all amounts paid and payable and losses incurred by the Mortgagee (together with interest thereon) in connection with the exercise any of their powers and rights hereunder or otherwise;
 - (b) in payment of the Secured Indebtedness and any other amounts payable by the Mortgagor under this Deed;
 - (c) in payment of the balance (if any) to the Mortgagor or to the person entitled thereto.
- 4.7 In the event that the proceeds are insufficient to pay the amounts specified in paragraphs 4.6 (a) and 4.6 (b) above the Mortgagee shall have the right to recover the balance from the Mortgagor or any other person liable to pay such balance.
- 4.8 The Mortgagor hereby irrevocably appoints the Mortgagee as its attorney for the Security Period (with power to appoint sub-attorney) to the intent that the Mortgagee shall have full power to do all acts and sign all documents which the Mortgagor itself could do in relation to the Charged Property, including (but not limited to) selling the Vessel. The exercise of such power by or on behalf of the Mortgagee shall not put any person dealing with the Mortgagee upon any enquiry as to whether any amount is due under this Deed nor shall such person be in any way affected by notice that any such amount may not have become payable. The exercise by the Mortgagee of such power shall be conclusive evidence as between the Mortgagee and any third party of its right to exercise that power.
- 4.9 The Mortgagee shall have the power at any time after an Event of Default to appoint a receiver who shall be the agent of the Mortgagor and whose powers shall include (but not be limited to) those provided in Schedule 1 of the Insolvency Act 1986 (to the extent that they relate to the Charged Property).
- 4.10 Any failure by of the Mortgagee to exercise or any delay in the exercise of any right or power under this Deed shall not be deemed to be a waiver of such right or power nor shall any single or partial exercise of any such right or power prevent any further exercise of that or any other right or power. Any waiver or consent given by the Mortgagee under this Deed shall only be effective if given in writing.

4.11 The Mortgagee's powers and rights under this Deed are cumulative and are in addition to any powers and rights which the Mortgagee may have in law or under any other Security Document and may be exercised at such times, as often and in such order as the Mortgagee as the case may be may decide in their respective discretion.

4.12 The granting of time by the Mortgagee or compounding with any other person or company liable to the Mortgagee under any other Security Document shall not in any way affect the Mortgagee's rights against the Mortgagor or the Charged Property under the Mortgage and/or this Deed.

5. INDEMNITY

5.1 The Mortgagor covenants to indemnify the Mortgagee against all amounts, liabilities and losses whatsoever which the Mortgagee may pay or incur in good faith from time to time in relation to the Charged Property.

5.2 If under any judgment or order or under any relevant statutory provision or as a result of the insolvency of the Mortgagor any amount due to the Mortgagee or any of them under this Deed is paid in a currency other than the currency in which it is contractually due to be paid and if the amount actually received by the Mortgagee as the case may when converted into the currency contractually due at the then current rate of exchange used by the Mortgagee is less than the amount due under Deed, then the Mortgagor as a separate obligation shall pay to the Mortgagee or any of them as the case may be the amount of such shortfall.

6. INVALIDITY

6.1 If any provision in this Deed is rendered or declared void or unenforceable in whole or in part by any statute or regulation or any decision of any court or tribunal of competent jurisdiction then such determination or declaration shall not affect the validity of the remainder of this Deed which will remain in full force and effect.

7. NOTICES, PROPERTY LAW AND JURISDICTION

7.1 Every notice or other communication to be given to the Mortgagor under this Deed shall be given to it in writing and shall be sent by post or delivered by hand addressed to it at Munkedamsvn 45 P.O.Box 1337-Vika 0112 Oslo, (or such other address in Norway or the United Kingdom as the Mortgagor shall

notify the Mortgagee for this purpose) or may be sent to it by facsimile and shall be deemed to have been received if sent by fax or telex on the day of delivery or transmission, but if such a day is not a Business Day in Norway on the next following Business Day.

- 7.2 Every demand, notice or other communication to be given to the Mortgagee under this Deed shall be given to it in writing and may be sent by post or delivered by hand addressed to it at New Saxon House I Winsford Way Boreham Interchange Chelmsford Essex CM2 5DP (or such other address in Norway or the United Kingdom as the Mortgagee shall notify the Mortgagor for this purpose) or may be sent to it by facsimile and shall be deemed to have been received if sent by first class prepaid post within three (3) days after posting or if delivered by hand or sent by fax or telex on the day of delivery or transmission, but if such a day is not a Business Day on the next following Business Day.
- 7.3 Every notice or other communication to be given to the Mortgagors under this Deed shall be given to it in writing and shall be sent by post or delivered by hand addressed to it c/o the Mortgagor at the address or facsimile or telex number or email address set out in 7.1 above and shall be effective on the day of receipt by the Mortgagor but if such a day is not a business day in Norway on the next following business day.
- 7.4 The Mortgagor irrevocably submits to the jurisdiction of the High Court of Justice in England and appoints Messrs Prettys of 25 Elm Street Ipswich IP1 2AD to accept service of any legal proceedings issued by the Mortgagee in England against the Mortgagor under or in connection with this Deed and service on such person shall be deemed proper service on the Mortgagor. Such submission by the Mortgagor does not in any way limit the right of the Mortgagee to commence proceedings against the Mortgagor or the Charged Property in any other jurisdiction they consider appropriate.

8. JURISDICTION

The parties to this agreement irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction over any claim or matter arising under or in connection with this deed.

9. GOVERNING LAW

This deed will be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by **DYVI
CABLE SHIP AS** acting by

/s/ Kaj Berge

and

/s/ [Illegible]

Executed as a deed by **GLOBAL
MARINE SYSTEMS LIMITED**
acting by Paul Terry Rodgers and
Beverley Pinborough

/s/ Paul Terry Rodgers
Director

/s/ Beverley Pinborough
Secretary

ORIGINAL**PART I**

1. Shipbroker Derrick Offshore, Mount View House, 10 The Mount, Guildford, Surrey, GU2 4HN	BIMCO STANDARD BAREBOAT CHARTER CODE NAME: "BARECON 2001"	
3. Owners/Place of business (Cl. 1) Dyvi Cable Ship AS C/O Dyvi AS P.O. Box 1337 Vika N- 0112 Oslo Norway	2. Place and date London 14 March 2006 4. Bareboat Charterers/Place of business (Cl. 1) Global Marine Systems Limited, New Saxon House, 1 Winsford Way, Boreham Interchange, Chelmsford, Essex, CM2 5DP	
5. Vessel's name, call sign and flag (Cl. 1 and 3) Cable Innovator		
6. Type of Vessel Cable Lay & Maintenance Vessel	7. GT/NT 14277 / 4283	
8. When/Where built 1995 Kvaerner Masa, Finland	9. Total DWT (abt.) in metric tons on summer freeboard 10557	
10. Classification Society (Cl. 3) ABS	11. Date of last special survey by the Vessel's classification society November 2005	
12. Further particulars of Vessel (also indicate minimum number of months' validity of class certificates agreed acc. to Cl. 3)		
13. Port or Place of delivery (Cl. 3) Worldwide at Charterers option	14. Time for delivery (Cl. 4) Concurrently with delivery of the Vessel to Owners under MOA dated []	15. Cancelling date (Cl. 5) N/A
16. Port or Place of redelivery (Cl. 15) Worldwide at Charterers option	17. No. of months' validity of trading and class certificates upon redelivery (Cl. 15) 6 months	
18. Running days' notice if other than stated in Cl. 4	19. Frequency of dry-docking (Cl. 10(g)) In accordance with class requirements	
20. Trading limits (Cl. 6) Worldwide within Institute Warranty Limits		
21. Charter period (Cl. 2) 12 Years, plus 60 days, each year consists of 365 days (alt 366 days leap years), counting from the date of delivery to Owners under the relevant MoA. of even date. Charterers have the option of extending the charter period by four (4) periods each of 12 months. The optional periods to be declared latest nine (9) months prior to the commencement of each optional period. The optional period shall be at the same rate and terms as the fixed period.	22. Charter hire (Cl. 11) USD 8,720 / day (United States Dollars Eight Thousand Seven Hundred and Twenty per day) and pro-rata inclusive of the brokerage commission identified in Box 33.	

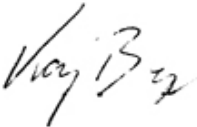

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23. New class and other safety requirements (state percentage of Vessel's insurance value acc. to <u>Box 29</u>)(Cl. 10(a)(ii))	
24. Rate of interest payable acc. to Cl. 11 (f) and, if applicable, acc. to <u>PART IV</u>	25. Currency and method of payment (<u>Cl. 11</u>) United States Dollars, by telegraphic transfer as per Owners invoice instructions
26. Place of payment; also state beneficiary and bank account (<u>Cl. 11</u>) Act code: 5012.04.04430 Act holder: DYVI CABLE SHIP AS Address: c/o Dyvi AS POB 1337 Vika, N - 0112 Oslo, Norway Swift: DNBANOKK IBAN: NO74 5012 0444 430 Bank Address: DnB NOR ASA, Stranden 21, N- 0021 Oslo NORWAY Ref: Dyvi Cable Ship AS	27. Bank guarantee/bond (sum and place) (<u>Cl. 24</u>) (optional) Seller's credit, see clause 33
28. Mortgage(s), if any (state whether <u>12(a)</u> or (b) applies; if <u>12(b)</u> applies state date of Financial Instrument and name of Mortgagee(s)/Place of business) (<u>Cl. 12</u>) DVB Bank N.V.	29. Insurance (hull and machinery and war risks) (state value acc. to <u>Cl. 13(f)</u> or, if applicable, acc. to <u>Cl. 14(k)</u>) (also state if <u>Cl. 14</u> applies) US\$ 25,000,000 (Twenty Five Million United States Dollars)
30. Additional insurance cover, if any, for Owners' account limited to (<u>Cl. 13(b)</u>) or, if applicable, <u>Cl. 14(g)</u>) Not Applicable	31. Additional insurance cover, if any, for Charterers' account limited to (<u>Cl. 13(b)</u>) or, if applicable, <u>Cl. 14(g)</u>) Any additional insurance required for Vessel's trading plus at Charterers' option any additional insurance, without limitation, provided always no less than required in Box 29.
32. Latent defects (only to be filled in if period other than stated in <u>Cl. 3</u>)	33. Brokerage commission and to whom payable (<u>Cl. 27</u>) US\$ 25 per day to Derrick Offshore
34. Grace period (state number of clear banking days) (<u>Cl. 28</u>) 5 (five) banking days	35. Dispute Resolution (state <u>30(a)</u> , <u>30(b)</u> or <u>30(c)</u> ; if <u>30(c)</u> agreed Place of Arbitration <u>must</u> be stated (<u>Cl. 30</u>) London, English Law, Clause 30 (A) applies
36. War cancellation (indicate countries agreed) (<u>Cl. 26(f)</u>) N/A	
37. Newbuilding Vessel (indicate with "yes" or "no" whether <u>PART III</u> applies) (optional) No	38. Name and place of Builders (only to be filled in if <u>PART III</u> applies)
39. Vessel's Yard Building No. (only to be filled in if <u>PART III</u> applies)	40. Date of Building Contract (only to be filled in if <u>PART III</u> applies)
41. Liquidated damages and costs shall accrue to (state party acc. to <u>Cl. 1</u>) a) b) c)	

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42. Hire/Purchase agreement (indicate with “yes” or “no” whether <u>PART IV</u> applies) (optional)	43. Bareboat Charter Registry (indicate with “yes” or “no” whether <u>PART V</u> applies) (optional)
44. Flag and Country of the Bareboat Charter Registry (only to be filled in if <u>PART V</u> applies)	45. Country of the Underlying Registry (only to be filled in if <u>PART V</u> applies)
46. Number of additional clauses covering special provisions, if agreed Clauses 32-54	

PREAMBLE - It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter which shall include PART I and PART II. In the event of a conflict of conditions, the provisions of PART I shall prevail over those of PART II to the extent of such conflict but no further. It is further mutually agreed that PART III and/or PART IV and/or PART V shall only apply and only form part of this Charter if expressly agreed and stated in Boxes 37, 42 and 43. If PART III and/or PART IV and/or PART V apply, it is further agreed that in the event of a conflict of conditions, the provisions of PART I and PART II shall prevail over those of PART III and/or PART IV and/or PART V to the extent of such conflict but no further.

Signature (Owners) 	Signature (Charterers) 
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PART II
“BARECON 2001” Standard Bareboat Charter

1. Definitions

In this Charter, the following terms shall have the meanings hereby assigned to them:

“The Owners” shall mean the party identified in Box 3;

“The Charterers” shall mean the party identified in Box 4;

“The Vessel” shall mean the vessel named in Box 5 and with particulars as stated in Boxes 6 to 12.

“Financial Instrument” means the mortgage, deed of covenant or other such financial security instrument as annexed to this Charter and stated in Box 28.

“MOA” means the Memorandum of Agreement of the date hereof between Global Marine Systems Limited as Sellers and Dyvi Cable Ship AS as Buyers.

2. Charter Period

In consideration of the hire detailed in Box 22, the Owners have agreed to let and the Charterers have agreed to hire the Vessel for the period stated in Box 21 (“The Charter Period”).

3. Delivery

(not applicable when Part III applies, as indicated in Box 37)

~~(a) The Owners shall before and at the time of delivery exercise due diligence to make the Vessel seaworthy And in every respect ready in hull, machinery and equipment for service under this Charter.~~

The Vessel shall be delivered by the Owners and taken over by the Charterers at the port or place indicated in Box 13 in such ready safe berth as the Charterers may direct.

~~(b) The vessel shall be properly documented on delivery in accordance with the laws of the flag State indicated in Box 5 and the requirements of the classification society stated in Box 10. The Vessel upon delivery shall have her survey cycles up to date and trading and class certificates valid for at least the number of months agreed in Box 12.~~

~~(c) The delivery of the Vessel by the Owners and the taking over of the Vessel by the Charterers shall constitute a full performance by the Owners of all the Owners’ obligations under this Clause 3, and thereafter the Charterers shall not be entitled to make or assert any claim against the Owners on account of any conditions, representations or warranties expressed or implied with respect to the Vessel but the Owners shall be liable for the cost of but not the time for repairs or renewals occasioned by latent defects in the Vessel, her machinery or appurtenances, existing at the time of delivery under this Charter, provided such defects have manifested themselves within twelve (12) months after delivery unless otherwise provided in Box 32.~~

4. Time for Delivery See also Clause 32

(not applicable when Part III applies, as indicated in Box 37)

The Vessel shall not be delivered before the date indicated in Box 14, without the Charterers’ consent and the Owners shall exercise due diligence to deliver the Vessel not later than the date indicated in Box 15. Unless otherwise agreed in Box 18, the Owners shall give the Charterers not less than thirty (30) running days’ preliminary and not less than fourteen (14) running days’ definite notice of the date on which the Vessel is expected to be ready for delivery.

The Owners shall keep the Charterers closely advised of possible changes in the Vessel’s position.

5. Cancelling See also Clause 32

(not applicable when Part III applies, as indicated in Box 37)

~~(a) Should the Vessel not be delivered latest by the cancelling date indicated in Box 15, the Charterers shall have the option of cancelling this Charter by giving the Owners notice of cancellation within thirty~~

~~are in position to state reasonable certainly the day on which the Vessel should be ready, give notice thereof to the Charterers asking whether they will exercise their option of cancelling, and the option must then be declared within one hundred and sixty eight (168) running hours of the receipt by the Charterers of such notice or within thirty six (36) running hours after the cancelling date, whichever is the earlier. If the Charterers do not then exercise their option of cancelling, the seventh day after the readiness date stated in the Owners’ notice shall be substituted for the cancelling date indicated in Box 15 for the purpose of this Clause 5.~~

~~(c) Cancellation under this Clause 5 shall be without prejudice to any claim the Charterers may otherwise have on the Owners under this Charter.~~

6. Trading Restrictions

The Vessel shall be employed in lawful trades for the carriage of suitable lawful merchandise within the trading limits indicated in Box 20.

The Charterers undertake not to employ the Vessel or suffer the Vessel to be employed otherwise than in conformity with the terms of the contracts of insurance (including any warranties expressed or implied therein) without first obtaining the consent of the insurers to such employment and complying with such requirements as to extra premium or otherwise as the insurers may prescribe.

The Charterers also undertake not to employ the Vessel or suffer her employment in any trade or business which is forbidden by the law of any country to which the Vessel may sail or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render her liable to condemnation, destruction, seizure or confiscation.

Notwithstanding any other provisions contained in this Charter it is agreed that nuclear fuels or radioactive products or waste are specifically excluded from the cargo permitted to be loaded or carried under this Charter, **with the exception of telecommunications equipment, cable, repeaters or similar equipment.**

This exclusion does not apply to radio-isotopes used or intended to be used for any industrial, commercial, agricultural, medical or scientific purposes provided the Owners’ prior approval has been obtained to loading thereof.

7. Surveys on Delivery and Redelivery See Clauses 35 and 49

(not applicable when Part III applies, as indicated in Box 37)

The Owners and Charterers shall each appoint Surveyors for the purpose of determining and agreeing in writing the condition of the Vessel at the time of delivery and redelivery hereunder. The Owners shall bear all expenses of the On-hire Survey including loss of time, if any, and the Charterers shall bear all expenses of the Off-hire Survey including loss of time, if any, at the daily equivalent to the rate of hire or pro-rata thereof.

8. Inspection

The Owners shall have the right at any time after giving reasonable notice to the Charterers, **and without interfering with the operation of the Vessel**, to inspect or survey the Vessel or instruct a duly authorised surveyor to carry out such survey on their behalf:-

(a) to ascertain the condition of the Vessel and satisfy themselves that the Vessel is being properly repaired and maintained. The costs and fees for such inspection or survey shall be paid by the Owners unless the Vessel is found to require repairs or maintenance in order to achieve the condition so provided;

(b) in dry-dock if the Charterers have not dry-docked Her in accordance with Clause 10(g). The costs and fees for such inspection or survey shall be paid by the Charterers; and

~~six (36) running hours after the cancelling date stated in Box 15, failing which this Charter shall remain in full force and effect.~~

~~(b) If it appears that the Vessel will be delayed beyond the canceling date, the Owners may, as soon as they~~

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PART II
“BARECON 2001” Standard Bareboat Charter

(c) for any other commercial reason they consider necessary (provided it does not unduly interfere with the commercial operation of the Vessel). The costs and fees for such inspection and survey shall be paid by the Owners.

All time used in respect of inspection, survey or repairs shall be for the Charterers' account and form part of the Charter Period.

The Charterers shall also permit the Owners to inspect the Vessel's log books whenever requested and shall whenever required by the Owners furnish them with full information regarding any casualties or other accidents or damage to the Vessel.

9. Inventories, Oil and Stores See MoA Clause 7

A complete inventory of the Vessel's entire equipment, outfit including spare parts, appliances ~~and of all consumable stores on board the Vessel shall be made by the Charterers in conjunction with the Owners on Delivery and again on redelivery of the Vessel. The Charterers and the Owners, respectively, shall at the time of delivery and redelivery take over and pay for all bunkers, lubricating oil, unbroached provisions, paints, ropes and other consumable stores (excluding spare parts) in the said Vessel at the then current market prices at the ports of delivery and redelivery, respectively. The Charterers shall ensure that all spare parts listed in the inventory and used during the Charter Period are replaced at their expense prior to redelivery of the Vessel.~~

10. Maintenance and Operation

(a)(i) Maintenance and Repairs - During the Charter Period the Vessel shall be in the full possession and at the absolute disposal for all purposes of the Charterers and under their complete control in every respect. The Charterers shall maintain the Vessel, her machinery, boilers, appurtenances and spare parts in a good state of repair, in efficient operating condition and in accordance with good commercial maintenance practice and, ~~except as provided for in Clause 14(i), if applicable,~~ at their own expense they shall at all times keep the Vessel's Class fully up to date with the Classification Society indicated in Box 10 and maintain all other necessary certificates in force at all times.

(ii) New Class and Other Safety Requirements - In the event of any improvement, structural changes or new equipment becoming necessary for the continued operation of the Vessel by reason of new class requirements or by compulsory legislation **then the cost of such repairs shall be for the account of the Charterers.**

~~costing (excluding the Charterers' loss of time) more than the percentage stated in Box 23, or if Box 23 is left blank, 5 per cent. of the Vessel's insurance value as stated in Box 29, then the extent, if any, to which the rate of hire shall be varied and the ratio in which the cost of compliance shall be shared between the parties concerned in order to achieve a reasonable distribution thereof as between the Owners and the Charterers having regard, inter alia, to the length of the period remaining under this Charter shall, in the absence of agreement, be referred to the dispute resolution method agreed in Clause 30.~~

(iii) Financial Security - The Charterers shall maintain financial security or responsibility in respect of third party liabilities as required by any government, including federal, state or municipal or other division or authority thereof, to enable the Vessel, without penalty or charge, lawfully to enter, remain at, or leave any port, place, territorial or contiguous waters of any country, state or municipality in

performance of this Charter without any delay. This obligation shall apply whether or not such requirements have been lawfully imposed by such government or division or authority thereof.

The Charterers shall make and maintain all arrangements by bond or otherwise as may be necessary to satisfy such requirements at the Charterers' sole expense and the Charterers shall indemnify the Owners against all consequences whatsoever (including loss of time) for any failure or inability to do so, **except those arising from the Owners, their representatives and/or agents.**

(b) Operation of the Vessel - The Charterers shall at their own expense and by their own procurement man, victual, navigate, operate, supply, fuel and, whenever required, repair the Vessel during the Charter Period and they shall pay all charges and expenses of every kind and nature whatsoever incidental to their use and operation of the Vessel under this Charter, including annual flag State fees and any foreign general municipality and/or state taxes. The Master, officers and crew of the Vessel shall be the servants of the Charterers for all purposes whatsoever, ~~even if for any reason appointed by the Owners.~~

Charterers shall comply with the regulations regarding officers and crew in force in the country of the Vessel's flag or any other applicable law.

(c) The Charterers shall keep the Owners ~~and the mortgagee(s)~~ advised of the ~~intended employment~~, planned dry-docking and major repairs of the Vessel, as reasonably required.

(d) Flag and Name of Vessel - During the Charter Period, the Charterers shall have the liberty to paint the Vessel in their own colours, install and display their funnel insignia and fly their own house flag. The Charterers shall also have the liberty, with the Owners' consent, which shall not be unreasonably withheld, to change the flag and/or the name of the Vessel during the Charter Period. ~~Painting and re-painting, instalment and re-instalment, registration and re-registration, if required by the Owners, shall be at the Charterers' expense and time.~~

(e) Changes to the Vessel - Subject to Clause 10(a)(ii), the Charterers shall make no structural changes in the Vessel or changes in the machinery, boilers, appurtenances or spare parts thereof without in each instance first securing the Owners' approval thereof, **such approval not to be unreasonably withheld.** If the Owners so agree, the Charterers shall, if the Owners so require, restore the Vessel to its former condition before the termination of this Charter, **unless before the termination of this Charter, the Charterer exercises its option under Clause 47, in which case reinstatement of the Vessel is at the sole discretion of the Charterers.**

(f) Use of the Vessel's Outfit, Equipment and Appliances - The Charterers shall have the use of all outfit, equipment, and appliances on board the Vessel at the time of delivery, **and shall maintain the same in good order and condition as on delivery** provided the same or their substantial equivalent shall be returned to the Owners on redelivery in the same good order and condition as when received, ordinary wear and tear excepted **save, for those items specifically excluded from the sale as illustrated in appendix 1 of the Memorandum of Agreement.** The Charterers shall from time to time during the Charter Period replace such items of equipment as shall be so damaged or worn as to be unfit for use. The Charterers are to procure that all repairs to or replacement of any damaged, worn or lost parts or equipment be effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of the

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Vessel. The Charterers have the right to fit additional equipment at their expense and risk but the Charterers shall remove such equipment at the end of the period if requested by the Owners. Any equipment including radio equipment on hire on the Vessel at time of delivery shall be kept and maintained by the Charterers and the Charterers shall assume the obligations and liabilities of the Owners under any lease contracts in connection therewith and shall reimburse the Owners for all expenses incurred in connection therewith, also for any new equipment required in order to comply with radio regulations.

(g) Periodical Dry-Docking - The Charterers shall dry-dock the Vessel and clean and paint her underwater parts whenever the same may be necessary, but not less than once during the period stated in Box 19 or, if Box 19 has been left blank, every sixty (60) calendar months after delivery or such other period as may be required by the Classification Society or flag State.

11. Hire

(a) The Charterers shall pay hire due to the Owners punctually in accordance with the terms of this Charter in respect of which time shall be of the essence.

(b) The Charterers shall pay to the Owners for the hire of the Vessel a ~~lump sum in the amount~~ **the rate** indicated in Box 22 which shall be payable ~~not later than every thirty (30) running days~~ **monthly** in advance, the first **hire payment** ~~lump sum~~ being payable on the date and hour of the Vessel's delivery to the Charterers, **and the hire for the subsequent months being payable monthly thereafter**. Hire shall be paid continuously throughout the Charter Period.

(c) Payment of hire shall be made in cash without discount in the currency and in the manner indicated in Box 25 and at the place mentioned in Box 26.

(d) Final payment of hire, if for a period of less than thirty (30) running days, shall be calculated proportionally according to the number of days and hours remaining before redelivery and advance payment to be effected accordingly.

~~**(e)** Should the Vessel be lost or missing, hire shall cease from the date and time when she was lost or last heard of. The date upon which the Vessel is to be treated as lost or missing shall be ten (10) days after the Vessel was last reported or when the Vessel is posted as missing by Lloyd's, whichever occurs first. Any hire paid in advance to be adjusted accordingly.~~

(f) Any delay in payment of hire shall entitle the Owners to interest at the rate per annum as agreed in Box 24. If Box 24 has not been filled in, the three months Interbank offered rate in London (LIBOR or its successor) for the currency stated in Box 25, as quoted by the British Bankers' Association (BBA) on the date when the hire fell due, increased by 2 per cent., shall apply.

(g) Payment of interest due under sub-clause 11(f) shall be made within seven (7) running days of the date of the Owners' invoice specifying the amount payable or, in the absence of an invoice, at the time of the next hire payment date.

12. Mortgage

(only to apply if Box 28 has been appropriately filled in)

***) (a)** ~~The Owner warrant that they have not affected any mortgage(s) of the Vessel and that they shall not effect any mortgage(s) without the prior consent of the Charterers, which shall not be unreasonably withheld.~~

***) (b)** The Vessel chartered under this Charter is financed by a mortgage according to the Financial Instrument. The Charterers undertake to comply, and provide such information and documents to enable the Owners to comply, with all such instructions or directions in regard to the employment, insurances, operation, repairs and

maintenance of the Vessel as laid down in the Financial Instrument or as may be directed from time to time during the currency of the Charter by the mortgagee(s) in conformity with the Financial Instrument. The Charterers confirm that, for this purpose, they have acquainted themselves with all relevant terms, conditions and provisions of the Financial Instrument and agree to acknowledge this in writing in any form that may be required by the mortgagee(s). The Owners warrant that they have not effected any mortgage(s) other than stated in Box 28 and that they shall not agree to any amendment of the mortgage(s) referred to in Box 28 or effect any other mortgage(s) without the prior consent of the Charterers, which shall not be unreasonably withheld. **The Owners shall provide prior to the Charterparty signature, and thereafter from time to time, full details of the Financial Instrument upon the Charterers request.**

***)** *(Optional, Clauses 12(a) and 12(b) are alternatives; indicate alternative agreed in Box 28).*

13. Insurance and Repairs

(a) During the Charter Period the Vessel shall be kept insured by the Charterers at their expense against hull and machinery, war and Protection and Indemnity risks (and any risks against which it is compulsory to insure for the operation of the Vessel, including maintaining financial security in accordance with sub-clause 10(a)(iii)) in such form as the Owners shall in writing approve, which approval shall not be un-reasonably withheld. Such insurances shall be arranged by the Charterers to protect the interests of both the Owners and the Charterers and the mortgagee(s) (if any), and The Charterers shall be at liberty to protect under such insurances the interests of any managers they may appoint. Insurance policies shall cover the Owners and the Charterers according to their respective interests. Subject to the provisions of the Financial Instrument, if any, and the approval of the Owners and the insurers, the Charterers shall effect all insured repairs and shall undertake settlement and reimbursement from the insurers of all costs in connection with such repairs as well as insured charges, expenses and liabilities to the extent of coverage under the insurances herein provided for.

The Charterers also to remain responsible for and to effect repairs and settlement of costs and expenses incurred thereby in respect of all other repairs not covered by the insurances and/or not exceeding any possible franchise(s) or deductibles provided for in the insurances.

All time used for repairs under the provisions of sub-clause 13(a) and for repairs of latent defects according to Clause 3(c) above, including any deviation, shall be for the Charterers' account.

(b) If the conditions of the above insurances permit additional insurance to be placed by the parties, such cover shall be limited to the amount for each party set out in Box 30 and Box 31, respectively. ~~The Owners or the Charterers as the case may be shall immediately furnish the other party with particulars of any additional insurance effected, including copies of any cover notes or policies and the written consent of the insurers of any such required insurance in any case where the consent of such insurers is necessary.~~

(c) The Charterers shall upon the request of the Owners, provide information and promptly execute such documents as may be required to enable the Owners to comply with the insurance provisions of the Financial Instrument.

(d) Subject to the provisions of the Financial Instrument, if any, should the Vessel become an actual, constructive, compromised or agreed total loss under the insurances required under sub-clause 13(a), all insurance payments **up to the amount shown in Box 29**

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for such loss shall be paid to the Owners who shall distribute the moneys between the Owners and the Charterers according to their respective interests. The Charterers undertake to notify the Owners and the mortgagee(s), if any, of any occurrences in consequence of which the Vessel is likely to become a total loss as defined in this Clause.

(e) The Owners shall upon the request of the Charterers, promptly execute such documents as may be required to enable the Charterers to abandon the Vessel to insurers and claim a constructive total loss.

(f) For the purpose of insurance coverage against hull and machinery and war risks under the provisions of sub-clause 13(a), the value of the Vessel is the sum indicated in Box 29.

14. Insurance, Repairs and Classification

(Optional, only to apply if expressly agreed and stated in Box 29, in which event Clause 13 shall be considered deleted).

(a) During the Charter Period the Vessel shall be kept insured by the Owners at their expense against hull and machinery and war risks under the form of policy or policies attached hereto. The Owners and/or insurers shall not have any right of recovery or subrogation against the Charterers on account of loss of or any damage to the Vessel or her machinery or appurtenances covered by such insurance, or on account of payments made to discharge claims against or liabilities of the Vessel or the Owners covered by such insurance. Insurance policies shall cover the Owners and the Charterers according to their respective interests.

(b) During the Charter Period the Vessel shall be kept insured by the Charterers at their expense against Protection and Indemnity risks (and any risks against which it is compulsory to insure for the operation of the Vessel, including maintaining financial security in accordance with sub-clause 10(a)(iii)) in such form as the Owner shall in writing approve which approval shall not be unreasonably withheld.

(c) In the event that any act or negligence of the Charterers shall vitiate any of the insurance herein provided, the Charterers shall pay to the Owners all losses and indemnify the Owners against all claims and demands which would otherwise have been covered by such insurance.

(d) The Charterers shall, subject to the approval of the Owners or Owners' Underwriters, effect all insured repairs, and the Charterers shall undertake settlement of all miscellaneous expenses in connection with such repairs as well as all insured charges, expenses and liabilities, to the extent of coverage under the insurances provided for under the provisions of sub-clause 14(a). The Charterers to be secured reimbursement through the Owners' Underwriters for such expenditures upon presentation of accounts.

(e) The Charterers to remain responsible for and to effect repairs and settlement of costs and expenses covered by the insurances and/or not exceeding any possible franchise(s) or deductibles provided for in the insurances.

(f) All time used for repairs under the provisions of sub-clauses 14(d) and 14(e) and for repairs of latent defects according to Clause 3 above, including any deviation, shall be for the Charterers' account and shall form part of the Charter Period.

The Owners shall not be responsible for any expenses as are incident to the use and operation of the Vessel for such time as may be required to make such repairs.

(g) If the conditions of the above insurances permit additional insurance to be placed by the parties such cover shall be limited to the amount for each party set out in Box 30 and Box 31, respectively. The Owners or the Charterers as the case may be shall immediately

furnish the other party with particulars of any additional insurance effected, including copies of any cover notes or policies and the written consent of the insurers of any such required insurance in any case where the consent of such insurers is necessary.

(h) Should the Vessel become an actual, constructive, compromised or agreed total loss under the insurances required under sub-clause 14(a), all insurance payments for such loss shall be paid to the Owners, who shall distribute the moneys between themselves and the Charterers according to their respective interests.

(i) If the Vessel becomes an actual, constructive, compromised or agreed total loss under the insurances arranged by the Owners in accordance with sub-clause 14(a), this Charter shall terminate as of the date of such loss.

(j) The Charterers shall upon the request of the Owners, promptly execute such documents as may be required to enable the Owners to abandon the Vessel to the insurers and claim a constructive total loss.

(k) For the purpose of insurance coverage against hull and machinery and war risks under the provisions of sub-clause 14(a), the value of the Vessel is the sum indicated in Box 29.

(l) Notwithstanding anything contained in sub-clause 10(a), it is agreed that under the provisions of Clause 14, if applicable, the Owners shall keep the Vessel's Class fully up to date with the Classification Society indicated in Box 10 and maintain all other necessary certificates in force at all times.

15. Redelivery

At the expiration of the Charter Period the Vessel shall be redelivered by the Charterers to the Owners at a safe and ice-free port or place in **Charterers' option** as indicated in Box 16, in such ready safe berth as the Owners may direct. The Charterers shall give the Owners not less than thirty (30) running days' preliminary notice of expected date, range of ports of redelivery or port or place of redelivery and not less than fourteen (14) running days' definite notice of expected date and port or place of redelivery. Any changes thereafter in the Vessel's position shall be notified immediately to the Owners.

The Charterers warrant that they will not permit the Vessel to commence a voyage (including any preceding ballast voyage) which cannot reasonably be expected to be completed in time to allow redelivery of the Vessel within the Charter Period. Notwithstanding the above, should the Charterers fail to redeliver the Vessel within the Charter Period, the Charterers shall pay the daily equivalent to the rate of hire stated in Box 22 plus 10 per cent. or to the market rate, whichever is the higher, for the number of days by which the Charter Period is exceeded. All other terms, conditions and provisions of this Charter shall continue to apply.

Subject to the provisions of Clause 10, the Vessel shall be redelivered to the Owners in the same or as good structure, state, condition and class as that in which she was delivered, fair wear and tear not affecting class excepted.

The Vessel upon redelivery shall be **free of all recommendations and have her normal docking and** survey cycles up to date and trading and class certificates valid for at least the number of months agreed in Box 17.

16. Non-Lien

The Charterers will not suffer, nor permit to be continued, any lien or encumbrance incurred by them or their agents, which might have priority over the title and interest of the Owners in the Vessel. The Charterers further agree to fasten to the Vessel in a conspicuous place and to keep so fastened during the Charter Period a notice reading as follows:

“This Vessel is the property of (name of Owners). It is under charter to (name of Charterers) and by the terms of the Charter Party neither the Charterers nor the Master have any right, power or authority to create, incur or permit to be imposed on the Vessel any lien whatsoever.”

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17. Indemnity

(a) The Charterers shall indemnify the Owners against any loss, damage or expense incurred by the Owners arising out of or in relation to the operation of the Vessel by the Charterers, and against any lien of whatsoever nature arising out of an event occurring during the Charter Period. If the Vessel be arrested or otherwise detained by reason of claims or liens arising out of her operation hereunder by the Charterers, the Charterers shall at their own expense take all reasonable steps to secure that within a reasonable time the Vessel is released, including the provision of bail.

Without prejudice to the generality of the foregoing, the Charterers agree to indemnify the Owners against all consequences or liabilities arising from the Master, officers or agents signing Bills of Lading or other documents.

(b) If the Vessel be arrested or otherwise detained by reason of a claim or claims against the Owners, the Owners shall at their own expense take all reasonable steps to secure that within a reasonable time the Vessel is released, including the provision of bail.

In such circumstances the Owners shall indemnify the Charterers against any loss, damage or expense incurred by the Charterers (including hire paid under this Charter) as a direct consequence of such arrest or detention.

18. Lien

The Owners to have a lien upon all cargoes **directly owned by Charterers**, sub-hires and sub-freights belonging or due to the Charterers or any sub-charterers and any Bill of Lading freight for all claims under this Charter, and the Charterers to have a lien on the Vessel for all moneys paid in advance and not earned.

19. Salvage

All salvage and towage performed by the Vessel shall be for the Charterers' benefit and the cost of repairing damage occasioned thereby shall be borne by the Charterers.

20. Wreck Removal

In the event of the Vessel becoming a wreck or obstruction to navigation the Charterers shall indemnify the Owners against any sums whatsoever which the Owners shall become liable to pay and shall pay in consequence of the Vessel becoming a wreck or obstruction to navigation. **In the event the sums paid by the Charterers under this Clause are covered by the insurances of the Vessel and payable by the insurers to the Owners, same shall be reimbursed from the Owners to the Charterers upon receipt of the relevant insurance proceeds.**

21. General Average

The Owners shall not contribute to General Average.

22. Assignment, Sub-Charter and Sale

(a) The Charterers shall not assign this Charter nor sub-charter the Vessel on a bareboat basis except with the prior consent in writing of the Owners, which shall not be unreasonably withheld, and subject to such terms and conditions as the Owners shall approve.

~~(b) The Owners shall not sell the Vessel during the currency of this Charter except with the prior written consent of the Charterers, which shall not be unreasonably withheld, and subject to the buyer accepting an~~

assignment of this Charter.

23. Contracts of Carriage

~~* (a) The Charterers are to procure that all documents issued during the Charter Period evidencing the terms and conditions agreed in respect of carriage of goods shall contain a paramount clause incorporating any legislation relating to carrier's liability for cargo compulsorily applicable in the trade; if no such legislation exists, the documents shall incorporate the Hague Visby Rules. The documents shall also contain the New Jason Clause and the Both to Blame Collision Clause.~~

~~* (b) The Charterers are to procure that all passenger tickets issued during the Charter Period for the carriage of passengers and their luggage under this Charter shall contain a paramount clause incorporating any legislation relating to carrier's liability for passengers and their luggage compulsorily applicable in the trade; if no such legislation exists, the passenger tickets shall incorporate the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, and any protocol thereto.~~

~~* Delete as applicable.~~

24. Bank Guarantee See Clause 33

(Optional, only to apply if Box 27 filled in)

~~The Charterers undertake to furnish, before delivery of the Vessel, a first class bank guarantee or bond in the sum and at the place as indicated in Box 27 as guarantee for full performance of their obligations under this Charter.~~

25. Requisition/Acquisition

(a) In the event of the Requisition for Hire of the Vessel by any governmental or other competent authority (hereinafter referred to as "Requisition for Hire") irrespective of the date during the Charter Period when "Requisition for Hire" may occur and irrespective of the length thereof and whether or not it be for an indefinite or a limited period of time, and irrespective of whether it may or will remain in force for the remainder of the Charter Period, this Charter shall not be deemed thereby or thereupon to be frustrated or otherwise terminated and the Charterers shall continue to pay the stipulated hire in the manner provided by this Charter until the time when the Charter would have terminated pursuant to any of the provisions hereof always provided however that in the event of "Requisition for Hire" any Requisition Hire or compensation received or receivable by the Owners shall be payable to the Charterers during the remainder of the Charter Period or the period of the "Requisition for Hire" whichever be the shorter.

(b) In the event of the Owners being deprived of their ownership in the Vessel by any Compulsory Acquisition of the Vessel or requisition for title by any governmental or other competent authority (hereinafter referred to as "Compulsory Acquisition"), then, irrespective of the date during the Charter Period when "Compulsory Acquisition" may occur, this Charter shall be deemed terminated as of the date of such "Compulsory Acquisition". In such event Charter Hire to be considered as earned and to be paid up to the date and time of such "Compulsory Acquisition".

26. War

(a) For the purpose of this Clause, the words "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or

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political group, or the Government of any state whatsoever, which may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.

(b) The Vessel, unless the written consent of the Owners be first obtained, shall not continue to or go through any port, place, area or zone (whether of land or sea), or any waterway or canal, where it reasonably appears that the Vessel, her cargo, crew or other persons on board the Vessel, in the reasonable judgement of the Owners, may be, or are likely to be, exposed to War Risks. Should the Vessel be within any such place as aforesaid, which only becomes dangerous, or is likely to be or to become dangerous, after her entry into it, the Owners shall have the right to require the Vessel to leave such area.

(c) The Vessel shall not load contraband cargo, or to pass through any blockade, whether such blockade be imposed on all vessels, or is imposed selectively in any way whatsoever against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever, or to proceed to an area where she shall be subject, or is likely to be subject to a belligerent's right of search and/or confiscation.

~~**(d)** If the insurers of the war risks insurance, when Clause 14 is applicable, should require payment of premiums and/or calls because, pursuant to the Charterers' orders, the Vessel is within, or is due to enter and remain within, any area or areas which are specified by such insurers as being subject to additional premiums because of War Risks, then such premiums and/or calls shall be reimbursed by the Charterers to the Owners at the same time as the next payment of hire is due.~~

(e) The Charterers shall have the liberty:

- (i)** to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery, or in any other way whatsoever, which are given by the Government of the Nation under whose flag the Vessel sails, or any other Government, body or group whatsoever acting with the power to compel compliance with their orders or directions;
- (ii)** to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;
- (iii)** to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement.

(f) In the event of outbreak of war (whether there be a declaration of war or not) (i) between any two or more of the following countries: the United States of America; Russia; the United Kingdom; France; and the People's Republic of China, (ii) between any two or more of the countries stated in Box 36, both the Owners and the Charterers shall have the right to cancel this Charter, whereupon the Charterers shall redeliver the Vessel to the Owners in accordance with Clause 15, if the Vessel has cargo on board after discharge thereof at destination, or if debarred under this Clause from reaching or entering it at a near, open and safe port as directed by the Owners, or if the Vessel has no cargo on board, at the port at which the Vessel then is or if at sea at a near, open and safe port as directed by the Owners. In all cases hire shall continue to be paid in accordance with Clause 11 and except as aforesaid all other provisions of this Charter shall apply until

redelivery.

27. Commission

The Owners to pay a commission at the rate indicated in Box 33 to the Brokers named in Box 33 on any hire paid under the Charter. If no rate is indicated in Box 33, the commission to be paid by the Owners shall cover the actual expenses of the Brokers and a reasonable fee for their work.

If the full hire is not paid owing to breach of the Charter by either of the parties the party liable therefor shall indemnify the Brokers against their loss of commission. Should the parties agree to cancel the Charter, the Owners shall indemnify the Brokers against any loss of commission but in such case the commission shall not exceed the brokerage on one year's hire.

28. Termination

(a) Charterers' Default

The Owners shall be entitled to withdraw the Vessel from the service of the Charterers and terminate the Charter with immediate effect by written notice to the Charterers if:

- (i)** the Charterers fail to pay hire in accordance with Clause 11. However, where there is a failure to make punctual payment of hire due to oversight, negligence, errors or omissions on the part of the Charterers or their bankers, the Owners shall give the Charterers written notice of the number of clear banking days stated in Box 34 (as recognised at the agreed place of payment) in which to rectify the failure, and when so rectified within such number of days following the Owners' notice, the payment shall stand as regular and punctual. Failure by the Charterers to pay hire within the number of days stated in Box 34 of their receiving the Owners' notice as provided herein, shall entitle the Owners to withdraw the Vessel from the service of the Charterers and terminate the Charter without further notice;
- (ii)** the Charterers fail to comply with the requirements of:
 - (1) Clause 6** (Trading Restrictions)
 - (2) Clause 13(a)** (Insurance and Repairs) **and Clause 48**
provided that the Owners shall have the option, by written notice to the Charterers, to give the Charterers a specified number of days grace within which to rectify the failure without prejudice to the Owners' right to withdraw and terminate under this Clause if the Charterers fail to comply with such notice;
- (iii)** the Charterers fail to rectify any failure to comply with the requirements of sub-clause 10(a)(i) (Maintenance and Repairs) as soon as practically possible after the Owners have requested them in writing so to do and in any event so that the Vessel's insurance cover is not prejudiced.

(b) Owners' Default

If the Owners shall by any act or omission be in breach of their obligations under this Charter to the extent that the Charterers are deprived of the use of the Vessel and such breach continues for a period of fourteen (14) running days after written notice thereof has been given by the Charterers to the Owners, the Charterers shall be entitled to terminate this Charter with immediate effect by written notice to the Owners.

(c) Loss of Vessel See also Clause 38

This Charter shall be deemed to be terminated if the Vessel becomes a total loss or is declared as a constructive or compromised or arranged total loss. For the purpose of this sub-clause, the Vessel shall not be deemed to be lost unless she has either become an actual total loss or agreement has been reached **between the Owners and the Charterers and** with her underwriters in respect of her constructive, compromised or arranged total loss or if such agreement

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with her underwriters is not reached it is adjudged by a competent tribunal that a constructive loss of the Vessel has occurred.

(d) Either party shall be entitled to terminate this Charter with immediate effect by written notice to the other party in the event of an order being made **hereafter** or resolution passed for the winding up, dissolution, liquidation or bankruptcy of the other party ~~(otherwise than for the purpose of reconstruction or amalgamation)~~ or if **hereafter** a receiver is appointed, or if it suspends payment, ceases to carry on business or **hereafter** makes any special arrangement or composition with its creditors.

(e) The termination of this Charter shall be without prejudice to all rights accrued due between the parties prior to the date of termination and to any claim that either party might have.

29. Repossession

In the event of the termination of this Charter in accordance with the applicable provisions of Clause 28, the Owners shall have the right to repossess the Vessel from the Charterers at her current or next port of call, or at a port or place convenient to them without hindrance or interference by the Charterers, courts or local authorities. Pending physical repossession of the Vessel in accordance with this Clause 29, the Charterers shall hold the Vessel as gratuitous bailee only to the Owners. The Owners shall arrange for an authorised representative to board the Vessel as soon as reasonably practicable following the termination of the Charter. The Vessel shall be deemed to be repossessed by the Owners from the Charterers upon the boarding of the Vessel by the Owners' representative. All arrangements and expenses relating to the settling of wages, disembarkation and repatriation of the Charterers' Master, officers and crew shall be the sole responsibility of the Charterers.

30. Dispute Resolution

*) (a) This Contract shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Contract shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.

The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.

The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement.

Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as

the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

*) (b) ~~This Contract shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Contract shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purpose of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.~~

~~In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.~~

*) (c) ~~This Contract shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Contract shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.~~

(d) Notwithstanding (a), (b) or (c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Contract.

In the case of a dispute in respect of which arbitration has been commenced under (a), (b) or (c) above, the following shall apply:-

- (i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.
- (ii) The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.
- (iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.
- (iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.
- (v) Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.
- (vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.
- (vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.

document shall apply. BIMCO assumes no responsibility for any loss, damage or expense caused as a result of discrepancies between the original BIMCO approved document and this computer generated document.

PART II
“BARECON 2001” Standard Bareboat Charter

(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)

~~(e) If Box 35 in Part I is not appropriately filled in, sub-clause 30(a) of this Clause shall apply. Sub-clause 30(d) shall apply in all cases.~~

*) Sub-clauses 30(a), 30(b) and 30(c) are alternatives; indicate alternative agreed in Box 35.

31. Notices

(a) Any notice to be given by either party to the other party shall be in writing and may be sent by fax, telex, registered or recorded mail or by personal service.

(b) The address of the Parties for service of such communication shall be as stated in Boxes 3 and 4 respectively.

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PART III
PROVISIONS TO APPLY FOR NEWBUILDING VESSELS ONLY
(Optional, only to apply if expressly agreed and stated in Box 37)

1. Specifications and Building Contract

(a) The Vessel shall be constructed in accordance with the Building Contract (hereafter called “the Building Contract”) as annexed to this Charter, made between the Builders and the Owners and in accordance with the specifications and plans annexed thereto, such Building Contract, specifications and plans having been counter signed as approved by the Charterers.

(b) No change shall be made in the Building Contract or in the specifications or plans of the Vessel as approved by the Charterers as aforesaid, without the Charterers’ consent.

(c) The Charterers shall have the right to send their representative to the Builders’ Yard to inspect the Vessel during the course of her construction to satisfy themselves that construction is in accordance with such approved specifications and plans as referred to under sub-clause (a) of this Clause.

(d) The Vessel shall be built in accordance with the Building Contract and shall be of the description set out therein. Subject to the provisions of sub-clause 2(c)(ii) hereunder, the Charterers shall be bound to accept the Vessel from the Owners, completed and constructed in accordance with the Building Contract, on the date of delivery by the Builders. The Charterers undertake that having accepted the Vessel they will not thereafter raise any claims against the Owners in respect of the Vessel’s performance or specification or defects, if any.

Nevertheless, in respect of any repairs, replacements or defects which appear within the first 12 months from delivery by the Builders, the Owners shall endeavour to compel the Builders to repair, replace or remedy any defects or to recover from the Builders any expenditure incurred in carrying out such repairs, replacements or remedies.

However, the Owners’ liability to the Charterers shall be limited to the extent the Owners have a valid claim against the Builders under the guarantee clause of the Building Contract (a copy whereof has been supplied to the Charterers). The Charterers shall be bound to accept such sums as the Owners are reasonably able to recover under this Clause and shall make no further claim on the Owners for the difference between the amount(s) so recovered and the actual expenditure on repairs, replacement or remedying defects or for any loss of time incurred.

Any liquidated damages for physical defects or deficiencies shall accrue to the account of the party stated in Box 41(a) or if not filled in shall be shared equally between the parties. The costs of pursuing a claim or claims against the Builders under this Clause (including any liability to the Builders) shall be borne by the party stated in Box 41(b) or if not filled in shall be shared equally between the parties.

2. Time and Place of Delivery

(a) Subject to the Vessel having completed her acceptance trials including trials of cargo equipment in accordance with the Building Contract and specifications to the satisfaction of the Charterers, the Owner shall give and the Charterers shall take delivery of the Vessel afloat when ready for delivery and properly documented at the Builders’ Yard or some other safe and readily accessible dock, wharf or place as may be agreed between the parties hereto and the Builders. Under the Building Contract the Builders have estimated that the Vessel will be ready for delivery to the Owners as therein provided but the delivery date for the purpose of this Charter shall be the date when the Vessel is in fact ready for delivery by the Builders after completion of trials whether that be before or after as indicated in the Building Contract. The Charterers shall not be entitled to refuse acceptance of delivery of the Vessel

and upon and after such acceptance, subject to Clause 1(d), the Charterers shall not be entitled to make any claim against the Owners in respect of any conditions, representations or warranties, whether express or implied, as to the seaworthiness of the Vessel or in respect of delay in delivery.

(b) If for any reason other than a default by the Owners under the Building Contract, the Builders become entitled under that Contract not to deliver the Vessel to the Owners, the Owners shall upon giving to the Charterers written notice of Builders becoming so entitled, be excused from giving delivery of the Vessel to the Charterers and upon receipt of such notice by the Charterers this Charter shall cease to have effect.

(c) If for any reason the Owners become entitled under the Building Contract to reject the Vessel the Owners shall, before exercising such right of rejection, consult the Charterers and thereupon

(i) if the Charterers do not wish to take delivery of the Vessel they shall inform the Owners within seven (7) running days by notice in writing and upon receipt by the Owners of such notice this Charter shall cease to have effect; or

(ii) if the Charterers wish to take delivery of the Vessel they may by notice in writing within seven (7) running days require the Owners to negotiate with the Builders as to the terms on which delivery should be taken and/or refrain from exercising their right to rejection and upon receipt of such notice the Owners shall commence such negotiations and/or take delivery of the Vessel from the Builders and deliver her to the Charterers;

(iii) in no circumstances shall be Charters be entitled to reject the Vessel unless the Owners are able to reject the Vessel from the Builders;

(iv) if this Charter terminates under sub-clause (b) or (c) of this Clause, the Owners shall thereafter not be liable to the Charterers for any claim under or arising out of this Charter or its termination.

(d) Any liquidated damages for delay in delivery under the Building Contract and any costs incurred in pursuing a claim therefor shall accrue to the account of the party stated in Box 41(c) or if not filled in shall be shared equally between the parties.

3. Guarantee Works

If not otherwise agreed, the Owners authorise the Charterers to arrange for the guarantee works to be performed in accordance with the building contract terms, and hire to continue during the period of guarantee works. The Charterers have to advise the Owners about the performance to the extent the Owners may request.

4. Name of Vessel

The name of the Vessel shall be mutually agreed between the Owners and the Charterers and the Vessel shall be painted in the colours, display the funnel insignia and fly the house flag as required by the Charterers.

5. Survey on Redelivery

The Owners and the Charterers shall appoint surveyors for the purpose of determining and agreeing in writing the condition of the Vessel at the time of redelivery.

Without prejudice to Clause 15 (Part II), the Charterers shall bear all survey expenses and all other costs, if any, including the cost of docking and undocking, if required, as well as all repair costs incurred. The Charterers shall also bear all loss of time spent in connection with any docking and undocking as well as repairs, which shall be paid at the rate of hire per day or pro rata.

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PART IV
HIRE/PURCHASE AGREEMENT

(Optional, only to apply if expressly agreed and stated in Box 42)

On expiration of this Charter and provided the Charterers have fulfilled their obligations according to Part I and II as well as Part III, if applicable, it is agreed, that on payment of the final payment of hire as per Clause 11 the Charterers have purchased the Vessel with everything belonging to her and the Vessel is fully paid for.

In the following paragraphs the Owners are referred to as the Sellers and the Charterers as the Buyers.

The Vessel shall be delivered by the Sellers and taken over by the Buyers on expiration of the Charter.

The Sellers guarantee that the Vessel, at the time of delivery, is free from all encumbrances and maritime liens or any debts whatsoever other than those arising from anything done or not done by the Buyers or any existing mortgage agreed not to be paid off by the time of delivery. Should any claims, which have been incurred prior to the time of delivery be made against the Vessel, the Sellers hereby undertake to indemnify the Buyers against all consequences of such claims to the extent it can be proved that the Sellers are responsible for such claims. Any taxes, notarial, consular and other charges and expenses connected with the purchase and registration under Buyers' flag, shall be for Buyers' account. Any taxes, consular and other charges and expenses connected with closing of the Sellers' register, shall be for Sellers' account. In exchange for payment of the last

month's hire instalment the Sellers shall furnish the Buyers with a Bill of Sale duly attested and legalized, together with a certificate setting out the registered encumbrances, if any. On delivery of the Vessel the Sellers shall provide for deletion of the Vessel from the Ship's Register and deliver a certificate of deletion to the Buyers.

The Sellers shall, at the time of delivery, hand to the Buyers all classification certificates (for hull, engines, anchors, chains, etc.), as well as all plans which may be in Sellers' possession.

The Wireless Installation and Nautical Instruments, unless on hire, shall be included in the sale without any extra payment.

The Vessel with everything belonging to her shall be at Sellers' risk and expense until she is delivered to the Buyers, subject to the conditions of this Contract and the Vessel with everything belonging to her shall be delivered and taken over as she is at the time of delivery, after which the Sellers shall have no responsibility for possible faults or deficiencies of any description.

The Buyers undertake to pay for the repatriation of the Master, officers and other personnel if appointed by the Sellers to the port where the Vessel entered the Bareboat Charter as per Clause 3 (Part II) or to pay the equivalent cost for their journey to any other place.

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PART V

PROVISIONS TO APPLY FOR VESSELS REGISTERED IN A BAREBOAT CHARTER REGISTRY

(Optional, only to apply if expressly agreed and stated in Box 43)

1. Definitions

For the purpose of this PART V, the following terms shall have the meanings hereby assigned to them:

~~“The Bareboat Charter Registry” shall mean the registry of the State whose flag the Vessel will fly and in which the Characters are registered as the bareboat charterers during the period of the Bareboat Charter.~~

~~“The Underlying Registry” shall mean the registry of the state in which the Owners of the Vessel are registered as Owners and to which jurisdiction and control of the Vessel will revert upon termination of the Bareboat Charter Registration.~~

~~If the Vessel chartered under this Charter is registered in a Bareboat Charter Registry as stated in Box 44, and if the Owners shall default in the payment of any amounts due under the mortgage(s) specified in Box 28, the Charterers shall, if so required by the mortgagee, direct the Owners to re-register the Vessel in the Underlying Registry as shown in Box 45.~~

~~In the event of the Vessel being deleted from the Bareboat Charter Registry as stated in Box 44, due to a default by the Owners in the payment of any amounts due under the mortgage(s), the Charterers shall have the right to terminate this Charter forthwith and without prejudice to any other claim they may have against the Owners under this Charter.~~

2. Mortgage

The Vessel chartered under this Charter is financed by a mortgage and the provisions of Clause 12(b) (Part II) shall apply.

3. Termination of Charter by Default

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32. Delivery

The Owners, as Buyers, have entered into an agreement to purchase the vessel from Global Marine Systems Limited (the "Sellers") in accordance with the Memorandum of Agreement of even date (the "MOA") in respect of the above captioned Vessel. The Owners' obligations to charter the Vessel to the Charterers hereunder are conditional upon delivery of the Vessel to the Owners under the MOA.

If for any reason whatsoever prior to delivery of the Vessel under the MOA, i) the MOA is cancelled or ii) should Vessel become a Total Loss prior to delivery of the Vessel under the MOA, or iii) if Vessel for any reason whatsoever is not delivered under the MOA, this Charter Party shall be automatically cancelled and considered null and void whereupon neither the Owners nor the Charterers shall have any obligations or claim against the other under this Charter, save that the Owner shall repay any part of the Sellers' Credit relevant for this Vessel as that may have been paid.

It is agreed that delivery under the MoA and the Charter shall take place simultaneously, and, subject to the Vessel being delivered to, and taken over by the Owners pursuant to the MOA, the Charterers shall forthwith be deemed to have taken delivery of the Vessel under this Charter. As the Seller and the Charterer have close contacts with each other, no notice of estimated delivery time or place is required from the Owner under this Charter Party. The date of delivery for the purpose of this Charter shall be the date (the "Delivery Date") when the Vessel is in fact delivered by the Sellers to the Owners pursuant to the MoA, whether that be before or after the scheduled date therefore under the MoA, and the Owners shall be under no responsibility for any delay whatsoever in delivery of the Vessel to the Charterers under this Charter.

Owners' obligation to Charter the Vessel to the Charterers is further conditional upon the first month's charter hire being paid at the time of delivery and on the further conditions set out in Clause 34.

33. Charterers/Sellers Credit

The Charterers as Sellers have extended Owners as Buyers a credit of US\$ 4,750,000 (Four Million, Seven Hundred and Fifty Thousand United States Dollars) (the "Sellers' Credit") and the terms of the Sellers' Credit including, but not limited to, terms as to repayment, are as set out in the Sellers' Credit Agreement between the Charterers as Sellers and the Owners as Buyers of even date herewith.

In case of total loss of the vessel the Owners shall repay the Sellers' Credit in full, provided the payment of insurance proceeds in a sum no less than that stated in Box 29 in respect of the Total Loss is made by the Insurers and received by Owners.

The Sellers' Credit shall serve as security for the performance of Charterers obligations under this Charter Party. In case of cancellation of this Charter due to breach of this Charter by the Charterers, the Sellers' Credit shall be regarded as reimbursed (it being understood by all parties that this forfeiture is by way of minimum damages and not by way of penalty).

In the event of default by the Owners under this Charter, the Sellers' Credit shall be repaid immediately to the Charterers as Sellers, and Owners shall have no claim against the Charterers as Sellers.

As security for the Sellers' Credit, the Charterers as Sellers shall be granted a second or third (as the case may be) mortgage in the Vessel in the draft terms annexed.

34. Conditions for delivery

The obligations of the Owners to charter the Vessel to the Charterers under this Charter are subject to and conditional upon, prior to delivery of the Vessel under this Charter, the Charterers obtaining and presenting to the Owners the following documents:

- (a) original Good Standing Certificate of the Charterers;
- (b) certified copies of the Articles of Association for the Charterers;
- (c) original corporate resolutions of the Charterers approving the Charter;
- (d) original Power of Attorney to the Charterers' representative(s) at Closing, duly notarised, with notary to confirm the identity and the authority of the person signing the document, and legalised or apostilled.
- (e) cover notes or certificates evidencing all insurance policies for the Vessel, showing the name of the Owners and that the interest of the mortgagee has been duly noted;
- (f) a copy of the technical managers Document of Compliance
- (g) ISM and ISPS Certificates including Safety Management Certificate and International Ship Security Certificate
- (h) Secretary's Certificate of incumbency, naming all Directors, Officers and shareholder unless evidenced by other delivery documents.

35. Vessel's condition on delivery

The Vessel shall be delivered under this Charter Party in the same condition and with the same equipment inventory and spare parts as it is delivered under the MOA.

The Owners as Buyers have performed a survey of the Vessel in accordance with the terms of the MOA. The Survey was carried out off Bermuda on 21st/22nd December, 2005 by superintendent Bakke of Dyvi AS. The Owners and the Charterers agree that such survey under the MOA shall constitute an on-hire survey of the Vessel under this Charter Party. The Owners shall provide the Charterers with a copy of the inspection report dated NNNNN (the "**On-Hire Survey Report**") and the Charterers shall counter-sign the report as evidence of their receipt of same.

The Charterers know the vessel's condition at the time of delivery, and expressly agree that the Vessel's condition is acceptable in every respect and in accordance with the provisions of this Charter and notwithstanding any provision of this Charter, the Charterers shall have no claim whatsoever against the Owners under this Charter or otherwise as a result of the Vessel's condition.

The Vessel shall be taken over strictly "as is/where is", and notwithstanding any provisions of this Charter, the Charterers shall have no claim whatsoever against the Owners under this Charter or otherwise as a result of the Vessel's condition. The Charterers acknowledge and agree that the Owners make no condition, term, representation or warranty, express or implied (and whether statutory or otherwise) as to, seaworthiness, merchantability, condition, design, operation, performance, capacity or fitness for use of the Vessel or as to the eligibility of the Vessel for any particular trade or operation or any other condition, term, representation or warranty whatsoever, express or implied, with respect to the Vessel. Delivery of the Vessel to the Charterers shall be conclusive proof that, for the purpose of the obligations and liabilities of the Owners hereunder or in connection herewith, the Vessel is at the time seaworthy, in accordance with the provisions of this Charter and as described in the On-Hire Survey Report, in good working order and repair and without defect or inherent vice whether or not discoverable by the Charterers.

If any latent defect should occur, same to be repaired by the Charterers at their cost and time. The Charterers agree that the Owners shall be under no liability to supply any replacement vessel or any piece or part thereof during any period for which the vessel is unsuitable and shall not be liable to the Charterers or any other person as a result of the Vessel being unusable.

36. Payment of Hire

The obligation to pay hire under this Charter Party is construed to be on "hell and high water" terms. Thus save as provided in Clause 28 (b) and Clause 37 below, the Charterers obligation to pay hire and perform any obligations under this Charter Party shall be absolute and unconditional and shall not be affected by and shall be irrespective of any contingency whatsoever including:

- (a) any right of set-off, counter-claim, withholding or deduction;
- (b) an unavailability of the Vessel for any reason including but not limited to requisition, or any restriction against or interference with the use of the Vessel or any defect in the seaworthiness or satisfactory quality, fitness for any purpose, condition, design or operation of any kind of the Vessel or the eligibility of the Vessel for any particular use or trade or the absence of any permit or other documentation required under the applicable law of any relevant jurisdiction for the chartering, use, operation or location of the Vessel or any damage to the Vessel or any part thereof; and
- (c) any other cause which would have the effect of terminating or in any way affecting any obligation of the Charterers hereunder.

37. Off-hire, set off and payments

- (a) Notwithstanding any provision to the contrary in this Charter, the Vessel shall not at any time be placed off hire except off-hire in relation to a sale covered by Clause 46 (if any), and hire shall continue to be paid by the Charterers in full for the whole and uninterrupted period from delivery until redelivery of the Vessel, or the Charterers obligation to pay hire ceases in accordance with Clause 28 (b) or 38, without any kind of set-off, deduction or counterclaim.
- (b) If the Charterers are required by any authority in any country to make any withholding or deduction from any such payment, or the Owners are required to pay any taxes or dues in any jurisdiction other than Norway, the Charterers shall make such withholding or deduction or pay such tax or due so that the Owners at all times receive and retain until taxed in Norway a net sum equal to the amount which it would have received had no such deduction or withholding been made or such due or tax be required to be made.
- (c) If, under any applicable law, any payment to be made by the Charterers hereunder is made or is recovered in a currency other than the currency in which it is payable pursuant to this Charter then, to the extent that the payment (when converted into the currency of obligation at the rate of exchange on the date of payment) falls short of the amount unpaid under this Charter, the Charterers shall as a separate and independent obligation, fully indemnify the Owners against the amount of such shortfall.

38. Total Loss

- (a) In the event that the Vessel becomes a Total Loss, the Charterers shall be under no obligation to pay hire after the date of such Total Loss provided that:
 - (i) the Vessel is insured in accordance with the terms of this Charter; and
 - (ii) payment of insurance proceeds in respect of the Total Loss is made in a sum no less than that stated in Box 29 and received by the Owners.
- (b) In this Charter "Total Loss" shall mean:
 - (i) an actual, constructive, compromised or agreed total loss of the Vessel; or
 - (ii) a capture, seizure, arrest or confiscation of the Vessel by any government or by persons whether or not acting or purporting to act on behalf of any government unless the Vessel shall be released from such capture, seizure, arrest or detention in accordance with the rules of the UNITED KINGDOM MUTUAL WAR RISKS ASSOCIATION LIMITED.
- (c) In this Charter, a Total Loss shall be deemed to have occurred on:
 - (i) in the case of an actual loss of the Vessel, the date on which it occurred or, if that is unknown, the date when the Vessel was last head of; or
 - (ii) if the case of constructive or compromised total loss of the Vessel, the earliest of the date on which a notice of abandonment is given to the insurers and the date of any compromise, arrangement or agreement made with the Vessel's insurers in which the insurers agree to treat the Vessel as a total loss.

39. Attendance at dry-docking

The Charterers shall give Owners reasonable notice in advance of any dry-docking of the Vessel, and Owners shall be entitled to have a representative and a surveyor attending any such dry-docking at Owners' expense and without interference of the Charterers' operation and/or the Vessel's readiness for navigation.

40. Management

The technical management of the Vessel shall be with the Charterers or such other manager as the Owners may approve during the currency of this Charter. Such approval not to be unreasonably withheld.

41. Assignments

The Owners shall, subject to the Charterers' prior written consent, such consent not to be unreasonably withheld, have the right to assign to any and all mortgagees of the Vessel any and all of the rights, benefits and interest of the Owners in and to this Charter, including but not limited to assignments of earnings and assignment of this Charter.

If the Vessel is on long term (more than 12 months) time charter to others, the Owners will receive assignment of the time charter and the time charter earnings.

42. Boycott

The Charterers shall use their reasonable endeavours to trade the Vessel in such way that she at the time of redelivery not will be exposed to any boycott by major shipping and trading port and/or country.

43. Default

- i) In the event of Charterers default under Clause 36 above and subject to ii) below, or the Charter is terminated by the Owners according to this Charter, the Sellers' Credit shall be forfeited.
- ii) Before the Sellers Credit becomes forfeit the Owners must give the Charterers notice of default and a 5 (five) day grace period to rectify it.
- iii) The Charterers and Owners agree that forfeiture by Charterers of the Sellers' Credit is an agreed minimum compensation for losses that Owners may suffer. The forfeiture of the Sellers' Credit shall, however, not prevent Owners from claiming damages if actual losses and expenses following termination of the Charter exceed the amount of forfeited Sellers' Credit.

44. Spares/bunkers/stores

The Charterers shall not pay for bunkers, lubricating oil, water and unbroached provisions, paints, oil, ropes and other consumable stores in the Vessel on delivery which are the property of the Sellers.

The Owners shall pay for remaining bunkers and lubricating oils being the property of the Charterers at the time of redelivery unless Charterers have declared their Purchase (Call) Option in accordance with Clause 47, in which case the remaining bulkers and lubricating oils at the time of such declaration shall remain the property of the Charterers and no payment from Charterers is applicable.

45. Flag and Name

With the exception of costs incurred as a result of a transfer of the ownership in accordance with Clause 46 below during the Charter Period and the costs of initial registration of the Vessel in the name of the Owners in the United Kingdom Ship Register, which shall be paid by Owners, all costs, taxes and expenses incurred in connection with compliance with requirements from the United Kingdom authorities regarding the Vessel's technical condition and equipment and including any and all annual taxes and fees, shall be borne by the Charterers.

46. Transfer of the Vessel

- (a) Any change in the ownership of the vessel during the Charter Period shall require the Charterers' prior written approval, which shall not be unreasonably withheld, and shall be subject to the Charter remaining in force between the Charterers and the new owners.
- (b) The Charterers agree and undertake to enter into any such usual documents as the Owners shall reasonably require to complete or perfect the transfer of the Vessel (with the benefit and burden of this Charter) pursuant to (a) above, any costs or expenses whatsoever arising in relation thereto to be borne by the Owners.
- (c) The Charterers shall not, in the event of any transfer of the Vessel and this Charter pursuant to the foregoing provisions of this Clause 46, be liable to make any payments hereunder greater than the payments which the Charterers would have been liable to make hereunder in the absence of such transfer. The Owners undertake to indemnify and hold the Charterers harmless in respect of any such claims which may be made against the Charterers directly resulting from such sale.
- (d) The Owners shall remain ultimately responsible for the due fulfilment of the Owners obligations under this Charter Party as if they were the Owners themselves.

47. Charterers' Repurchase Option

Charterers to have the option to purchase the Vessel upon completion of the 12 year fixed period (the "**Purchase Option**"). Such option to be declared latest 9 (nine) months in advance.

The purchase option price to be USD 11.000.000 (USD eleven million 00/100) net (the "**Purchase Option Price**") to Owners. Upon declaring the Purchase Option, the Charterers to pay a 10% deposit as security for fulfilment of their obligations under the Purchase Option. OK

If the Charterers declare the Purchase Option, the parties shall immediately have the market value (the "**Market Value**") determined by three independent shipbrokers to be mutually agreed between the parties.

If the Market Value of the Vessel is higher than the Purchase Option Price, the Charterers shall in addition to the Purchase Option Price pay to the Owners 50% of the difference between the Market Value of the Vessel and the Purchase Option Price.

If the Purchase Option is declared, the Vessel shall be delivered to the Charterers strictly as is where lies otherwise in accordance with NSF93. On delivery, the Seller's Credit to be set off against the Purchase Option Price.

Provided the Purchase Option is not declared at the expiry of the fixed Charter Period but the Charterers declare a 12 month extension of the Charter Period in accordance with Box 21 of this Charter, then the Charterers shall have the right of declaring the Purchase Option, in accordance with this Clause. In such case the Purchase Option shall be declared no later than 9 months prior to the expiry of the relevant 12 months extension period.

For each optional 12 month extension of the Charter Period, the Purchase Option Price to be reduced by USD 2.000.000 (USD two million).

48. Insurances

The Charterers shall at all times keep the Vessel fully insured against such risks, in such amounts, on such terms and with such underwriters as the Owners reasonably may require, including but not limited to Hull & Machinery (at least 80% of the market value), Increased Value, P & I and War Risk. The insured value (except for P & I) shall at least be the higher of (i) the market value of the Vessel and (ii) 120% of USD 25,000,000 for the first year, to be reduced by USD 1,166,666 each year of the Charter Period. If the Charterers and the Owners disagree on the market value, same shall be assessed as the average of two valuations carried out by independent shipbrokers appointed by the Owners and the Charterers, the costs of such valuations to be borne equally by the Charterers and the Owners.

The Charterers hereby undertake and agree to indemnify, protect, defend, assume liability for, save and keep harmless the Owners from and against any and all liabilities whatsoever kind and nature, imposed on, incurred or suffered by, or asserted against the Owners in any way relating to or arising of the insurances of the Vessel or to incidents covered by such insurances.

The Charterers will punctually pay all insurance premiums and calls on the Vessel, timely renew the insurances and procure that annual certificates are delivered to the Owners not later than 10 business days after the required renewal of the above-mentioned insurances, evidencing that the Vessel is insured and that the Mortgagee is noted as the mortgagee in the Vessel's insurance policies and certificates of entry with first priority.

49. Redelivery

The Off-Hire Survey referred to in Clause 7 hereof, shall take place at the port of redelivery at or about the time of redelivery.

- (a) Without prejudice to the provisions of Clause 15 hereof, the Vessel shall on redelivery to the Owners hereunder;
- (i) maintain the class ABS (or any equivalent class which the Vessel may attain pursuant to this Charter), free of conditions of class, relevant port state authorities and qualifications of any kind, and with valid, unextended certificates for not less than six (6) months; and
 - (ii) be redelivered to the Owners together with all such spare parts and other equipment as are listed in the On-Hire Survey report, but always excluding those items identified in Appendix 1 of the MOA of even date. Additional spares and equipment on board, purchased for the purpose of facilitating normal and prudent operation of the Vessel, shall be deemed to be a part of the Vessel on redelivery and shall be taken over by the Owners free of charge;
 - (iii) have had her underwater parts treated with anti-fouling applied in accordance with the manufacturers recommendations, to last for the ensuing period up to the next scheduled dry docking of the Vessel.
- (b) The Owners shall, during a period of thirty (30) days prior to the Redelivery Date, be entitled, at their own risk and expense, to place representatives on board the Vessel for familiarisation purposes, subject to signing of Charterers' standard indemnity letter as annexed hereto.

Without prejudice to the generality of the provisions of Clause 8, any inspection of the Vessel carried out pursuant thereto, may include an under-water inspection of the Vessel provided that the same shall be carried out during such time as she is in port (such inspection not to interfere with or interrupt the trading of the Vessel). Such under-water inspection shall be carried out by a class-approved diver in liaison with a class surveyor at the Owners' time and expense.

50. Representations and Warranties

The Charterers hereby represent and confirm that:

- (a) they have due corporate power and authority to enter into and perform their obligations under this Charter;
- (b) all consents, approvals or public authorisations which may be required in connection with the entering into and performance of their obligations under this Charter have been obtained;
- (c) no event that could lead to a default under this Charter has occurred;
- (d) they are not aware of any fact or circumstances in existence which could adversely affect its liability to perform its obligations under the Charter (except for the current CVA);
- (e) the entry into and performance of this Charter does not and will not during the Charter Period violate in any material respect any agreement, contract or other undertakings to which they are a party of which is binding on them or any of their assets; and
- (f) under the laws of England and Wales in force at the date hereof, they will not be required to make any deduction or withholding from any payment they may make to the Owners hereunder.

51. Undertakings

The Charterers undertake and agree with the Owners that throughout the Charter Period they will:

- a) provide the Owners with:
 - (i) within 200 (two hundred) days after the close of each financial year, 1(one) copy confirmed by their auditor (who shall be an authorised public accountant) of the audited balance sheets as of the close of each financial year and audited statement(s) of profit and loss and annual reports; and
 - (ii) reports of the unaudited financial results in a semi-annual basis
 - (iii) from time to time such additional financial or other information relating to the Charterers and their respective business as may be reasonably requested by the Mortgagee.
- b) manage their business in compliance with all relevant applicable laws, regulations and requirements;
- c) not, without the prior written consent of the Owners, reorganise, merge, de-merge or dispose of a substantial part of their business or change their business in any materially adverse respect, such consent not to be unreasonably withheld or delayed;

- d) as soon as practicable after the same are instituted, provide the Owners with details of any litigation, arbitration or administrative proceedings involving the Vessel or which are likely to have a material adverse effect on the operation of the Vessel or this Charter;
- e) promptly notify the Owners in writing of any event of default (or event of which they are aware which, with the giving of notice and/or lapse of time or other applicable condition would constitute a default);
- f) notify the Owners of:
 - (i) any accident to the Vessel involving repairs where the cost is likely to exceed USD 250,000 (or the equivalent in any other currency);
 - (ii) any occurrence in consequence whereof the Vessel has become or is likely to become a Total Loss;
 - (iii) any arrest of the Vessel or the exercise or purported exercise of any lien on the Vessel; and
- g) obtain all necessary ISM Code and ISPS Code documentation in connection with the Vessel and at all time be in full compliance with such Codes.

52. Termination Event

Each of the following events shall be a "Termination Event" for the purposes of this Charter;

- i. any sum payable by the Charterers under this Charter shall not be paid on its due date or (in the case only sums expressed to be payable by the Charterers on demand) within five (5) Banking Days (in Oslo, London and New York City) following the date of demand therefore; or
- i. the Charterers shall at any time fail to observe or perform any other major obligation under the Charter, and such failure to observe or perform any such obligation is either not remediable or is remediable, but is not remedied within twenty (20) days of receipt by the Charterers of written notice from the Owners requesting remedial action; or
- ii. any representation or warranty of the Charterers made (or acknowledged to have been made) by the Charterers as set out in Clause 50 shall prove to have been untrue, inaccurate or misleading in any material respect when made (and such occurrence continues unremedied for a period of twenty (20) days after receipt by the Charterers of written notice from the Owners requesting remedial action); or

- iii. the Charterers shall stop payments generally or shall cease to carry on or suspend all or a substantial part of their business or shall be unable to pay the debts, or shall admit in writing the inability to pay their debts, as they become due or shall otherwise become or be adjudicated insolvent; or
- iv. the Vessel is arrested or detained (other than for reason solely attributable to the Owners), and such arrest or detention is not lifted within fifteen (15) days (or such longer period as the Owner shall agree in the light of all the circumstances); or
- v. if any consent, authorization, licence or approval necessary for this Charter to be or remain the valid and legally binding obligation of the Charterers, or to enable the Charterers to perform their obligations hereunder, shall be materially adversely modified or is not granted or is revoked, suspended, withdrawn or terminated or expires and is not renewed (provided that the occurrence of such circumstances shall not give rise to a Termination Event if the same are remedied within twenty (20) days of the date of their occurrence; or
- vi. If the Charterer is in material breach of any of its obligations under the MoA.

53. Owners' Rights On Termination

At any time after a Termination Event shall have occurred and be continuing, the Owners may, by notice to the Charterers, immediately or on such date as the Owners shall specify, terminate the chartering by the Charterers of the Vessel under this Charter, whereupon the Vessel shall no longer be in the possession of the Charterers with the consent of the Owners, and the Charterers shall redeliver the Vessel to the Owners in accordance with Clause 15

54. Inconsistency

In case of any inconsistency between the standard terms of this Charter and Rider Clauses 32-54, the Rider Clauses shall prevail

IN WITNESS HEREOF the Owners and the Charterers have signed and executed TWO COPIES of this Agreement the day and year first writer.

For the Owners:



For the Charterers:





An Executive Agency Of The Department For Transport
Merchant Shipping Act 1995



Mortgage of a Ship to secure Principal sum and Interest

- If more than one mortgagor then a separate mortgage is required from each mortgagor, unless shares are jointly held.
- In respect of fishing vessels, mortgages may be registered only against those registered with FULL registration.
- The prompt registration of a mortgage deed with the Registry is essential to establish the priority of the mortgage. This is because the priority of the mortgage is determined by the date on which it is produced for registration and not from the date of the mortgage itself.
- If the mortgagor is a company the mortgage must be registered with the Registrar of Companies within 21 days of its execution.
- It is important that the Registry is informed of any changes.
- Please write in black in using BLOCK CAPITALS, and tick boxes where appropriate.

The mortgage reference no. (issued by the mortgagee) is:

SECTION 1: DETAILS OF THE SHIP

IS THIS MORTGAGE IN RESPECT OF A FISHING VESSEL? Yes No

Name of ship

Official number

SECTION 2: THE MORTGAGE

OFFICIAL USE ONLY
Mortgage entered in the Register on (date) at (time) officer's initials (priority)

* I/We in consideration of lent to *me/us today by
 DYVI CABLE SHIP AS
 MUNKEDAMSV 45
 PO BOX 1337
 VIKA, 0112 OSLO
 NORWAY

* as joint mortgagors (hereinafter called "the mortgagor")

US\$ 4,750,000 (UNITED STATES DOLLARS FOUR MILLION SEVEN HUNDRED AND FIFTY THOUSAND)

GLOBAL MARINE SYSTEMS LIMITED, NEW SAXON HOUSE, 1 WINSFORD WAY, BAREHAM INTERCHANGE, CHELMSFORD, ESSEX CM2 5DP

* as joint mortgagees (hereinafter called "the mortgagee")

do hereby bind *myself/ourselves firstly that *I/we will pay to the mortgagee(s) the said sum of

US\$ 4,750,000 (UNITED STATES DOLLARS FOUR MILLION SEVEN HUNDRED AND FIFTY THOUSAND)

together with the interest thereon at a rate of % per annum

on the day of next,

• Give name and address, with place of business in respect of a company.

* Delete as necessary

• State the amount of the loan in both figures and words.

SECTION 2: THE MORTGAGE (continued)

and **secondly**, that if the said principal sum is not paid on the same day, *I/we will during such time as the same or any part thereof remains unpaid, pay to the mortgagee(s), interest on the whole or such part thereof as may for the time being unpaid at the rate of 0 % per annum by equal half-yearly payments on

N/A day of N/A and N/A day of N/A in every year

For the purpose of better securing to the mortgagee(s) the sums mentioned above, *I/we hereby mortgage to the mortgagee(s) 64 (SIXTY FOUR) (figures and words)

shares of which *I/we are the owners in the ship described above and in its appurtenances.

Lastly, *I/we for *myself/ourselves hereby declare that *I/we have the power to mortgage in the manner aforesaid the above-mentioned shares and that they are free from encumbrances *save as appears by the registry of the above ship.

COMPLETE IF THE MORTGAGOR IS A COMPANY

Executed by the mortgagor as a deed (in England, Wales and Northern Ireland)
 Subscribed by the mortgagor (in Scotland)

14th day of March 2006 by:-

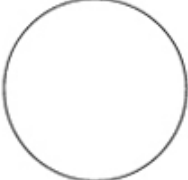
(a) the affixing of the common seal of the mortgagor in the presence of the following persons signing; or
 (b) signing by the following persons: * Delete as appropriate

Director _____
 Director or Secretary _____
 Authorised Signatory Way [Signature]
 Authorised Signatory [Signature] (2006-2007) Authorising in joint

** Witnessed by
 Name _____
 Address _____
 Address _____

Note: IN ENGLAND, WALES & NORTHERN IRELAND - signature may be by two directors, or by a director and the secretary of the company. No witness is required. If the common seal is affixed any special requirement of the company's articles about signing must be complied with.
 IN SCOTLAND - signature may be by one director or the secretary of the company or one person authorised to sign the document on behalf of the company, provided such single signature is witnessed. Alternatively, signature may be effected without a witness by two directors, or a director and the secretary, or two persons authorised to sign the document on behalf of the company. Note that signature by one authorised signatory and either a director or the secretary of the company is not valid.

COMPANY SEAL



COMPLETE IF THE MORTGAGOR(S) IS/ARE ONE OR MORE INDIVIDUAL

Executed as a deed (in England or Wales)
 Subscribed (in Scotland)
 Signed, sealed and delivered (in Northern Ireland) * Delete as appropriate

on this _____ day of _____ 20____ by:-

by the following person(s) signing as mortgagor(s)

Signature(s) of mortgagor(s)		
In the presence of:		
Name(s) of witness(es)		
Address(es) of witness(es)		
Occupation(s) of witness(es)		

NOTE: Every signature must have one witness

Seal(s) if executed in Northern Ireland

SECTION 2: THE MORTGAGE (continued)

COMPLETE IF THE MORTGAGOR(S) ARE A LIMITED LIABILITY PARTNERSHIP

*Executed by the mortgagor as a deed (in England, Wales & Northern Ireland)
 *Subscribed by the mortgagor (in Scotland) * Delete as appropriate

on this _____ day of _____ 20__ by signing by the following persons

Member _____
 Member _____
 Witnessed by _____
 Name _____
 Address _____

Note: IN SCOTLAND signature may be by one member of the Limited Liability Partnership and one witness, or by two members of the Limited Liability Partnership.

SECTION 3: TRANSFER OF MORTGAGE

* I/we, the above mentioned mortgagee(s), in consideration of ● _____
 this day paid to *me/us by ● _____

hereby transfer to *him/her/them the benefit of the within written security

COMPLETE IF THE TRANSFEROR IS A COMPANY

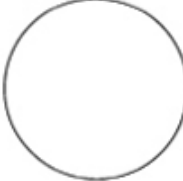
♦ Executed by the transferor as a deed (in England, Wales and Northern Ireland)
 ♦ Subscribed by the transferor (in Scotland)

_____ day of _____ 20__ by:--

* (a) the affixing of the common seal of the * transferor in the presence of the following persons signing; *or*
 * (b) signing by the following persons; * Delete as appropriate

Director _____
 Director or Secretary _____
 Authorised Signatory _____
 Authorised Signatory _____
 ** Witnessed by _____
 Name _____
 Address _____
 Address _____

COMPANY SEAL



Note: IN ENGLAND, WALES & NORTHERN IRELAND signature may be by two directors, or by a director and the secretary of the company. No witness is required. If the common seal is affixed any special requirement of the company's articles about signing must be complied with.
 IN SCOTLAND signature may be by one director or the secretary of the company or one person authorised to sign the document on behalf of the company, provided such single signature is witnessed. Alternatively, signature may be effected without a witness by two directors, or a director and the secretary, or two persons authorised to sign the document on behalf of the company. Note that signature by one authorised signatory and either a director or the secretary of the company is not valid.

OFFICIAL USE ONLY
 Transfer of mortgage (priority)
 entered in the Register on (date)
 at _____ (time)
 officer's initials

SECTION 3: TRANSFER OF MORTGAGE (continued)

COMPLETE IF THE TRANSFEROR(S) IS/ARE ONE OR MORE INDIVIDUAL

* Executed as a deed (in England or Wales)
 * Subscribed (in Scotland)
 * Signed, sealed and delivered (in Northern Ireland)
* Delete as appropriate

Seal(s) if executed in Northern Ireland

on this _____ day of _____ 20 ____

by the following person(s) signing as transferor(s)

Signature(s) of transferor(s)		
In the presence of:		
Name(s) of witness(es)		
Address(es) of witness(es)		
Occupation(s) of witness(es)		

NOTE: Every signature must have one witness

- Enter the sum of money in figures and words.
- Give full name and address of the transferee, with place of business in respect of a company

COMPLETE IF THE TRANSFEROR(S) ARE A LIMITED LIABILITY PARTNERSHIP

* Executed by the transferor as a deed (in England, Wales & Northern Ireland)
 * Subscribed by the transferor (in Scotland)
* Delete as appropriate

on this _____ day of _____ 20 ____ by signing by the following persons

Member _____

Member _____

Witnessed by _____

Name _____

Address _____

Note - IN SCOTLAND subscription may be by one member of the Limited Liability Partnership and one witness, or by two members of the Limited Liability Partnership.

SECTION 4: DISCHARGE OF MORTGAGE

* Received by the within-mentioned *mortgage(s)/transferee(s) of the mortgage, the sum of

•

This within written security is now discharged.

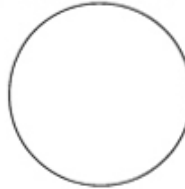
* The within-mentioned *mortgagee(s)/transferee(s) have agreed to discharge this within written security and it is therefore discharged.

COMPLETE IF DISCHARGE IS GIVEN BY A COMPANY

♦ Executed by the mortgagee/transferee as a deed (in England, Wales and Northern Ireland) *COMPANY SEAL*
 ♦ Subscribed by the mortgagee/transferee (in Scotland)

_____ day of _____ 20__ by:--

* (a) the affixing of the common seal of the * mortgagee/transferee in the presence of the following persons signing; or
 * (b) signing by the following persons; * Delete as appropriate



Director _____

Director or Secretary _____

Authorised Signatory _____

Authorised Signatory _____

** Witnessed by _____

Name _____

Address _____

Address _____

Note: IN ENGLAND, WALES & NORTHERN IRELAND signature may be by two directors, or by a director and the secretary of the company. No witness is required. If the common seal is affixed any special requirement of the company's articles about signing must be complied with.
 IN SCOTLAND signature may be by one director or the secretary of the company or one person authorised to sign the document on behalf of the company, provided such single signature is witnessed. Alternatively, signature may be effected without a witness by two directors, or a director and the secretary, or two persons authorised to sign the document on behalf of the company. Note that signature by one authorised signatory and either a director or the secretary of the company is not valid.

COMPLETE IF THE DISCHARGE IS GIVEN BY ONE OR MORE INDIVIDUALS

* Executed as a deed (in England or Wales)

* Subscribed (in Scotland)

* Signed, sealed and delivered (in Northern Ireland) * Delete as appropriate



on this _____ day of _____ 20__

by the following person(s) signing as mortgagee(s)/transferee(s)

Signature(s) of mortgagee(s)/transferee(s)		
In the presence of:		
Name(s) of witness(es)		
Address(es) of witness(es)		
Occupation(s) of witness(es)		

NOTE: Every signature must have one witness

• Enter the sum of money in figure and words

WARNING: If the discharged deed is not presented to the Registry the mortgage will remain registered against the ship.

OFFICIAL USE ONLY
 Discharge of mortgage (priority)
 entered in the Register on _____ at _____ (date) _____ (time)
 officer's initials

SECTION 4: DISCHARGE OF MORTGAGE (continued)

COMPLETE IF THE DISCHARGE IS GIVEN BY A LIMITED LIABILITY PARTNERSHIP

*Executed by the mortgagor as a deed (in England, Wales & Northern Ireland)
*Subscribed by the mortgagor (in Scotland) * Delete as appropriate

on this _____ day of _____ 20__ by signing by the following persons

Member _____
Member _____
Witnessed by _____
Name _____
Address _____

Note: IN SCOTLAND subscription may be by one member of the Limited Liability Partnership and one witness, or by two members of the Limited Liability Partnership.

When the mortgage is originally executed you should send this deed with the correct fee to:
When a transfer or discharge of mortgage is executed you should send this deed (without a fee) to:

**REGISTRY OF SHIPPING & SEAMEN
PO BOX 420, CARDIFF, CF24 5XR**

CONSENT AND WAIVER TO CREDIT AGREEMENT

CONSENT AND WAIVER (this "Consent and Waiver"), dated as of October 22, 2014, by and among HC2 Holdings, Inc., a Delaware corporation (the "Borrower"), for purposes of Section 7 below, the Subsidiary Guarantors, the Lenders and Jefferies Finance LLC, as administrative agent for the Lenders (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent" or, as Administrative Agent or Collateral Agent, "Agent").

WITNESSETH:

WHEREAS, the Borrower, the Subsidiary Guarantors, Lenders and Agent are parties to that certain Credit Agreement, dated as of September 22, 2014 (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, the Borrower proposes to cause Schuff International, Inc., a Delaware corporation and a subsidiary of the Borrower ("Schuff"), to incur up to Fifteen Million Dollars (\$15,000,000) of additional Indebtedness in order to fund the acquisition of inventory and machinery in connection with "Project Tiger" pursuant to one or more amendments to that certain Second Amended and Restated Credit and Security Agreement, dated August 14, 2014 (as amended from time to time, the "Schuff Credit Agreement"), between Schuff, certain subsidiaries of Schuff a party thereto and Wells Fargo Credit, Inc., a Minnesota corporation (the issuance of additional Indebtedness, incurrence of any related liens, acquisition of inventory and machinery and any amendments to the Schuff Credit Agreement, together, "Transactions"); and

WHEREAS, Agent and Lenders party hereto are willing, on the terms and subject to the conditions set forth below, to consent to all consents, amendments, modifications and agreements set forth by this Consent and Waiver.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings ascribed thereto in the Credit Agreement.

2. Consent. Subject to the satisfaction of the conditions precedent set forth in Section 6 below, and notwithstanding anything to the contrary herein or in any Loan Document, the Agent and each Lender party hereto hereby consent to the Transactions (the "Consent"). The foregoing Consent shall not be deemed to be a consent to any other action or transaction or to establish a custom or course of dealing among the Borrower, the Agent or any Lender, or any of them. Except as specifically set forth herein, the Agent and the Lenders reserve all of their respective rights and remedies under this Agreement, the Credit Agreement and the Loan Documents.

3. Limited Waiver. Subject to the satisfaction of the conditions precedent set forth in Section 6 below, the Agent and each Lender hereby, waive compliance by the Borrower with

Section 2.10(f)(i) of the Credit Agreement with respect to the Net Cash Proceeds of the Indebtedness incurred by Schuff pursuant to the Schuff Credit Agreement (the "Waiver"). The foregoing Waiver shall not be deemed to be a waiver of any other action or transaction or to establish a custom or course of dealing among the Borrower, the Agent or any Lender, or any of them. Except as specifically set forth herein, the Agent and the Lenders reserve all of their respective rights and remedies under this Consent and Waiver, the Credit Agreement and the Loan Documents.

4. Representations and Warranties. The Borrower hereby represents and warrants as follows:

(i) each of the representations and warranties contained in Article III of the Credit Agreement are true and correct in all material respects (except for those representations and warranties that are already qualified by materiality, which shall be true and correct in all respects) on and as of the date hereof, in each case before and after giving effect this Consent and Waiver (except to the extent made as of a specific date, then only as of such specific date);

(ii) the Borrower has all necessary corporate power and authority to enter into this Consent and Waiver and has taken all corporate actions required to authorize the Borrower's execution, delivery and performance of this Consent and Waiver and the consummation of the Transactions. This Consent and Waiver has been duly executed and delivered by the Borrower, and the Credit Agreement constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, regardless of whether considered in a proceeding in equity or at law. The execution, delivery and performance by the Borrower of this Consent and Waiver and the Transactions by Schuff will not (i) violate (A) any provision of its organizational documents; (B) any provision of law or any governmental rule or regulation applicable to the Borrower; (C) any order of any court or Governmental Authority binding on the Borrower; or (D) any indenture, instrument, agreement, or other document binding upon the Borrower or its property or to which the Borrower or its property is subject, or give rise to a right thereunder to require any payment to be made by the Borrower or (ii) be in conflict with, result in a breach of or constitute (with due notice, lapse of time or both) a default under any such indenture, instrument or other agreement, or result in the creation or imposition of any Lien of any nature whatsoever upon any of the property or assets of the Borrower, other than as permitted by the Credit Agreement;

(iii) as of the date hereof and immediately after giving effect to this Consent and Waiver, no Default or Event of Default has occurred and is continuing; and

(iv) no registration with, consent or approval of, or other action by, any Governmental Authority or any other Person (other than Lenders) is required in connection with the execution, delivery and performance of this Consent and Waiver and each of the Transactions by the Borrower, except those as have been obtained or made and are in full force and effect.

5. Limited Effect. Except as expressly amended and consented to hereby, the Credit Agreement and each of the other Loan Documents shall remain in full force and effect in

accordance with their respective terms. The Borrower hereby ratifies, confirms and reaffirms its liabilities, its payment and performance obligations (contingent or otherwise) and its agreements under the Credit Agreement and the other Loan Documents to the extent the Borrower is a party thereto, and the liens and security interests granted, created and perfected thereby. This Consent and Waiver shall not constitute a modification of the Credit Agreement, or a course of dealing with Agent or any Lender at variance with the Credit Agreement such as to require further notice by Agent or any Lender to require strict compliance with the terms of the Credit Agreement and the other Loan Documents in the future, except as expressly set forth herein. This Consent and Waiver contains the entire agreement among the Borrower and Lenders contemplated by this Consent and Waiver. The Borrower has no knowledge of any challenge to Agent's or any Lender's claims arising under the Loan Documents or the effectiveness of the Loan Documents. Except for actions for which there has been given express consent in the foregoing consent, Agent and Lenders reserve all rights, privileges and remedies under the Loan Documents. Nothing in this Consent and Waiver is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of the Obligations or to modify, affect or impair the perfection, priority or continuation of the security interests in, security titles to or other Liens on any Collateral for the Obligations.

6. Conditions of Effectiveness. The effectiveness of this Consent and Waiver is subject to the truth and accuracy of the representations set forth in Section 4, receipt by Agent of the items referred to in paragraph (a) below (which shall be in form and substance satisfactory to Agent):

(a) Agent shall have received counterparts of this Consent and Waiver duly executed by Borrower, the other Agent and Required Lenders;

7. Acknowledgement. (a) Each Subsidiary Guarantor hereby acknowledges that it has reviewed the terms and provisions of the Credit Agreement and this Consent and Waiver and consents to any provision of the Credit Agreement effected pursuant to this Consent and Waiver. Each Subsidiary Guarantor hereby confirms that each Loan Document to which it is a party or otherwise bound will continue to guarantee to the fullest extent possible in accordance with the Loan Documents the payment and performance of all "Obligations" under each of the Loan Documents to which it is a party (in each case as such terms are defined in the applicable Loan Document).

(b) Each Subsidiary Guarantor acknowledges and agrees that any of the Loan Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Consent and Waiver. Each Subsidiary Guarantor represents and warrants that all representations and warranties as to itself contained in the Credit Agreement and the other Loan Documents to which it is a party or otherwise bound are true and correct in all material respects on and as of the date hereof to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true and correct in all material respects on and as of such earlier date.

8. GOVERNING LAW. THIS CONSENT AND WAIVER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

9. Counterparts. This Consent and Waiver may be executed by the parties hereto in any number of separate counterparts, each of which shall be an original, and all of which taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Consent and Waiver by facsimile, email or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

10. RELEASE. IN CONSIDERATION OF THE CONSENT CONTAINED HEREIN THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE BORROWER HEREBY IRREVOCABLY RELEASES AND FOREVER DISCHARGES ADMINISTRATIVE AGENT, COLLATERAL AGENT, LENDERS AND EACH OF THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, SUCCESSORS, ASSIGNS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND ATTORNEYS (EACH, A "RELEASED PERSON") OF AND FROM ALL DAMAGES, LOSSES, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, ACTIONS AND CAUSES OF ACTION WHATSOEVER WHICH THE BORROWER MAY NOW HAVE OR CLAIM TO HAVE ON AND AS OF THE DATE HEREOF AGAINST ANY RELEASED PERSON, WHETHER PRESENTLY KNOWN OR UNKNOWN, LIQUIDATED OR UNLIQUIDATED, SUSPECTED OR UNSUSPECTED, CONTINGENT OR NON-CONTINGENT, AND OF EVERY NATURE AND EXTENT WHATSOEVER WITH RESPECT TO THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED THEREBY (COLLECTIVELY, "CLAIMS"). THE BORROWER REPRESENTS AND WARRANTS TO ADMINISTRATIVE AGENT, COLLATERAL AGENT AND LENDERS THAT IT HAS NOT GRANTED OR PURPORTED TO GRANT TO ANY OTHER PERSON ANY INTEREST WHATSOEVER IN ANY CLAIM, AS SECURITY OR OTHERWISE.

11. Expenses. The Borrower agrees to pay on demand all reasonable, out-of-pocket costs and expenses in connection with the preparation, execution and delivery of this Consent and Waiver and the other instruments and documents to be delivered hereunder, including, without limitation, the reasonable fees, charges and disbursements of one counsel for each Agent with respect thereto and with respect to advising such Agent as to its rights and responsibilities hereunder and thereunder.

12. Severability. In case any provision of or obligation under this Consent and Waiver shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

13. Headings. Headings and captions used in this Consent and Waiver are included for convenience of reference only and shall not be given any substantive effect.

11. Conflicts. In the event of any conflict between the terms of this Consent and Waiver and the terms of the Credit Agreement or any of the other Loan Documents, the terms of this Consent and Waiver shall govern.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Consent and Waiver to be duly executed and delivered by their respective proper and duly authorized officers as of the day and year first above written.

HC2 Holdings, Inc., as Borrower

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

PTGi International Holding Inc., as a Subsidiary
Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

PTGi International, Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

Arbinet Corporation, as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

HC2 Holdings 2, Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

HC2 Tech Ventures, LLC as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

[Signature Page to Waiver]

HC2 Investment Securities Inc., as a Subsidiary
Guarantor

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

[Signature Page to Waiver]

JEFFERIES FINANCE LLC, as Lender, Administrative Agent and Collateral Agent

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

[Signature Page to Waiver]

AMENDMENT TO CREDIT AGREEMENT

AMENDMENT (this "Amendment"), dated as of October 26, 2014, by and among HC2 Holdings, Inc., a Delaware corporation (the "Borrower"), for purposes of Section 6 below, the Subsidiary Guarantors, the Lenders and Jefferies Finance LLC, as administrative agent for the Lenders (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent", or, as Administrative Agent or Collateral Agent, "Agent").

WITNESSETH:

WHEREAS, the Borrower, the Subsidiary Guarantors, Lenders and Agent are parties to that certain Credit Agreement, dated as of September 22, 2014 (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "HC2 Credit Agreement");

WHEREAS, the Borrower agreed, pursuant to Section 10.06 of the HC2 Credit Agreement, that no later than October 26, 2014, in connection with the transactions contemplated by the Engagement Letter, it would provide to Jefferies LLC a customary preliminary offering memorandum containing certain information;

WHEREAS, the Borrower intends to deliver to Jefferies LLC such preliminary offering memorandum containing certain information on or before October 31, 2014; and

WHEREAS, Agent and Lenders party hereto are willing, on the terms and subject to the conditions set forth below, to consent to all amendments, modifications and agreements set forth by this Amendment.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings ascribed thereto in the Credit Agreement.

2. Amendments. Subject to the satisfaction of the conditions precedent set forth in Section 5 below, the Borrower, the Lenders party hereto and Agent hereby agree as follows:

(a) Section 1.01 of the HC2 Credit Agreement shall be amended by deleting the definition of "Demand Failure Event" in its entirety and replacing it with the following:

"**Demand Failure Event**" shall mean Borrower's failure to comply with (i) the terms set forth in a Permanent Securities Notice within five business days from the date of delivery or (ii) the terms of the documentation related to the Permanent Securities Notice including, without limitation, Borrower's obligation to deliver on or prior to October 31, 2014 certain information required by Jefferies LLC to consummate an offering of the Permanent Securities, including an offering memorandum or offering circular in form and substance reasonably satisfactory to Jefferies LLC as set forth in the Fee Letter."

(b) Section 10.06 of the HC2 Credit Agreement shall be amended by deleting it in its entirety and replacing it as follows:

“Section 10.06 Offering Memorandum. Borrower agrees that no later than October 31, 2014, in connection with the transactions contemplated by the Engagement Letter, it will provide to Jefferies LLC a customary preliminary offering memorandum containing, or incorporating by reference to filings publicly made by Borrower, Schuff and Bridgehouse Marine with the SEC, (A) all customary information (other than a “description of notes” and information customarily provided by Jefferies Finance LLC or its affiliates or their counsel or advisors), including financial statements (other than pro forma financial statements which are described below), business and other financial data of the type and form that are customarily included in private placements pursuant to Rule 144A (without registration rights) (including information required by Regulation S-X and Regulation S-K under the Securities Act, which is understood not to include consolidating financial statements, separate subsidiary financial statements and other financial statements and data that would be required by Sections 3-09, 3-10 and 3-16 of Regulation S-X and Item 402 of Regulation S-K and information regarding executive compensation and related party disclosure related to SEC Release Nos. 33-8732A, 34-54302A and IC-27444A and other customary exceptions) and (B) pro forma financial statements of the type and form that are customarily included in private placements pursuant to Rule 144A (without registration rights) to be prepared in a manner consistent with Regulation S- X (and in the case of pro forma financial statements for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period of Borrower presented, as if Regulation SX was applicable to such financial statements) and (ii) all other financial data that would be reasonably necessary for Jefferies LLC to receive customary “comfort” letters from the independent accountants of Borrower, Schuff and Bridgehouse Marine in connection with the offering of the Notes (and Borrower shall have made all commercially reasonable efforts to provide Jefferies LLC with drafts of such “comfort” letters (which shall provide customary “negative assurance” comfort), which such accountants are prepared to issue upon completion of customary procedures).”

3. Representations and Warranties. The Borrower hereby represents and warrants as follows:

(i) each of the representations and warranties contained in Article III of the HC2 Credit Agreement are true and correct in all material respects (except for those representations and warranties that are already qualified by materiality, which shall be true and correct in all respects) on and as of the date hereof, in each case before and after giving effect this Amendment (except to the extent made as of a specific date, then only as of such specific date);

(ii) the Borrower has all necessary corporate power and authority to enter into this Amendment and has taken all corporate actions required to authorize the Borrower’s execution, delivery and performance of this Amendment. This Amendment has been duly executed and delivered by the Borrower, and the HC2 Credit Agreement constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting

creditors' rights generally, regardless of whether considered in a proceeding in equity or at law. The execution, delivery and performance by the Borrower of this Amendment will not (i) violate (A) any provision of its organizational documents; (B) any provision of law or any governmental rule or regulation applicable to the Borrower; (C) any order of any court or Governmental Authority binding on the Borrower; or (D) any indenture, instrument, agreement, or other document binding upon the Borrower or its property or to which the Borrower or its property is subject, or give rise to a right thereunder to require any payment to be made by the Borrower or (ii) be in conflict with, result in a breach of or constitute (with due notice, lapse of time or both) a default under any such indenture, instrument or other agreement, or result in the creation or imposition of any Lien of any nature whatsoever upon any of the property or assets of the Borrower, other than as permitted by the HC2 Credit Agreement;

(iii) as of the date hereof and immediately after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing; and

(iv) no registration with, consent or approval of, or other action by, any Governmental Authority or any other Person (other than Lenders) is required in connection with the execution, delivery and performance of this Amendment by the Borrower, except those as have been obtained or made and are in full force and effect.

4. Limited Effect. Except as expressly amended and consented to hereby, the HC2 Credit Agreement and each of the other Loan Documents shall remain in full force and effect in accordance with their respective terms. The Borrower hereby ratifies, confirms and reaffirms its liabilities, its payment and performance obligations (contingent or otherwise) and its agreements under the HC2 Credit Agreement and the other Loan Documents to the extent the Borrower is a party thereto, and the liens and security interests granted, created and perfected thereby. This Amendment shall not constitute a modification of the HC2 Credit Agreement, except as specified under Section 2 hereto, or a course of dealing with Agent or any Lender at variance with the HC2 Credit Agreement such as to require further notice by Agent or any Lender to require strict compliance with the terms of the HC2 Credit Agreement and the other Loan Documents in the future, except as expressly set forth herein. This Amendment contains the entire agreement among the Borrower and Lenders contemplated by this Amendment. The Borrower has no knowledge of any challenge to Agent's or any Lender's claims arising under the Loan Documents or the effectiveness of the Loan Documents. Except for actions for which there has been given express consent in the foregoing consent, Agent and Lenders reserve all rights, privileges and remedies under the Loan Documents. Nothing in this Amendment is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of the Obligations or to modify, affect or impair the perfection, priority or continuation of the security interests in, security titles to or other Liens on any Collateral for the Obligations.

5. Conditions of Effectiveness. The effectiveness of this Amendment is subject to the truth and accuracy of the representations set forth in Section 3, the payment of Agent's expenses as set forth in Section 10 and receipt by Agent of the items referred to in paragraph (a) below (which shall be in form and substance satisfactory to Agent):

(a) Agent shall have received counterparts of this Amendment duly executed by Borrower, the other Agent and Required Lenders.

6. **Acknowledgement.** (a) Each Subsidiary Guarantor hereby acknowledges that it has reviewed the terms and provisions of the HC2 Credit Agreement and this Amendment and consents to; (i) the amendment of the provision of the HC2 Credit Agreement effected and (ii) any other provision of the HC2 Credit Agreement effected pursuant to this Amendment. Each Subsidiary Guarantor hereby confirms that each Loan Document to which it is a party or otherwise bound will continue to guarantee to the fullest extent possible in accordance with the Loan Documents the payment and performance of all "Obligations" under each of the Loan Documents to which it is a party (in each case as such terms are defined in the applicable Loan Document

(b) Each Subsidiary Guarantor acknowledges and agrees that any of the Loan Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Amendment. Each Subsidiary Guarantor represents and warrants that all representations and warranties as to itself contained in the HC2 Credit Agreement and the other Loan Documents to which it is a party or otherwise bound are true and correct in all material respects on and as of the date hereof to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true and correct in all material respects on and as of such earlier date.

7. **GOVERNING LAW.** THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

8. **Counterparts.** This Amendment may be executed by the parties hereto in any number of separate counterparts, each of which shall be an original, and all of which taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Amendment by facsimile, email or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

9. **RELEASE.** IN CONSIDERATION OF THE CONSENT CONTAINED HEREIN THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE BORROWER HEREBY IRREVOCABLY RELEASES AND FOREVER DISCHARGES ADMINISTRATIVE AGENT, COLLATERAL AGENT, LENDERS AND EACH OF THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, SUCCESSORS, ASSIGNS, DIRECTORS, OFFICERS, EMPLOYEES, AGENT, REPRESENTATIVES AND ATTORNEYS (EACH, A "RELEASED PERSON") OF AND FROM ALL DAMAGES, LOSSES, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, ACTIONS AND CAUSES OF ACTION WHATSOEVER WHICH THE BORROWER MAY NOW HAVE OR CLAIM TO HAVE ON AND AS OF THE DATE HEREOF AGAINST ANY RELEASED PERSON, WHETHER PRESENTLY KNOWN OR UNKNOWN, LIQUIDATED OR UNLIQUIDATED, SUSPECTED OR UNSUSPECTED, CONTINGENT OR NON-CONTINGENT, AND OF EVERY NATURE AND EXTENT WHATSOEVER WITH RESPECT TO THE HC2 CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED THEREBY (COLLECTIVELY, "CLAIMS"). THE BORROWER REPRESENTS AND WARRANTS TO ADMINISTRATIVE AGENT, COLLATERAL AGENT AND LENDERS THAT IT HAS NOT GRANTED OR PURPORTED TO GRANT TO ANY OTHER PERSON ANY INTEREST WHATSOEVER IN ANY CLAIM, AS SECURITY OR OTHERWISE

10. Expenses. The Borrower agrees to pay on demand all reasonable, out-of-pocket costs and expenses in connection with the preparation, execution and delivery of this Amendment and the other instruments and documents to be delivered hereunder, including, without limitation, the reasonable fees, charges and disbursements of one counsel for each Agent with respect thereto and with respect to advising such Agent as to its rights and responsibilities hereunder and thereunder.

11. Severability. In case any provision of or obligation under this Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

12. Headings. Headings and captions used in this Amendment are included for convenience of reference only and shall not be given any substantive effect.

11. Conflicts. In the event of any conflict between the terms of this Amendment and the terms of the HC2 Credit Agreement or any of the other Loan Documents, the terms of this Amendment shall govern.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective proper and duly authorized officers as of the day and year first above written.

HC2 Holdings, Inc., as Borrower

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

PTGi International Holding Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

PTGi International, Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

Arbinet Corporation, as a Subsidiary Guarantor

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

HC2 Holdings 2, Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

HC2 Tech Ventures, LLC as a Subsidiary Guarantor

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

JEFFERIES FINANCE LLC, as Arranger, Book Manager,
Documentation Agent and Syndication Agent

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

JEFFERIES FINANCE LLC, as Administrative Agent and
Collateral Agent

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

JEFFERIES FINANCE LLC, as Lender

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

[Signature Page to Amendent to Credit Agreement]

AMENDMENT No 2 TO CREDIT AGREEMENT

AMENDMENT No. 2 (this "Amendment"), dated as of October 31, 2014, by and among HC2 Holdings, Inc., a Delaware corporation (the "Borrower"), for purposes of Section 6 below, the Subsidiary Guarantors, the Lenders and Jefferies Finance LLC, as administrative agent for the Lenders (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent", or, as Administrative Agent or Collateral Agent, "Agent").

WITNESSETH:

WHEREAS, the Borrower, the Subsidiary Guarantors, Lenders and Agent are parties to that certain Credit Agreement, dated as of September 22, 2014 (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "HC2 Credit Agreement");

WHEREAS, the Borrower agreed, pursuant to Section 10.06 of the HC2 Credit Agreement, as amended on October 26, 2014, that no later than October 31, 2014, in connection with the transactions contemplated by the Engagement Letter, it would provide to Jefferies LLC a customary preliminary offering memorandum containing certain information;

WHEREAS, the Borrower intends to deliver to Jefferies LLC such preliminary offering memorandum containing certain information on or before November 2, 2014; and

WHEREAS, Agent and Lenders party hereto are willing, on the terms and subject to the conditions set forth below, to consent to all amendments, modifications and agreements set forth by this Amendment.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings ascribed thereto in the Credit Agreement.

2. Amendments. Subject to the satisfaction of the conditions precedent set forth in Section 5 below, the Borrower, the Lenders party hereto and Agent hereby agree as follows:

(a) Section 1.01 of the HC2 Credit Agreement shall be amended by deleting the definition of "Demand Failure Event" in its entirety and replacing it with the following:

"**Demand Failure Event**" shall mean Borrower's failure to comply with (i) the terms set forth in a Permanent Securities Notice within five business days from the date of delivery or (ii) the terms of the documentation related to the Permanent Securities Notice including, without limitation, Borrower's obligation to deliver on or prior to November 2, 2014 certain information required by Jefferies LLC to consummate an offering of the Permanent Securities, including an offering memorandum or offering circular in form and substance reasonably satisfactory to Jefferies LLC as set forth in the Fee Letter."

(b) Section 10.06 of the HC2 Credit Agreement shall be amended by deleting it in its entirety and replacing it as follows:

“Section 10.06 Offering Memorandum. Borrower agrees that no later than November 2, 2014, in connection with the transactions contemplated by the Engagement Letter, it will provide to Jefferies LLC a customary preliminary offering memorandum containing, or incorporating by reference to filings publicly made by Borrower, Schuff and Bridgehouse Marine with the SEC, (A) all customary information (other than a “description of notes” and information customarily provided by Jefferies Finance LLC or its affiliates or their counsel or advisors), including financial statements (other than pro forma financial statements which are described below), business and other financial data of the type and form that are customarily included in private placements pursuant to Rule 144A (without registration rights) (including information required by Regulation S-X and Regulation S-K under the Securities Act, which is understood not to include consolidating financial statements, separate subsidiary financial statements and other financial statements and data that would be required by Sections 3-09, 3-10 and 3-16 of Regulation S-X and Item 402 of Regulation S-K and information regarding executive compensation and related party disclosure related to SEC Release Nos. 33-8732A, 34-54302A and IC-27444A and other customary exceptions) and (B) pro forma financial statements of the type and form that are customarily included in private placements pursuant to Rule 144A (without registration rights) to be prepared in a manner consistent with Regulation S-X (and in the case of pro forma financial statements for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period of Borrower presented, as if Regulation SX was applicable to such financial statements) and (ii) all other financial data that would be reasonably necessary for Jefferies LLC to receive customary “comfort” letters from the independent accountants of Borrower, Schuff and Bridgehouse Marine in connection with the offering of the Notes (and Borrower shall have made all commercially reasonable efforts to provide Jefferies LLC with drafts of such “comfort” letters (which shall provide customary “negative assurance” comfort), which such accountants are prepared to issue upon completion of customary procedures).”

3. Representations and Warranties. The Borrower hereby represents and warrants as follows:

(i) each of the representations and warranties contained in Article III of the HC2 Credit Agreement are true and correct in all material respects (except for those representations and warranties that are already qualified by materiality, which shall be true and correct in all respects) on and as of the date hereof, in each case before and after giving effect this Amendment (except to the extent made as of a specific date, then only as of such specific date);

(ii) the Borrower has all necessary corporate power and authority to enter into this Amendment and has taken all corporate actions required to authorize the Borrower’s execution, delivery and performance of this Amendment. This Amendment has been duly executed and delivered by the Borrower, and the HC2 Credit Agreement constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting

creditors' rights generally, regardless of whether considered in a proceeding in equity or at law. The execution, delivery and performance by the Borrower of this Amendment will not (i) violate (A) any provision of its organizational documents; (B) any provision of law or any governmental rule or regulation applicable to the Borrower; (C) any order of any court or Governmental Authority binding on the Borrower; or (D) any indenture, instrument, agreement, or other document binding upon the Borrower or its property or to which the Borrower or its property is subject, or give rise to a right thereunder to require any payment to be made by the Borrower or (ii) be in conflict with, result in a breach of or constitute (with due notice, lapse of time or both) a default under any such indenture, instrument or other agreement, or result in the creation or imposition of any Lien of any nature whatsoever upon any of the property or assets of the Borrower, other than as permitted by the HC2 Credit Agreement;

(iii) as of the date hereof and immediately after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing; and

(iv) no registration with, consent or approval of, or other action by, any Governmental Authority or any other Person (other than Lenders) is required in connection with the execution, delivery and performance of this Amendment by the Borrower, except those as have been obtained or made and are in full force and effect.

4. Limited Effect. Except as expressly amended and consented to hereby, the HC2 Credit Agreement and each of the other Loan Documents shall remain in full force and effect in accordance with their respective terms. The Borrower hereby ratifies, confirms and reaffirms its liabilities, its payment and performance obligations (contingent or otherwise) and its agreements under the HC2 Credit Agreement and the other Loan Documents to the extent the Borrower is a party thereto, and the liens and security interests granted, created and perfected thereby. This Amendment shall not constitute a modification of the HC2 Credit Agreement, except as specified under Section 2 hereto, or a course of dealing with Agent or any Lender at variance with the HC2 Credit Agreement such as to require further notice by Agent or any Lender to require strict compliance with the terms of the HC2 Credit Agreement and the other Loan Documents in the future, except as expressly set forth herein. This Amendment contains the entire agreement among the Borrower and Lenders contemplated by this Amendment. The Borrower has no knowledge of any challenge to Agent's or any Lender's claims arising under the Loan Documents or the effectiveness of the Loan Documents. Except for actions for which there has been given express consent in the foregoing consent, Agent and Lenders reserve all rights, privileges and remedies under the Loan Documents. Nothing in this Amendment is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of the Obligations or to modify, affect or impair the perfection, priority or continuation of the security interests in, security titles to or other Liens on any Collateral for the Obligations.

5. Conditions of Effectiveness. The effectiveness of this Amendment is subject to the truth and accuracy of the representations set forth in Section 3, the payment of Agent's expenses as set forth in Section 10 and receipt by Agent of the items referred to in paragraph (a) below (which shall be in form and substance satisfactory to Agent):

(a) Agent shall have received counterparts of this Amendment duly executed by Borrower, the other Agent and Required Lenders.

6. Acknowledgement. (a) Each Subsidiary Guarantor hereby acknowledges that it has reviewed the terms and provisions of the HC2 Credit Agreement and this Amendment and consents to; (i) the amendment of the provision of the HC2 Credit Agreement effected and (ii) any other provision of the HC2 Credit Agreement effected pursuant to this Amendment. Each Subsidiary Guarantor hereby confirms that each Loan Document to which it is a party or otherwise bound will continue to guarantee to the fullest extent possible in accordance with the Loan Documents the payment and performance of all "Obligations" under each of the Loan Documents to which it is a party (in each case as such terms are defined in the applicable Loan Document

(b) Each Subsidiary Guarantor acknowledges and agrees that any of the Loan Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this Amendment. Each Subsidiary Guarantor represents and warrants that all representations and warranties as to itself contained in the HC2 Credit Agreement and the other Loan Documents to which it is a party or otherwise bound are true and correct in all material respects on and as of the date hereof to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true and correct in all material respects on and as of such earlier date.

7. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

8. Counterparts. This Amendment may be executed by the parties hereto in any number of separate counterparts, each of which shall be an original, and all of which taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Amendment by facsimile, email or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

9. RELEASE. IN CONSIDERATION OF THE CONSENT CONTAINED HEREIN THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE BORROWER HEREBY IRREVOCABLY RELEASES AND FOREVER DISCHARGES ADMINISTRATIVE AGENT, COLLATERAL AGENT, LENDERS AND EACH OF THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, SUCCESSORS, ASSIGNS, DIRECTORS, OFFICERS, EMPLOYEES, AGENT, REPRESENTATIVES AND ATTORNEYS (EACH, A "RELEASED PERSON") OF AND FROM ALL DAMAGES, LOSSES, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, ACTIONS AND CAUSES OF ACTION WHATSOEVER WHICH THE BORROWER MAY NOW HAVE OR CLAIM TO HAVE ON AND AS OF THE DATE HEREOF AGAINST ANY RELEASED PERSON, WHETHER PRESENTLY KNOWN OR UNKNOWN, LIQUIDATED OR UNLIQUIDATED, SUSPECTED OR UNSUSPECTED, CONTINGENT OR NON-CONTINGENT, AND OF EVERY NATURE AND EXTENT WHATSOEVER WITH RESPECT TO THE HC2 CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED THEREBY (COLLECTIVELY, "CLAIMS"). THE BORROWER REPRESENTS AND WARRANTS TO ADMINISTRATIVE AGENT, COLLATERAL AGENT AND LENDERS THAT IT HAS NOT GRANTED OR PURPORTED TO GRANT TO ANY OTHER PERSON ANY INTEREST WHATSOEVER IN ANY CLAIM, AS SECURITY OR OTHERWISE

10. Expenses. The Borrower agrees to pay on demand all reasonable, out-of-pocket costs and expenses in connection with the preparation, execution and delivery of this Amendment and the other instruments and documents to be delivered hereunder, including, without limitation, the reasonable fees, charges and disbursements of one counsel for each Agent with respect thereto and with respect to advising such Agent as to its rights and responsibilities hereunder and thereunder.

11. Severability. In case any provision of or obligation under this Amendment shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

12. Headings. Headings and captions used in this Amendment are included for convenience of reference only and shall not be given any substantive effect.

11. Conflicts. In the event of any conflict between the terms of this Amendment and the terms of the HC2 Credit Agreement or any of the other Loan Documents, the terms of this Amendment shall govern.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 2 to be duly executed and delivered by their respective proper and duly authorized officers as of the day and year first above written.

HC2 Holdings, Inc., as Borrower

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

PTGi International Holding Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

PTGi International, Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

Arbinet Corporation, as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

HC2 Holdings 2, Inc., as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

HC2 Tech Ventures, LLC as a Subsidiary Guarantor

By /s/ Keith Hladek
Name: Keith Hladek
Title: Chief Operating Officer

By /s/ Keith Hladek

Name: Keith Hladek

Title: Chief Operating Officer

JEFFERIES FINANCE LLC, as Arranger, Book Manager,
Documentation Agent and Syndication Agent

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

JEFFERIES FINANCE LLC, as Administrative Agent and
Collateral Agent

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

JEFFERIES FINANCE LLC, as Lender

By /s/ J. Paul McDonnell

Name: J. Paul McDonnell

Title: Managing Director

[Signature Page to Second Amendment to Credit Agreement]

CONSENT AND WAIVER AGREEMENT

This CONSENT AND WAIVER AGREEMENT (this "Agreement"), dated as of October 9, 2014, by and among HC2 Holdings, Inc., a Delaware corporation (the "Company"), and each of the September Purchasers and/or May Purchasers (each, as defined below) party hereto (each, a "Preferred Holder" and, collectively, the "Preferred Holders").

WHEREAS, reference is made to (i) the Securities Purchase Agreement (as amended, the "May Purchase Agreement"), dated as of May 29, 2014, by and among the Company and the purchasers party thereto (the "May Purchasers"); (ii) the Securities Purchase Agreement (the "September Purchase Agreement"), dated as of September 22, 2014, by and among the Company and the purchasers party thereto (the "September Purchasers"); (iii) the Certificate of Designation (the "Series A Certificate of Designation") of Series A Convertible Participating Preferred Stock (the "Series A Preferred Stock") of HC2 Holdings, Inc., dated as of May 29, 2014, as amended on September 22, 2014; and (iv) the Certificate of Designation (the "Series A-1 Certificate of Designation") of Series A-1 Convertible Participating Preferred Stock (the "Series A-1 Preferred Stock") of HC2 Holdings, Inc., dated as of September 22, 2014.

Transaction

WHEREAS, Schuff International, Inc., a Delaware corporation and a subsidiary of the Company ("Schuff"), desires to borrow up to Fifteen Million Dollars (\$15,000,000) of additional loans in order to fund the acquisition of inventory and machinery in connection with "Project Tiger" under that certain Second Amended and Restated Credit and Security Agreement, dated August 14, 2014 (as amended from time to time, the "Schuff Credit Agreement"), between Schuff, certain subsidiaries of Schuff a party thereto and Wells Fargo Credit, Inc., a Minnesota corporation (the issuance of such indebtedness, the "Debt Issuance");

May Purchase Agreement; September Purchase Agreement

WHEREAS, pursuant to Section 5.4 of each of the May Purchase Agreement and the September Purchase Agreement, each of the undersigned (in its capacity as a May Purchaser and/or September Purchaser) has a participation right with respect to the Debt Issuance (the "Debt Participation Right"), subject to the terms and conditions set forth therein;

WHEREAS, each of the undersigned desires to waive its Debt Participation Right;

Series A Certificate of Designation; Series A-1 Certificate of Designation

WHEREAS, pursuant to Section 9(a) of each the Series A Certificate of Designation and the Series A-1 Certificate of Designation, the Company may not, and may not permit any Subsidiary (as defined therein) to, without the Requisite Approval (as

defined below), borrow or otherwise issue Indebtedness (as defined therein) if, after giving effect to such borrowing or issuance, the Debt/NAV Ratio (as defined therein) would be greater than 0.75;

WHEREAS, the Debt Issuance will result in a Debt/NAV Ratio in excess of 0.75;

WHEREAS, the undersigned desire to consent to the Debt Issuance, including under the Series A Certificate of Designation and the Series A-1 Certificate of Designation;

WHEREAS, pursuant to Section 11(d)(i) of each of the Series A Certificate of Designation and the Series A-1 Certificate of Designation, any consent, waiver, vote, decision, election or action required or permitted to be taken under the Series A Certificate of Designation or the Series A-1 Certificate of Designation, as applicable, by the holders of the Series A Preferred Stock and Series A-1 Preferred Stock as a group requires the approval or action, as applicable, of the Requisite Holders (as defined in the Series A Certificate of Designation and the Series A-1 Certificate of Designation) and, after such approval or action, is binding on all of the holders of Series A Preferred Stock and Series A-1 Preferred Stock (the "Requisite Approval"); and

WHEREAS, the undersigned constitute the Requisite Holders under and as defined in the Series A Certificate of Designation and the Series A-1 Certificate of Designation.

NOW THEREFORE,

1. Consent to Debt Issuance; Waiver of Debt Participation Right. Each of the undersigned does hereby (a) consent to the Debt Issuance (inclusive of all interest and other fees and expenses accrued in the ordinary course in connection with such indebtedness), including pursuant to Section 9(a) of the Series A Certificate of Designation and Series A-1 Certificate of Designation, as applicable, and (b) waive its Debt Participation Right with respect to the Debt Issuance; provided, however, that for so long as Schuff remains a Subsidiary (as defined in the Series A Certificate of Designation and Series A-1 Certificate of Designation, as applicable) of the Company, until the earlier to occur of (i) the repayment in full of the Debt Issuance and (ii) such time as the Debt/NAV Ratio (as defined in the Series A Certificate of Designation and Series A-1 Certificate of Designation, as applicable) is equal to or less than 0.75, the Company shall cause Schuff not to make any dividend or distribution to, or repurchase any equity interests from, any of its stockholders (or any Affiliates thereof) without the consent of the Requisite Holders (as defined in the Series A Certificate of Designation and Series A-1 Certificate of Designation, as applicable).

2. Waiver of Notice Requirements. This Agreement shall satisfy any notice requirement that may be required to be given to the undersigned pursuant to the May Purchase Agreement and/or the September Purchase Agreement or otherwise in connection with the Debt Issuance.

3. Representations and Warranties of the Company. The Company hereby represents and warrants to the Preferred Holders that:

a. The Company has the power and authority to enter into this Agreement and all other agreements contemplated hereby, and to do and perform all acts and things as are required or contemplated hereunder to be done, observed and performed by the Company;

b. Each of this Agreement and all other agreements to be executed by the Company which are contemplated hereby has been duly authorized (by all necessary corporate and limited liability company action and otherwise), validly executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms;

c. After giving effect to this Agreement, the execution and delivery of this Agreement and all other agreements to be executed by the Company and contemplated hereby and the Company's performance hereunder and thereunder do not and will not require the consent or approval of any governmental authority, nor be in contravention of or in conflict with any the Company's charter, by-laws, certificate of incorporation or the provisions of any statute, or any judgment, order, or indenture, instrument, agreement, note, arrangement or undertaking, to which the Company is a party or by which the Company or its assets or properties are or may become bound; and

d. After giving effect to this Agreement, no default under this Agreement, the May Purchase Agreement, the September Purchase Agreement, the Series A Certificate of Designation or the Series A-1 Certificate of Designation has occurred and is continuing.

4. No Further Amendments. Except for the consents and waivers set forth herein, the text of each of the May Purchase Agreement, the September Purchase Agreement, the Series A Certificate of Designation and the Series A-1 Certificate of Designation shall remain unchanged and in full force and effect and each is hereby ratified and reaffirmed in all respects. No waiver by the Preferred Holders under the May Purchase Agreement, the September Purchase Agreement, the Series A Certificate of Designation or the Series A-1 Certificate of Designation is granted or intended except as expressly set forth herein, and the Preferred Holders expressly reserve the right to require strict compliance with the terms of each of the May Purchase Agreement, the September Purchase Agreement, the Series A Certificate of Designation and the Series A-1 Certificate of Designation, as applicable, in all respects.

5. Fees and Legal Fees. The Company hereby agrees to pay to the Preferred Holders all reasonable out of pocket fees and reasonable out of pocket expenses incurred by the Preferred Holders in the drafting, review, negotiation and closing of the documents and transactions contemplated hereby, including the reasonable fees and disbursements of Ropes & Gray, as counsel to the PECM Purchasers and the Hudson Bay Purchaser (each as defined in the May Purchase Agreement).

6. Binding on Successors, Assigns, Transferees. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties hereto and, upon a transfer of Shares or Conversion Shares, as defined in and in accordance with Section 8 of the May Purchase Agreement and/or the September Purchase Agreement, as applicable, such transferee shall be bound by the terms of this Agreement (including the approvals and waivers granted hereunder) as if originally a party hereto.

7. Entire Agreement. This Agreement and the documents and other agreements among the parties hereto as contemplated by or referred to herein constitute the entire agreement between the parties hereto respecting the subject matter hereof and supersede all prior agreements, negotiations, understandings, representations and statements respecting the subject matter hereof, whether written or oral.

8. Miscellaneous. Sections 12.1 through 12.7 and 12.9 through 12.12 of the May Purchase Agreement and the September Purchase Agreement, as applicable, are hereby incorporated herein by reference, *mutatis mutandis*.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

COMPANY

HC2 HOLDINGS, INC.

By: /s/ Keith M. Hladak

Name: Keith M. Hladak

Title: Chief Operating Officer

[Signature Page to Consent and Waiver]

HUDSON BAY PURCHASER

HUDSON BAY ABSOLUTE RETURN CREDIT
OPPORTUNITIES MASTER FUND, LTD.

By: /s/ Marc Sole

Name: Marc Sole

Title: Authorized Signatory

[Signature Page to Consent and Waiver]

PECM PURCHASERS

PROVIDENCE DEBT FUND III L.P.

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

PECM STRATEGIC FUNDING L.P.

By: PECM Strategic Funding GP L.P.,
its general partner

By: PECM Strategic Funding GP Ltd.,
its general partner

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

DG VALUE PARTNERS II MASTER FUND, LP

By: DG Capital Management, LLC, *its investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

DG PURCHASERS

DG VALUE PARTNERS, LP

By: DG Capital Management, LLC, *its investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

SPECIAL SITUATIONS X, LLC

By: DG Capital Management, LLC, *its investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

SPECIAL SITUATIONS, LLC

By: DG Capital Management, LLC, *its investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

DG CREDIT OPPORTUNITIES, LP

By: DG Capital Management, LLC, *its investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

LUXOR PURCHASERS:

LUXOR CAPITAL PARTNERS, LP

By: /s/ Norris Nissim

Name: Norris Nissim

Title: General Counsel – Luxor Capital Group, LP – as
Investment Manager

[Signature Page to Consent and Waiver]

LUXOR CAPITAL PARTNERS OFFSHORE MASTER
FUND, LP

By: /s/ Norris Nissim

Name: Norris Nissim

Title: General Counsel – Luxor Capital Group, LP – as
Investment Manager

[Signature Page to Consent and Waiver]

LUXOR WAVEFRONT, LP

By: /s/ Norris Nissim

Name: Norris Nissim

Title: General Counsel – Luxor Capital Group, LP – as
Investment Manager

[Signature Page to Consent and Waiver]

CONSENT, WAIVER AND AMENDMENT AGREEMENT

This CONSENT, WAIVER AND AMENDMENT AGREEMENT (this "Agreement"), dated as of September 22, 2014, by and among HC2 Holdings, Inc., a Delaware corporation (the "Company"), and each of the undersigned (the "Original Purchasers").

WHEREAS, reference is made to (i) the Securities Purchase Agreement (the "Luxor/DG Purchase Agreement"), dated as of the date hereof, by and among the Company and the purchasers party thereto (the "Luxor/DG Purchasers"), substantially in the form attached hereto as Exhibit A; (ii) the Securities Purchase Agreement (the "Original Purchase Agreement"), dated as of May 29, 2014, by and among the Company and the undersigned (the "Original Purchasers"); (iii) the Certificate of Designation (the "Series A Certificate of Designation") of Series A Convertible Participating Preferred Stock (the "Series A Preferred Stock") of HC2 Holdings, Inc., dated as of May 29, 2014; and (iv) the Registration Rights Agreement (the "Registration Rights Agreement"), dated as of May 29, 2014, by and among the Company and the Original Purchasers. Capitalized terms used herein and not otherwise defined herein have the meanings ascribed to such terms under the Original Purchase Agreement.

Transactions

WHEREAS, the Company desires to: (i) issue and sell shares of Series A-1 Preferred Stock (as defined below) to the Luxor/DG Purchasers (the "Equity Issuance") pursuant to the terms of the Luxor/DG Purchase Agreement, which shares of Series A-1 Preferred Stock shall have the rights, preferences and privileges set forth in the Certificate of Designation (the "Series A-1 Certificate of Designation") of Series A-1 Convertible Participating Preferred Stock (the "Series A-1 Preferred Stock") of HC2 Holdings, Inc., dated as of the date hereof, substantially in the form attached hereto as Exhibit B; (ii) grant registration rights (the "Registration Rights") to the Luxor/DG Purchasers in connection with the Equity Issuance on the terms and conditions set forth in the Amended and Restated Registration Rights Agreement, by and among the Company, the Original Purchasers and the Luxor/DG Purchasers, substantially in the form attached hereto as Exhibit C; (iii) amend and restate the Series A Certificate of Designation in the form attached hereto as Exhibit D (as amended, the "Amended Series A Certificate of Designation"); (iv) amend the Original Purchase Agreement; and (v) enter into that certain Credit Agreement (the "Credit Agreement"), among the Company, the Subsidiary Guarantors (as defined therein), the Lenders (as defined therein) and Jefferies Finance LLC, as arranger, as book manager, and as documentation agent, syndication agent and administrative agent for the Lenders and as collateral agent for the Secured Parties, in material substance in the form attached hereto as Exhibit E (the issuance of any indebtedness thereunder, the "Debt Issuance").

Original Purchase Agreement

WHEREAS, pursuant to Section 5.4 of the Original Purchase Agreement, each of the Original Purchasers has a participation right with respect to the Equity Issuance (the "Securities Participation Right") and the Debt Issuance (the "Debt Participation Right"), in each case subject to the terms and conditions set forth therein;

WHEREAS, each of the Original Purchasers desires to waive its Securities Participation Right and its Debt Participation Right;

WHEREAS, each of the Original Purchasers desires to amend the Original Purchase Agreement as set on Exhibit F hereto;

WHEREAS, pursuant to Section 12.12 of the Original Purchase Agreement, any modification, alteration, waiver or change in any of the terms of the Original Purchase Agreement must be made in writing and duly executed by the Company and the Original Purchasers (provided, that certain actions permitted to be taken by the Original Purchasers, as a group, requires the approval of only the Requisite Holders, and after such approval, such decision is binding on all of the Original Purchasers);

Series A Certificate of Designation

WHEREAS, pursuant to Section 4(b)(i) of the Series A Certificate of Designation, the Company may not, without the Requisite Approval (as defined below), amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A Preferred Stock in a manner adverse to the Holders (as defined therein);

WHEREAS, pursuant to Section 9(a) of the Series A Certificate of Designation, the Company may not, without the Requisite Approval, borrow or otherwise issue Indebtedness (as defined therein) if, after giving effect to such borrowing or issuance, the Debt/NAV Ratio (as defined therein) would be greater than 0.75;

WHEREAS, the Debt Issuance will result in a Debt/NAV Ratio in excess of 0.75;

WHEREAS, pursuant to Section 9(b) of the Series A Certificate of Designation, the Company may not, without the Requisite Approval, issue Parity Securities (as defined in the Series A Certificate of Designation) if, among other things, the conversion price applicable to such securities is to be less than \$4.75, without the Requisite Approval;

WHEREAS, the Series A-1 Preferred Stock to be issued pursuant to the Equity Issuance will be a Parity Security (as defined in the Series A Certificate of Designation) with an initial Conversion Price (as defined in the Series A-1 Certificate of Designation) of \$4.25;

WHEREAS, the Original Purchasers desire to consent to the Debt Issuance, the Equity Issuance, the adoption of the Amended Series A Certificate of Designation and the adoption of the Series A-1 Certificate of Designation, including under the Series A Certificate of Designation;

WHEREAS, pursuant to Section 11(d)(i) of the Series A Certificate of Designation, any consent, waiver, vote, decision, election or action required or permitted to be taken under the Series A Certificate of Designation by the holders of the Series A Preferred Stock as a group requires the approval or action, as applicable, of the Requisite Holders (as defined in the Series A Certificate of Designation) and, after such approval or action, is binding on all of the holders of Series A Preferred Stock (the "Requisite Approval");

WHEREAS, the Original Purchasers constitute all of the holders of Series A Preferred Stock and the Requisite Holders under and as defined in the Series A Certificate of Designation;

Registration Rights Agreement

WHEREAS, pursuant to Section 2.10 of the Registration Rights Agreement, the Company cannot grant the Registration Rights without the prior written consent of the Original Purchasers, who represent the Majority Hudson Bay Investors, the Majority PECM Investors and the Holders of a majority of the Registrable Securities outstanding (each as defined in the Registration Rights Agreement); and

WHEREAS, the Original Purchasers desire to consent to the granting of the Registration Rights.

NOW THEREFORE,

1. Consent to Equity Issuance; Waiver of Securities Participation Right. Each of the Original Purchasers does hereby (a) consent to the Equity Issuance, the execution and delivery by the Company of the Luxor/DG Purchase Agreement, the adoption of the Amended Series A Certificate of Designation and the adoption of the Series A-1 Certificate of Designation, including pursuant to Sections 4(b)(i) and 9(b) of the Series A Certificate of Designation; and (b) waive its Securities Participation Right with respect to the Equity Issuance.

2. Consent to Debt Issuance; Waiver of Debt Participation Right. Each of the Original Purchasers does hereby (a) consent to the Debt Issuance (inclusive of all interest and other fees and expenses accrued in the ordinary course in connection with such indebtedness), including pursuant to Section 9(a) of the Series A Certificate of Designation and (b) waive its Debt Participation Right with respect to the Debt Issuance. For the avoidance of doubt, the consent granted pursuant to the immediately preceding sentence is limited to the Initial Interim Term Loans and the Delayed Draw Interim Term Loans described in the Credit Agreement (as described in the form of Credit Agreement attached hereto). Each of the Original Purchasers does hereby further consent to, pursuant to Section 9(a) of the Series A Certificate of Designation, any issuance of indebtedness in connection with any refinancing of indebtedness under the Credit Agreement, including a refinancing of such indebtedness pursuant to the Permanent Notes Documents or the Exchange Notes Documents (each as defined in the Credit Agreement) provided that (i) in the case of the issuance of Exchange Notes (as defined in

the Credit Agreement), such Exchange Notes are issued in accordance with the terms of the Credit Agreement and (ii) in the case of any other refinancing, the principal amount of such indebtedness (A) does not exceed the sum of (x) the then outstanding principal plus accrued and unpaid interest under the Credit Agreement, plus (y) any principal amount that was previously prepaid under the Credit Agreement plus (z) any related refinancing fees and expenses and (B) the entire proceeds of the issuance of such indebtedness (less an amount equal to any principal amount that was previously prepaid under the Credit Agreement) are used to repay indebtedness under the Credit Agreement and any related refinancing fees and expenses. Each of the Original Purchasers does hereby further waive its rights pursuant to Section 5.4 of the Original Purchase Agreement to participate in any issuance of indebtedness issued pursuant to Exchange Notes (as defined in the Credit Agreement). For the avoidance of doubt, the waiver granted pursuant to this Section 2 shall not apply to, and the Original Purchasers hereby expressly reserve their right pursuant to Section 5.4 of the Original Purchase Agreement to participate in, the issuance of indebtedness issued pursuant to the Permanent Notes Documents (as defined in the Credit Agreement).

3. Amendment of Original Purchase Agreement. The Original Purchase Agreement is hereby amended as set forth on Exhibit F hereto.

4. Waiver Under Registration Rights Agreement. Each of the Original Purchasers does hereby consent, including pursuant to Section 2.10 of the Registration Rights Agreement, to the granting of the Registration Rights.

5. Waiver of Notice Requirements. This Agreement shall satisfy any notice requirement that may be required to be given to the Original Purchasers pursuant to the Original Purchase Agreement or otherwise in connection with the Equity Issuance, the Debt Issuance and the other transactions contemplated hereby.

6. Representations and Warranties of the Company. The Company hereby represents and warrants to the Original Purchasers that:

a. After giving effect to this Agreement, the Series A-1 Certificate of Designation, the Amended Series A Certificate of Designation, the Luxor/DG Purchase Agreement and the Amended and Restated Registration Rights Agreement, each representation and warranty set forth in Section 3 of the Original Purchase Agreement is hereby restated and affirmed as true and correct in all material respects as of the date hereof (except to the extent that any such representations or warranties relate to an earlier specific date or dates and other than any such representation and warranty that may have been amended or modified by any matter disclosed in the Company Disclosure Schedule to the Luxor/DG Purchase Agreement);

b. The Company has the power and authority to enter into this Agreement and all other agreements contemplated hereby, and to do and perform all acts and things as are required or contemplated hereunder to be done, observed and performed by the Company;

c. Each of this Agreement and all other agreements to be executed by the Company which are contemplated hereby has been duly authorized (by all necessary corporate and limited liability company action and otherwise), validly executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms;

d. After giving effect to this Agreement, the execution and delivery of this Agreement and all other agreements to be executed by the Company and contemplated hereby and the Company's performance hereunder and thereunder do not and will not require the consent or approval of any governmental authority, nor be in contravention of or in conflict with any the Company's charter, by-laws, certificate of incorporation or the provisions of any statute, or any judgment, order, or indenture, instrument, agreement, note, arrangement or undertaking, to which the Company is a party or by which the Company or its assets or properties are or may become bound; and

e. After giving effect to this Agreement, the Series A-1 Certificate of Designation, the Amended Series A Certificate of Designation, the Luxor/DG Purchase Agreement and the Amended and Restated Registration Rights Agreement, no default under any such agreement has occurred and is continuing.

7. No Further Amendments. Except for the consents, waivers and amendments set forth herein, the text of each of the Original Purchase Agreement, the Amended Series A Certificate of Designation and the Amended and Restated Registration Rights Agreement shall remain unchanged and in full force and effect and each is hereby ratified and reaffirmed in all respects. No waiver by the Original Purchasers under the Original Purchase Agreement, Series A Certificate of Designation or the Registration Rights Agreement is granted or intended except as expressly set forth herein, and the Original Purchasers expressly reserve the right to require strict compliance with the terms of each of the Original Purchase Agreement, the Amended Series A Certificate of Designation and the Amended and Restated Registration Rights Agreement in all respects.

8. Fees and Legal Fees. The Company hereby agrees to pay to the Original Purchasers all reasonable out of pocket fees and reasonable out of pocket expenses incurred by the Original Purchasers in the drafting, review, negotiation and closing of the documents and transactions contemplated hereby, including the reasonable fees and disbursements of Ropes & Gray, as counsel to the PECM Purchasers and the Hudson Bay Purchaser.

9. Binding on Successors, Assigns, Transferees. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and, upon a transfer of Shares or Conversion Shares in accordance with Section 8 of the Original Purchase Agreement, such transferee shall be bound by the terms of this Agreement (including the approvals and waivers granted hereunder) as if originally a party hereto.

10. Entire Agreement. This Agreement and the documents and other agreements among the parties hereto as contemplated by or referred to herein constitute the entire agreement between the parties hereto respecting the subject matter hereof and supersede all prior agreements, negotiations, understandings, representations and statements respecting the subject matter hereof, whether written or oral.

11. Miscellaneous. Sections 12.1 through 12.7 and 12.9 through 12.12 of the Original Purchase Agreement are hereby incorporated herein by reference, *mutatis mutandis*.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

COMPANY

HC2 HOLDINGS, INC.

By: /s/ Mesfin Demise

Name: Mesfin Demise

Title: Chief Financial Officer

[Signature Page to Consent and Waiver]

HUDSON BAY PURCHASER

HUDSON BAY ABSOLUTE RETURN CREDIT
OPPORTUNITIES MASTER FUND, LTD.

By: /s/ Marc Sole

Name: Marc Sole

Title: Authorized Signatory

[Signature Page to Consent and Waiver]

PECM PURCHASERS

PROVIDENCE DEBT FUND III L.P.

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

PECM STRATEGIC FUNDING L.P.

By: PECM Strategic Funding GP L.P., its *general partner*

By: PECM Strategic Funding GP Ltd., its *general partner*

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

By: /s/ Bryan Martoken

Name: Bryan Martoken

Title: CFO – Capital Markets Group

[Signature Page to Consent and Waiver]

DG VALUE PARTNERS, LP

By: DG Capital Management, LLC, its *investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

DG VALUE PARTNERS II MASTER FUND, LP

By: DG Capital Management, LLC, its *investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

SPECIAL SITUATIONS, LLC

By: DG Capital Management, LLC, its *investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

SPECIAL SITUATIONS X, LLC

By: DG Capital Management, LLC, its *investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

DG CREDIT OPPORTUNITIES, LP

By: DG Capital Management, LLC, its *investment manager*

By: /s/ Dov Gertzulin

Name: Dov Gertzulin

Title: Managing Member

[Signature Page to Consent and Waiver]

Luxor/DG Purchase Agreement

[See attached.]

Series A-1 Certificate of Designation

[See attached.]

Amended and Restated Registration Rights Agreement

[See attached.]

Amended Series A Certificate of Designation

[See attached.]

Credit Agreement

[See attached.]

Amendment to Original Purchase Agreement

1. The following defined term shall be inserted in alphabetical order in Section 1 of the Original Purchase Agreement
“**Luxor Purchasers**” means each of Luxor Capital Partners, LP; Luxor Capital Partners Offshore Master Fund, LP and Luxor Wavefront, LP.”
“**September SPA**” means that certain Securities Purchase Agreement, dated as of September 22, 2014, by and among the Luxor Purchasers, DG Value Partners, LP, DG Value Partners II Master Fund, LP and DG Credit Opportunities, LP. and the Company, as amended from time to time.”
2. The following defined term in Section 1 of the Original Purchase Agreement is hereby amended and restated in its entirety to read as follows:
“**Participation Rights Fraction**” shall mean, with respect to a Purchaser, a fraction, the numerator of which is the number of shares of Common Stock held by such Purchaser and its Affiliates in the aggregate on an as converted basis, as of such date, and the denominator of which is the number of shares of Common Stock then outstanding (assuming all Preferred Stock and shares of Series A-1 Convertible Participating Preferred Stock, par value \$0.001 per share, of the Company is converted to Common Stock), as of such date”
3. The last sentence of the lead-in of Section 5.5 of the Original Purchase Agreement is hereby amended and restated in its entirety to read as follows:
“A Purchaser shall be entitled to apportion or assign the right of first offer to purchase any Additional Preferred Securities hereby granted to it (the “**Right of First Offer**”) in such proportions as it deems appropriate, among itself, its Affiliates and to any other Purchaser or Luxor Purchaser.”

4. Section 5.5(b) of the Original Purchase Agreement is hereby amended and restated in its entirety to read as follows:

“By notification to the Company within five (5) days after the Offer Notice is given, each Purchaser may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such Additional Preferred Securities which equals the proportion that the Common Stock then held by such Purchaser (along with its Affiliates (provided that no Affiliates’ interest is counted more than once)) on an as converted basis bears to the total Common Stock then held by (x) the Purchasers (along with their Affiliates) and (y) the Luxor Purchasers (along with their Affiliates), in each case on an as converted basis (or such higher amount as has been assigned to such Purchaser by any other Purchaser in accordance with Section 5.5 hereof or by the Luxor Purchasers in accordance with the terms of the September SPA). At the expiration of such five (5) day period, the Company shall promptly notify each Purchaser that elects to purchase or acquire all the shares available to it (together with any Luxor Purchaser that elects to purchase or acquire all the shares available to it under the September SPA, each, a “**Fully Exercising Investor**”) of any other Purchaser’s failure to do likewise and of any Luxor Purchaser’s failure to do likewise under the September SPA. During the five (5) day period commencing after the Company has given such notice, each Fully Exercising Investor may, by giving notice to the Company, elect to purchase or acquire, in addition to the number of shares specified above, up to that portion of the Additional Preferred Securities for which the Purchasers and the Luxor Purchasers (under the September SPA) were entitled to subscribe but that were not subscribed for by the Purchasers or Luxor Purchasers (under the September SPA) which is equal to the proportion that the Common Stock issued and held by such Purchaser (along with its Affiliates (provided that no Affiliates’ interest is counted more than once)) on an as converted basis bears to the Common Stock issued and held (on an as converted basis) by all the other Fully Exercising Purchasers who wish to purchase such unsubscribed shares. The closing of any sale pursuant to this Subsection 5.5(b) shall occur within the later of ninety days of the date that the Offer Notice is given and the date of initial sale of Additional Preferred Securities pursuant to Subsection 5.5(c).”

CERTIFICATIONS

I, Philip A. Falcone, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of HC2 Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: November 10, 2014

By: /S/ Philip A. Falcone
Name: **Philip A. Falcone**
Title: **Chairman, President, and Chief Executive Officer**
(Principal Executive Officer)

CERTIFICATIONS

I, Mesfin Demise, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of HC2 Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: November 10, 2014

By: /S/ MESFIN DEMISE

Name: **Mesfin Demise**

Title: **Chief Financial Officer, Corporate Controller and Treasurer
(Principal Financial and Accounting Officer)**

CERTIFICATION

Pursuant to Section 906 of the Public Company Accounting Reform and Investor Protection Act of 2002 (18 U.S.C. §1350, as adopted), Philip A. Falcone, the Chairman, President and Chief Executive Officer (Principal Executive Officer) of HC2 Holdings, Inc. (the "Company"), and Mesfin Demise, the Chief Financial Officer, Corporate Controller and Treasurer (Principal Financial and Accounting Officer) of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2014, to which this Certification is attached as Exhibit 32 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Periodic Report and results of operations of the Company for the period covered by the Periodic Report.

Dated: November 10, 2014

/S/ PHILIP A. FALCONE

Philip A. Falcone

**Chairman, President and Chief Executive Officer
(Principal Executive Officer)**

/S/ MESFIN DEMISE

Mesfin Demise

**Chief Financial Officer, Corporate Controller and Treasurer
(Principal Financial and Accounting Officer)**